

# MultipleAgencyFiscalNoteSummary

**BillNumber:** 5896SB

**Title:** DNAtestingofevidence

## EstimatedCashReceipts

AgencyName	2001-03		2003-05		2005-07	
	GF-State	Total	GF-State	Total	GF-State	Total
OfficeofAttorneyGeneral	0	125,750	0	108,000	0	108,000
<b>Total:</b>	<b>0</b>	<b>125,750</b>	<b>0</b>	<b>108,000</b>	<b>0</b>	<b>108,000</b>

LocalGov.Courts*						
LocalGov.Other**						
LocalGov.Total						

## EstimatedExpenditures

AgencyName	2001-03			2003-05			2005-07		
	FTEs	GF-State	Total	FTEs	GF-State	Total	FTEs	GF-State	Total
OfficeofAdministrator fortheCourts	23.3	3,502,922	3,502,922	.0	0	0	.0	0	0
OfficeofAttorney General	.3	0	125,750	.3	0	108,000	.3	0	108,000
Departmentof Corrections	.0	0	0	.0	0	0	.0	0	0
SentencingGuidelines Commission	.0	0	0	.0	0	0	.0	0	0
<b>Total:</b>	<b>23.6</b>	<b>\$3,502,922</b>	<b>\$3,628,672</b>	<b>0.3</b>	<b>\$0</b>	<b>\$108,000</b>	<b>0.3</b>	<b>\$0</b>	<b>\$108,000</b>

LocalGov.Courts*	21.0		4,335,204						
LocalGov.Other**	Indeterminate								
LocalGov.Total	21.0		4,335,204						

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**Preparedby:** GarryAustin,OFM

**Phone:**

360-902-0564

**DatePublished:**

Final4/5/2001

\* SeeOfficeoftheAdministratorfortheCourtsjudicialfiscalnote

\*\* Seelocalgovernmentfiscalnote

# JudicialImpactFiscalNote

Revised

<b>BillNumber:</b> 5896SB	<b>Title:</b> DNAtestingofevidence	<b>Agency:</b> 055-Officeof AdministratorforCourts
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## PartI:Estimates

☐ NoFiscalImpact

### EstimatedCashReceiptsto:

Fund	FY2002	FY2003	2001-03	2003-05	2005-07
Counties					
Cities					
<b>Total</b>					

### EstimatedExpendituresfrom:

STATE	FY2002	FY2003	2001-03	2003-05	2005-07
StateFTEStaffYears	2.4	2.4	2.4		
Fund					
GeneralFund-State 001-1	1,751,461	1,751,461	3,502,922		
StateSubtotal	\$1,751,461	\$1,751,461	\$3,502,922		
COUNTY	FY2002	FY2003	2001-03	2003-05	2005-07
CountyFTEStaffYears	21.0	21.0	21.0		
Fund					
Local-Counties	2,738,294	1,596,910	4,335,204		
CountiesSubtotal	\$2,738,294	\$1,596,910	\$4,335,204		
CITY	FY2002	FY2003	2001-03	2003-05	2005-07
CityFTEStaffYears					
Fund					
Local-Cities					
CitiesSubtotal					
LocalSubtotal	\$2,738,294	\$1,596,910	\$4,335,204		
TotalEstimatedExpenditures	\$4,489,755	\$3,348,371	\$7,838,126		

The revenue and expenditure estimates on this page represent the most likely fiscal impact. Responsibility for expenditures may be subject to the provisions of RCW 43.135.060.

Check applicable boxes and follow corresponding instructions:

- ☒ If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- ☐ If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- ☐ Capital budget impact, complete Part IV.

