

Colorado Legislative Council Staff Fiscal Note

**FINAL
FISCAL NOTE**

Drafting Number: LLS 13-0054
Prime Sponsor(s): Rep. Pabon
 Sen. Morse

Date: May 22, 2013
Bill Status: Postponed Indefinitely
Fiscal Analyst: Kerry White (303-866-3469)

TITLE: CONCERNING COLLECTION OF A DNA SAMPLE FROM OFFENDERS CONVICTED OF A CLASS 1 MISDEMEANOR IN THE COLORADO CRIMINAL CODE, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

Fiscal Impact Summary	FY 2013-2014	FY 2014-2015
State Revenue		
Cash Funds		
Offender Identification Fund	\$271,219	\$457,485
State Expenditures	<u>\$585,767</u>	<u>\$426,092</u>
General Fund	314,548	0
Cash Funds		
Offender Identification Fund	271,219	426,092
FTE Position Change	2.3 FTE	2.5 FTE
Effective Date: The bill was postponed indefinitely by the Senate Finance Committee on May 7, 2013.		
Appropriation Summary for FY 2013-2014: See State Appropriations section.		
Local Government Impact: See Local Government Impact section.		

Summary of Legislation

Currently, an offender convicted of a misdemeanor is only required to provide a sample of his or her genetic material (DNA) for inclusion in the state's database if the offense involved unlawful sexual conduct. This *reengrossed* bill requires that an offender convicted of a class 1 misdemeanor offense on or after July 1, 2013, provide his or her DNA.

Background and Key Assumptions

In 2012, there were a total of 20,048 offenders convicted of a class 1 misdemeanor. These are offenses recorded in the state's court system database and, therefore, do not include data from the City and County of Denver, which has a separate computer system. State revenue and expenditures are based on the caseload shown in Table 1.

Group	Caseload FY 2013-14
Total Convictions of a Class 1 Misdemeanor	20,048
(Less Convictions that Included a Felony Charge)*	(9,102)
(Less Convictions of a Misdemeanor Sex Offense)*	(345)
(Less Convictions with a Deferred Judgment and Sentence (DJS))	(1,359)
Increase for DJS (12.9 Percent)	<u>175</u>
Subtotal Cases	9,417
TOTAL	<u>9,417</u>
Judicial Department	6,028
Counties	3,389

**These individuals are already required to provide a sample under current law.*

Under current law, persons convicted of a felony offense or a misdemeanor sex offense are already required to provide a DNA sample. The bill also specifically excludes persons with a deferred judgment and sentenced (DJS), unless they are revoked. Current data shows that approximately 12.9 percent of misdemeanants with a DJS are subject to revocation. Based on the sentences of 2012 offenders, the fiscal note assumes 6,028 offenders will be sentenced to probation under the Judicial Branch, which will perform the DNA extraction in FY 2013-14. This number is increased by 2 percent to 6,149 in FY 2014-15. Another 3,389 offenders will receive a sentence that includes incarceration in a county jail. This number is increased by 2 percent in FY 2014-15 to 3,457. For these offenders, the fiscal note assumes that county sheriffs will extract the DNA samples. Any offenders who received a sentence that did not include probation or incarceration in a county jail are assumed to have DNA extracted by Judicial Department staff. It should be noted that some offenders may have a DNA sample on file and therefore may not need to have a sample collected. Due to a lack of available data on the population affected by the bill, it is not possible to estimate the amount of any reduction. The fiscal note assumes it is minimal.

State Revenue

This bill will increase state revenue credited to the Offender Identification Unit in the Judicial Branch by \$271,219 in FY 2013-14 and \$457,485 in FY 2014-15. This increase is based on an assumption that misdemeanant offenders will pay a fine of \$128 each. It is assumed that the fine will begin on July 1, 2013, regardless of when the offense occurred. Based on existing felony offenders, it is assumed that 25 percent of misdemeanant offenders will be classified as indigent and unable to pay the fine. In addition, because offenders have the option to pay fines over time, it is assumed that 30 percent of each year's revenue will be collected in the same year and that 20 percent of the first year's revenue will be collected in each successive year until paid in full.

