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DATE PREPARED: January 13, 2012  
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LB 66

Revision: 02

# FISCAL NOTE

LEGISLATIVE FISCAL ANALYST ESTIMATE

Updated to reflect amendments adopted through January 11, 2012.

ESTIMATE OF FISCAL IMPACT – STATE AGENCIES *				
	FY 2011-12		FY 2012-13	
	EXPENDITURES	REVENUE	EXPENDITURES	REVENUE
GENERAL FUNDS	202,600		107,600	
CASH FUNDS				
FEDERAL FUNDS				
OTHER FUNDS				
TOTAL FUNDS	202,600		107,600	

\*Does not include any impact on political subdivisions. See narrative for political subdivision estimates.

This bill, as amended, would change provisions relating to DNA collection.

In any county containing a city of the metropolitan class, a person placed on probation or who received a penalty of a fine or time served shall have such DNA sample collected by a probation officer. The person shall not be released until a DNA sample has been collected. In all other counties, a person placed on probation shall have the DNA sample collected by a probation officer, and a person not placed on probation who receives a penalty of a fine or time served shall have the DNA sample collected by the county sheriff.

If the court waives the cost of taking a DNA sample for any reason, a county jail or other county detention facility or institution collecting the DNA sample shall not be held financially responsible for the cost of the DNA sample kit.

The Supreme Court's response follows:

FY12-13 expenditures are estimated at \$202,600 and include:

1. A one-time expenditure of \$25,000 for training approximately 300 Probation officers in all the proper methods of DNA collection. This assumes travel expenses for all current Probation Officers to attend training.
2. A one-time expenditure of \$20,000 to modify Probation's case management system to track DNA collection.
3. A one-time expenditure of \$50,000 for a contract to collect samples from current offenders. This is based on the fiscal note response for LB 190, 2010 from the Department of Correctional Services for a contract to collect samples from existing inmates.
4. Two additional Probation Officers to collect samples, one to be based in the county containing a metropolitan class city and one to be based in a county containing a primary class city. The average salary and benefits, for the salary range of a Probation Officer, is approximately \$53,800. It is assumed that these positions would also oversee sample collection as well as other duties.

FY12-13 expenditures are estimated at \$107,600 and include:

1. On-going expenditures for two additional Probation Officers.

### IMPACT ON POLITICAL SUBDIVISIONS:

The Douglas County Department of Corrections (DCDC) estimates they would save \$1,392 per year if Adult Probation would collect and process its own DNA samples.

The DCDC fiscal note response that follows shows expenditures of \$3,441.48 in the boxes at the top of their response. If you look at the table further down in their response, this is the amount they will spend for convicted offenders from which they will still need to collect DNA samples. The savings is from not having to collect DNA samples from Adult Probation offenders. See table below. The DCDC response follows:

**LB<sup>(1)</sup> 66 FISCAL NOTE**

State Agency OR Political Subdivision Name: <sup>(2)</sup> Douglas County Department of Corrections

Prepared by: <sup>(3)</sup> Mark Foxall, PhD Date Prepared: <sup>(4)</sup> 12-2-2011 Phone: <sup>(5)</sup> 402-599-2316

**ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION**

	<u>FY 2012-2013</u>		<u>FY 2013-2014</u>	
	<u>EXPENDITURES</u>	<u>REVENUE</u>	<u>EXPENDITURES</u>	<u>REVENUE</u>
GENERAL FUNDS	\$3,441.48	\$0.00	\$3,441.48	\$0.00
CASH FUNDS				
FEDERAL FUNDS				
OTHER FUNDS				
<b>TOTAL FUNDS</b>	<b></b>	<b></b>	<b></b>	<b></b>

Return by date specified or 72 hours prior to public hearing, whichever is earlier.

Explanation of Estimate: The proposed statutory change will provide clarification for the role of various agencies in the collection of DNA from offenders convicted for qualifying felony/misdemeanor offenses.

Offenders in Douglas County custody have their DNA collected by Douglas County Department of Corrections (DCDC) Classification Staff prior to being released from custody. No specialized training is required to qualify staff to collect DNA – the instructions provided on the package are clear and concise. The process of collecting DNA consumes approximately 15 minutes staff time per sample collection.

Offenders not in Douglas County custody, e.g. Adult Probation, have their DNA collected by staff at DCDC Work Release.

Following describes the number of samples collected for each agency and costs associated with collection:

Agency	Annual Samples	Staff Hours Required	Staffing Cost @ \$26.00/hr	Postage @ \$0.64/sample	Total Annual Cost
DCDC	482	72.3	\$3,133.00	\$308.48	\$3,441.48
Adult Probation	195	29.25	\$1,267.50	\$124.80	\$1,392.30
	<b>677</b>	<b>101.55</b>	<b>\$4,400.50</b>	<b>\$433.28</b>	<b>\$4,833.78</b>

If Adult probation would collect and process its own DNA samples DCDC would realize an annual savings of **\$1,392.30**. Douglas County is also concerned about the liability associated with collecting samples from individuals who are not in their custody primarily due to the inability to thoroughly verify offender identification.

In 2011, the Lancaster County Corrections Department estimated that this bill will reduce expenditures by up to expenditure \$8,300 per year. Their 2011 response follows:

The Lancaster County Corrections Department is currently collecting DNA samples for all felons sentenced to county detention and for those placed on probation as required by Section 29-4106 of the Revised Statutes Cumulative Supplement, 2010. This procedure, which takes approximately 15 minutes to complete, is conducted by department staff of the rank of sergeant. Salary and benefits for this position are an average of \$38 an hour. Additionally, to replace the sergeant conducting the tests, backfill coverage is approximately \$45.00 an hour at overtime rates with benefits included, resulting in a cost of \$20.75 per sampling. The Corrections Department does not currently collect any fees for the sampling, so no revenue is received.

Since the sampling for those on probation began in July 2010, the Corrections Department has sampled 78 probationers, however, there remains a backlog of 550 that require sampling. It is reasonable to expect the Department to conduct at least 350 to 400 samplings during the next fiscal year. This would indicate an annual expenditure of \$7,265 to \$8,300. LB 66 would eliminate this expense for the Corrections Department. The Corrections Department is also responsible for providing DNA sampling for those who are sentenced to the facility. The number of sentenced individuals sampled will be approximately 260 annually. This equates to an on-going expenditure of \$5395 annually.

There is a provision in the current law and this bill that requires the person who is serving a term of probation to pay all costs associated with the collection of the DNA sample. The Corrections Department does not have a method to collect from these individuals. Any collection of fees would incur additional administrative costs to the department. That amount is currently unknown. It is obvious that the most efficient process of collecting DNA samples would require the agency having jurisdiction over the individual to perform the task.

LB 66(2) Fiscal Note  
1/13/12  
Continued

DEPARTMENT OF ADMINISTRATIVE SERVICES

REVIEWED BY	Joe Wilcox	12/16/11	PHONE 471-2526
COMMENTS			
DOUGLAS COUNTY DEPT. OF CORRECTIONS – No basis to dispute revised fiscal note.			