LegislativeContact: LilahAmos	Phone: (360)786-7421	Date: 02/14/2001
AgencyPreparation: YvonnePettus	Phone: (360)705-5314	Date: 03/09/2001
AgencyApproval: JanetMcLane	Phone: (360)705-5305	Date: 03/12/2001
OFMReview: GarryAustin	Phone: 360-902-0564	Date: 03/13/2001

PartII:NarrativeExplanation

II.A-BriefDescriptionOfWhatTheMeasureDoesThatHasFiscalImpactontheCourts

Section2ofthisbillprovidesthatapersonconvictedofafelonymaymakeawrittenmotionbeforethetrialcourtohaveevidencein thecasesubjectedtoDNAtesting.Thecourthasdiscretiontoorderahearingonthemotion.Themotionistobeheardbythetrial judgeunlessthepresidingjudgedeterminesthetrialjudgeisunavailable.Theordergrantingordenyingthemotionisnotappealable andissubjecttoreviewonlythroughapetitionforwritofmandateorprohibition.Fornoncapitalcases,thewritisfiledinthecourt of appealsandforcapitalcases,thewritisfiledinthesupremecourt. Thecourtshallappointcounselfortheconvictedpersonifthatpersonisindigent.Thestatepaysforthecostoftestingifthe court ordersthetesting.Thecourthastoapprovethe laboratorybillforpayment.

II.B-CashReceiptsImpact

Therewouldbenocashreceiptsimpactfromthisbill.

II.C-Expenditures

ItisassumedthatthisbillwouldlikelyapplytopersonscurrentlyincarceratedwiththeDepartmentofCorrectionsforconvictionsof crimesagainstperson.Itisassumed,basedoninformationfromtheWashingtonStateAssociaitonofProsecutingAttorneys that personsconvictedafter1992wouldhavehadevidencethatwasalreadytestedusingDNAtesting.Itisassumedthatonlyoffenders convictedpriorto1992wouldavailthemselvesoftheprovisionsofthisbill.Itisassumedthatoncethesemotionsaredecided,future caseswouldalreadyhavetheappropriateDNAtestingandwouldnotbesubjecttotheprovisionsofthisbill.

DOCestimates thenumberof individuals currently imprisoned for convictionsof crimes against persons and incarcerated priorto 12/31/1992tobe1,328.Itisestimated90percentoftheseindividualswouldfileamotionrequestingDNAtestingoftheevidence.If a hearingisorderedin75percentofthesecases,896additionalhearingswillbeheld.Itisestimatedthateachhearingwillrequire3 hoursofjudicialtime.Therefore,thisbillwillresultintheneedfor2.38additional superiorcourtjudges.

Additionaladministrativeandcountyclerkstaffwillalsobeneededtocovertheadditionalcourthearings.Accordingto1999data,for every superiorcourtjudge,3.3superiorcourtadministrativestaffand4.5countyclerkstaffareneeded.Usingthisdata,itisestimated 7.86additional superiorcourtadministrativestaffand10.71countyclerkstaffwillbeneeded.

Salaryandbenefitexpendituresforthesuperiorcourtjudgesaresharedbythestateandcounty.Forthetheadditional2.38superiorcourt judicialpositions,thecosttothestateperyearis\$183,461.Thecostforcountygovernmentis\$145,938.Salaryandbenefit expendituresforsuperiorcourtadministrativeandcountyclerkstaffarebornebythecounty.Thesalaryandbenefitexpendituresfor theadditionalstaffis\$911,826.

Othercourtoperatonalcostsareestimatedbasedonadditionaljudgesandcountyclerkstaff.Forthisbill,itisestimatedthiswould equal\$539,147.

Forevery superiorcourtjudge,1,970squarefeetareneeded.Foreverynewclericalposition,120squarefeetareneeded.Thecostper squarefootforcourtconstructionisestimatedtobe\$165.Therefore,thecapitalbudgetimpactforcountieswouldbe\$1,141,383.

Thestatewillpaythecostofthelaboratorytestoftheevidence.Thesuperiorcourtwillapprovepaymentofthelaboratorycostsoitis assumedthatOACwouldpaythelaboratorycostsuponsubmissionofthebillfromthesuperiorcourt.Criminalcostbillsarepaidin thismannercurrently.AccordingtotheStatePatrol,thecostoftheDNAlaboratorytestfromaprivatelaboratoryis\$3,500per test. Therefore,thecostforthelaboratorytestswouldbe\$3,136,000.

