

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current FIRs (in HTML & Adobe PDF formats) are available on the NM Legislative Website (legis.state.nm.us). Adobe PDF versions include all attachments, whereas HTML versions may not. Previously issued FIRs and attachments may be obtained from the LFC in Suite 101 of the State Capitol Building North.

FISCAL IMPACT REPORT

ORIGINAL DATE 02/21/11
 LAST UPDATED 03/13/11 HB _____

SPONSOR McSorley

SHORT TITLE DNA Identification Oversight Committee SB 357/aSJC

ANALYST Segura

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY11	FY12		
	None		

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY11	FY12	FY13	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total		NFI				

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Attorney General's Office (AGO)
 New Mexico Corrections Department (NMCD)
 Department of Public Safety (DPS)

SUMMARY

Synopsis of SJC Amendment

Senate Judiciary Committee Amendment to Senate Bill 357 reinstated language on page 9, line 16. The committee reinstates language that was deleted from the original bill, "the court shall assess a DNA fee of one hundred dollars (\$100) in addition to any other fee, restitution or fine." On page 9, lines, 19 and 20, the amendment is technical and does not change the intent of the bill.

Synopsis of Original Bill

Senate Bill 357 proposes modifications to the New Mexico DNA Identification Act. The Bill

provides that the DNA Identification System oversight committee shall designate the location and approve the selection of the head of the Administrative Center. The bill provides for the collection of the DNA fee by the Department of Corrections and procedures for money withdrawn from the DNA Identification system fund.

FISCAL IMPLICATIONS

Senate Bill 357 does not contain an appropriation. One provision changes the assessment of the DNA fee by the court to the collection of the DNA fee by the Department of Corrections.

SIGNIFICANT ISSUES

The AGO indicates that the bill clarifies the definition of the administrative center and avoids confusion about the current law about the authority and power of the Department of Public Safety. Senate Bill clarifies the funding and distribution of money for the administration of the DNA Identification Act.

The AGO raises the concern that the notice, order and assessment of the \$100 DNA fee and mandatory donation of a sample judgment and conviction should remain. Transferring the assessment and collection solely to the Department of Corrections does not have the same legal significance as the assessment and order issued by a state district court for the DNA sample and fee.

According to Department of Corrections, the bill provides that the DNA Oversight Committee designates and approves the location of the DNA Identification system administrative center, but requires that the center be located at the Albuquerque Police Department crime lab. The administrative center is part of a law enforcement agency crime lab that participates in the National DNA Index System and administers and operates the DNA identification system.

The Department of Corrections raises the concern that the bill would require NMCD to collect the DNA fees on all covered offenders. However, there are a number of county jail offenders that never serve prison time and never have a period of probation or parole supervision with NMCD. The NMCD has no statutory or practical ability or authority to collect these fees from county jail inmates.

The Department of Corrections suggests the following amendments to be considered:

- Senate Bill 357 needs to be amended to require the county jails to collect the fees from the own inmates; and
- The bill would delete the statutory language which requires the court to first assess the fee. Many covered offenders may refuse to pay the fee to NMCD if the court does not first specifically assess the fee. NMCD has no statutory authority to assess any fees, and this bill does not give it any such authority. Senate Bill 357 needs to be amended to require the court to continue to assess DNA fees.

ADMINISTRATIVE IMPLICATIONS

Senate Bill 357 proposes the NMCD collect the \$100 offender fee and remitting it to the State

Treasurer (STO) for deposit into the DNA Identification System Fund which is currently maintained by DPS. The language does not specify if the fund will continue to be maintained by DPS or will be transferred to NMCD.

RS/bym:mew