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## FISCAL IMPACT REPORT

ORIGINAL DATE 1/23/06  
 LAST UPDATED 2/9/06      HB 130/HJCS/aHAFC

SPONSOR HJC

SHORT TITLE DNA Samples From All Felony Arrests      SB \_\_\_\_\_

ANALYST Peery

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY06	FY07		
NA	NA	NA	NA

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates SB 216

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Department of Public Safety (DPS)  
 New Mexico Corrections Department (NMCD)

#### No Responses From

Administrative Office of the Courts (AOC)  
 Administrative Office of the District Attorneys (AODA)  
 Attorney General (AG)  
 Public Defender Department (PDD)

### SUMMARY

#### Synopsis of HAFC amendment

The House Appropriation and Finance Committee amendment of the House Judiciary Committee substitute for House Bill 130 on page one, line 15 deletes “;MAKING AN APPROPRIATION”. Also, the amendment on page 15 deletes Section 11 and calls for the renumbering of the succeeding sections accordingly.

#### Synopsis of HJCS

The House Judiciary Committee substitute for House Bill 130 requires the collection of DNA samples from all person eighteen years of age or over who are arrested for certain felony of-

fenses and the requiring submission of DNA samples collected pursuant to medical examinations of sexual assault victims. The word “felony” is defined in the proposed legislation as a sex offense as defined in the provisions of Section 29-11A-3 NMSA 1978, or any other offense that involves death, great bodily harm, aggravated assault, kidnapping, burglary, larceny, robbery, aggravated stalking, use of a firearm or an explosive or a violation pursuant to the Antiterrorism Act.

### **FISCAL IMPLICATIONS**

The appropriation of \$360.0 contained in this bill is a recurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of a fiscal year shall not revert to the general fund.

DPS reports their Law Enforcement Records Bureau receives approximately 7,000 felony arrest fingerprint cards per year. The DNA Identification Act requires persons convicted to pay a \$100 fee for DNA analysis and administration. DPS states the proposed legislation does not require the person arrested to pay a fee for DNA analysis or administrative costs. DPS estimates the general fund appropriation of \$360,000 will fall short by \$64,000 to cover the minimum anticipated costs for analysis and administration.

### **PERFORMANCE IMPLICATIONS**

DPS reports the fiscal implication to the Law Enforcement Records Bureau are not addressed which could lead to serious backlogs of DNA samples waiting to be analyzed and entered into the Combined DNA Index System a national system of regions.

### **ADMINISTRATIVE IMPLICATIONS**

DPS states the administrative implications will occur with the process of expungements. DPS reports if a timeline for the administration process is not written into statute, state liability from resulting lawsuits will occur.

NMCD reports the proposed legislation could potentially increase the workload of the two Central Office records managers because the DNA administrative center will be required to coordinate with the managers concerning whether or not NMCD has DNA information on file for various arrestees.

### **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

The proposed legislation is duplicated by in Senate Bill 216.

### **TECHNICAL ISSUES**

DPS states New Mexico DNA Identification System would need to improve and establish communication through networked computers or updates to communicate about the individuals who

have already had DNA samples collected. DPS reports the communication will require a network capable of handling the increased traffic of requests to confirm samples exist in the database.

**OTHER SUBSTANTIVE ISSUES**

DPS reports duplicate DNA samples are not necessarily inappropriate. Although they would not be analyzed, they would be stored and used for confirmation and other qualitative tests.

**ALTERNATIVES**

DPS recommends the appropriation in the proposed legislation be increased to \$425,000 to assure adequate funding and no backlogs.

RLP/mt:yr