Part III: Expenditure Detail

III.A-Expenditures By Object Or Purpose (State)

STATE					
FTE Staff Years	2.4	2.4	2.4		
Salaries and Wages	183,461	183,461	366,922		
Employee Benefits					
Personal Service Contracts					
Goods and Services	1,568,000	1,568,000	3,136,000		
Travel					
Capital Outlays					
Inter Agency/Fund Transfers					
Grants, Benefits & Client Services					
Debt Service					
Interagency Reimbursements					
Intra-Agency Reimbursements					
Total	\$1,751,461	\$1,751,461	\$3,502,922		

III.B-Expenditures By Object Or Purpose (County)

COUNTY					
FTE Staff Years	21.0	21.0	21.0		
Salaries & Benefits	1,057,764	1,057,764	2,115,528		
Capital	1,141,383		1,141,383		
Other	539,147	539,147	1,078,294		
Total	\$2,738,294	\$1,596,911	\$4,335,205		

III.C-Expenditures By Object Or Purpose (City)

CITY					
FTE Staff Years					
Salaries & Benefits					
Capital					
Other					
Total					

III.D-FTE Detail

Job Classification	Salary	FY2002	FY2003	2001-03	2003-05	2005-07
County Clerk Staff	38,178	10.7	10.7	10.7		
Superior Court Admin Staff	64,016	7.9	7.9	7.9		
Superior Court Judge	223,098	4.8	4.8	4.8		
Total		23.3	23.3	23.4		

Part IV: Capital Budget Impact

For every superior court judge, 1,970 square feet are needed. For every new clerical position, 120 square feet are needed. The cost per square foot for court construction is estimated to be \$165. Therefore, the capital budget impact for counties would be \$1,141,383.

# IndividualStateAgencyFiscalNote

<b>BillNumber:</b> 5896SB	<b>Title:</b> DNAtestingofevidence	<b>Agency:</b> 100-OfficeofAttorney General
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## PartI:Estimates

☐ NoFiscalImpact

### EstimatedCashReceiptsto:

Fund	FY2002	FY2003	2001-03	2003-05	2005-07
LegalServicesRevolvingAccount-State 405-1	64,750	61,000	125,750	108,000	108,000
<b>Total</b>	<b>\$64,750</b>	<b>\$61,000</b>	<b>\$125,750</b>	<b>\$108,000</b>	<b>\$108,000</b>

### EstimatedExpendituresfrom:

	FY2002	FY2003	2001-03	2003-05	2005-07
FTEStaffYears	0.3	0.3	0.3	0.3	0.3
Fund					
LegalServicesRevolvingAccount-State 405-1	64,750	61,000	125,750	108,000	108,000
<b>Total</b>	<b>64,750</b>	<b>61,000</b>	<b>125,750</b>	<b>108,000</b>	<b>108,000</b>

*Thecashreceiptsandexpenditureestimatesonthispagerepresentthemostlikelyfiscalimpact.Factorsimpactingtheprecisionoftheseestimates, andalternateranges(ifappropriate),areexplainedinPartII.*

Checkapplicableboxesandfollowcorrespondinginstructions:

- ☒ Iffiscalimpactisgreaterthan\$50,000perfiscalyearinthecurrentbienniumorinsubsequentbiennia,completeentirefiscalnote formPartsI-V.
- ☐ Iffiscalimpactislessthan\$50,000perfiscalyearinthecurrentbienniumorinsubsequentbiennia,completethispageonly(PartI).
- ☐ Capitalbudgetimpact,completePartIV.
- ☐ Requiresnewrulemaking,completePartV.