State Expenditures

This bill will increase state expenditures by \$585,767 and 2.3 FTE in FY 2013-14 and \$426,092 and 2.5 FTE in FY 2014-15. Because there is insufficient cash fund revenue in the first year and the Offender Identification Fund is already spending its reserves, this analysis assumes that the first year's costs will require General Fund backfill. Table 2 and the discussion that follows describe the cost components of the bill.

Table 2. Expenditures Under HB13-1251		
Cost Components	FY 2013-14	FY 2014-15
Judicial Branch		
Personal Services	\$54,048	\$58,963
FTE	0.9	1.0
Operating Expenses and Capital Outlay	5,653	950
DNA Swab Testing Kits	31,888	32,528
Total	\$91,589	\$92,441
Department of Public Safety		
Personal Services	\$67,639	\$73,788
FTE	1.4	1.5
Operating Expenses and Capital Outlay	10,831	1,425
DNA Processing Costs	235,708	240,438
DNA Equipment	180,000	0
DNA Equipment Maintenance	0	18,000
Total	\$494,178	\$333,651
TOTAL	<u>\$585,767</u>	<u>\$426,092</u>
General Fund	314,548	0
Cash Funds	271,219	426,092

Judicial Branch. The Judicial Branch requires FTE within the Probation Department to collect DNA samples from offenders sentenced to probation or categorized as other. Annual personal services costs are \$58,963 for 1.0 FTE, prorated to \$54,048 and 0.9 FTE in the first year to account for the payday shift. Standard operating costs of \$950 per FTE are included each year, along with \$4,703 in capital outlay costs for FY 2013-14. DNA swab testing kits will be used by staff to extract DNA samples from offenders at a cost of \$5.29 per kit. It is assumed that 6,028 offenders will be tested in FY 2013-14 and 6,149 will be tested in FY 2014-15.

Department of Public Safety. The Colorado Bureau of Investigation (CBI) in the Department of Public Safety will be required to process DNA samples for an estimated 9,417 offenders in FY 2013-14 and 9,606 in FY 2014-15. Annual personal services costs total \$73,788 and 1.5 FTE, prorated to \$67,639 for 1.4 FTE in the first year to account for the paydate shift. Standard operating costs of \$950 per FTE are included each year, along with \$9,406 for capital outlay in FY 2013-14.

CBI will process a total of 9,417 kits in FY 2013-14 and 9,606 in FY 2014-15 at a cost of \$25.03 per kit. This number includes all kits, including those collected by counties and discussed in the Local Government Impact section, below. In addition, CBI will be required to purchase additional DNA analysis equipment at a one-time cost of \$180,000. Annual equipment maintenance costs are calculated as 10 percent of the purchase price.

Expenditures Not Included

Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. The centrally appropriated costs subject to this policy are summarized in Table 3.

Cost Components	FY 2013-14	FY 2014-15
Employee Insurance (Health, Life, Dental, and Short-term Disability)	\$16,767	\$16,786
Supplemental Employee Retirement Payments	7,470	9,219
TOTAL	\$24,237	\$26,005

*More information is available at: <http://colorado.gov/fiscalnotes>

Local Government Impact

Costs for county governments will increase by at least \$44,952 in FY 2013-14 and \$47,770 in FY 2014-15. These costs are based on the assumption that county sheriffs will be required to conduct DNA swab testing for offenders sentenced to county jails by a state court. It is assumed that 3,389 offenders will be tested by counties in FY 2013-14 and 3,457 will be tested in FY 2014-15. Material costs are assumed to be \$5.29 per kit, for a total supply cost of \$17,928 in FY 2013-14 and \$18,288 in FY 2014-15.

Staff costs for collection, which are not available as of this writing, are anticipated to vary by jurisdiction. However, the fiscal note assumes half of the salary cost identified for the Judicial Branch represents the minimum salary cost for counties. For this reason, the fiscal note assumes that annual salary costs will be at least \$27,024 in FY 2013-14 and \$29,482 in FY 2014-15.

State Appropriations

For FY 2013-14, the Judicial Branch requires an appropriation of \$91,589 General Fund and an allocation of 0.9 FTE. For FY 2013-14, the CBI within the Department of Safety requires an appropriation of \$494,178, including \$222,959 General Fund and \$271,219 cash funds from the Offender Identification Fund, and an allocation of 1.4 FTE.

Departments Contacted

Corrections
Public Safety

District Attorneys
Sheriffs

Judicial