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## FISCAL IMPACT REPORT

<b>SPONSOR</b>	<u>McSorley</u>	<b>ORIGINAL DATE</b>	<u>01/26/09</u>	<b>HB</b>	<u></u>
		<b>LAST UPDATED</b>	<u>03/13/09</u>		
<b>SHORT TITLE</b>	<u>DNA Laboratories &amp; Sample Collection</u>	<b>SB</b>	<u>5/aSJC/aHJC</u>		
		<b>ANALYST</b>	<u>Weber</u>		

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Administrative Office of the Courts (AOC)

Attorney General (AOG)

New Mexico Sentencing Commission (NMSC)

New Mexico Corrections Department (NMCD)

Department of Public Safety (DPS)

### SUMMARY

#### Synopsis of HJC Amendment to Senate Bill 5

On page 2, line 10, strike “tribal”.

#### Synopsis of SJC Amendment to Senate Bill 5

The Senate Judiciary Committee amendment deletes the requirement that the DNA oversight committee shall designate where the administrative center is to be located.

The amendment clarifies that the qualified crime laboratory must be in New Mexico and that the laboratory that the secretary of DPS designates does not have to be a “crime” laboratory.

The amendment reinstates and adds the following:

The secretary of DPS may designate, pursuant to a joint powers agreement, the crime laboratory of the Albuquerque police department to act as the administrative center.

The secretary of DPS may designate, pursuant to a joint powers agreement, any other law enforcement agency to act as administrative center upon recommendation of five voting members of the DNA oversight committee.

Lastly, the amendment removes the authority of the DNA oversight committee to designate the qualifying laboratory where the administrative center will be located.

Synopsis of Original Bill

Senate Bill 5 amends the definition of a covered offender, for purposes of DNA sample collection, to include any person convicted as an adult of a felony pursuant to state, federal, tribal or military law. In addition language is changed so that the DNA identification system administrative center shall be located in a crime laboratory that meets the requirements for participation in the national DNA index system. Also, it provides that the location of the administrative center shall be designated by the DNA oversight committee and diminishes the authority of the Secretary of the Department of Public Safety to make that decision.

**FISCAL IMPLICATIONS**

The changes described in the bill would not impact the expenditures associated with the lab. However, there is currently a recurring appropriation of \$400 thousand to DPS for this purpose that is transferred to the Albuquerque Police Department Metropolitan Forensic Laboratory to function as the DNA administrative center through a joint powers agreement. Presumably, the same arrangement could continue or possibly the funds could flow through DFA Local Government.

**SIGNIFICANT ISSUES**

DPS offers the following information.

The current location of the DNA administrative center was due to the lack of space at the State Forensic Laboratory to house the required records. The current system is working well despite New Mexico being the only state to have an administrative center located at a city police agency instead of a State Forensic Laboratory. It should be noted that the administrative center is a State function, and as such should remain associated with a State agency. According to the new language any national DNA index system qualified crime laboratory could be the site of the administrative center. This suggest that the site is no longer required to be New Mexico and could be based anywhere there is a qualified laboratory, this could be anywhere in the USA.

NMCD includes.

Under the current law, the group of offenders not convicted of a violation of New Mexico law but who are currently incarcerated in a Department prison or are on probation or parole in New Mexico, do not have to provide DNA samples. This bill would close this loophole in the law. It would allow the Department (pursuant to Section 29-16-6 (A) (1) and (2)) to secure DNA samples from this group of offenders, and would require this group of offenders to provide DNA samples upon the Department's request.

There is no rational basis for continuing to allow this group of offenders to avoid giving DNA samples. Most other states' laws require New Mexico state law convicted offenders incarcerated out of state or on probation or parole in another state to give DNA samples when requested by that state's prison or probation/parole authorities.

Mr. John Kresbach, Director of the New Mexico DNA ID System Oversight Committee, adds.

Current law allows the designated location of the DNA Administrative Center to be at a non-qualifying site, potentially jeopardizing the state's ability to share DNA information with the

national DNA index system. The National DNA Index System Board (NDIS) establishes requirements for state participation, to include the location of DNA databases and DNA administrative centers. Only the APD crime lab and the DPS crime lab in Santa Fe are qualified sites. The bill clarifies that the DNA administrative center shall only be located in a NDIS qualified location.

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