LegislativeContact: LilahAmos	Phone: (360)786-7421	Date: 02/14/2001
AgencyPreparation: DavidWalsh	Phone: 360-753-6983	Date: 02/14/2001
AgencyApproval: MichelleUnderwood	Phone: 360-586-0782	Date: 02/26/2001
OFMReview: RobinCampbell	Phone: 360-902-0575	Date: 03/06/2001

Part II: Narrative Explanation

II.A- Brief Description Of What The Measure Does That Has Fiscal Impact

Briefly describe, by section number, the significant provisions of the bill, and any related workload or policy assumptions, that have revenue or expenditure impact on the responding agency.

SB 5896 establishes a procedure for certain convicted persons to request DNA testing for use as evidence of whether the convicted person was the perpetrator or accomplice of the crime for which the person was convicted. Under the procedure set forth in the bill, the convicted person must make a motion to the trial court where the person was convicted indicating why DNA testing should be done. The Notice of Motion must be sent to the prosecuting attorney and the Attorney General's Office. The court shall grant the motion if all of the elements set forth in new Section 2(4) have been established. If DNA testing is ordered by the court, it shall be performed by a laboratory accredited by the American Society of Criminal Laboratory Director's Laboratory Certification Board. The laboratory must be mutually agreed upon between the prosecuting attorney in the non-capital case or by the Attorney General in a capital case and the person filing the motion. If the parties cannot agree, the court shall consider designating the laboratory. The result of the test shall be provided to the person convicted and the prosecuting attorney and the Attorney General.

Section 3 establishes a protocol for retention of biological material secured in a criminal conviction. Under § 3(3), the bill expires January 1, 2006. Under § 5, if funding not provided by June 30, 2001, the Act is null and void.

We assume that there would be a substantial number of requests for DNA testing. We assume that the majority of the motions would be handled by the prosecuting attorney's office in the county where the conviction was obtained. The Attorney General's Office would handle motions by persons convicted of death sentences and for prosecutions handled directly by the office. We would help and assist the prosecuting attorney's office to the extent of the available funding to assist in motions.

II.B- Cash Receipts Impact

Briefly describe and quantify the cash receipts impact of the legislation on the responding agency, identifying the cash receipts provisions by section number and when appropriate the detail of the revenue sources. Briefly describe the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explain how workload assumption translates into estimates. Distinguish between one-time and ongoing functions.

The Office of the Attorney General operates predominately out of the Legal Services Revolving Fund. As the primary client for capital cases, Department of Corrections will be billed for these services.

II.C- Expenditures

Briefly describe the agency expenditures necessary to implement this legislation (or savings resulting from this legislation), identifying by section number the provision of the legislation that results in the expenditures (or savings). Briefly describe the factual basis of the assumptions and the method by which the expenditure impact is derived. Explain how workload assumption translates into cost estimates. Distinguish between one-time and ongoing functions.

As noted above, it is assumed that the Attorney General's Office would handle motions for DNA tests from persons convicted of death sentences and for prosecutions handled directly by the office. The office would also provide assistance to the prosecuting attorney's offices within the limit of funding available. We would assume that there would be a flood of motions initially. We would expect petitions filed by most of the persons convicted in capital cases and a few other applications for some of the other applications for some of the other cases handled directly by the office. For motions handled by the Attorney General's Office, we assume that if the motion was granted, the court would require the State to pay for the costs of the DNA test. It is difficult to estimate the number of cases where the court would order DNA testing. We have been informed that the average commercial rate for DNA tests for a case is approximately \$3,500. We expect this would require approximately .25 attorney FTE. For this fiscal note we have assumed that the court would order DNA tests in four cases over the next two years.

Part III: Expenditure Detail
III.A-Expenditures By Object Or Purpose

	FY2002	FY2003	2001-03	2003-05	2005-07
FTE Staff Years	0.3	0.3	0.3	0.3	0.3
A-Salaries and Wages	18,251	18,251	36,502	36,502	36,502
B-Employee Benefits	4,380	4,380	8,760	8,760	8,760
C-Personal Service Contracts					
E-Goods and Services	32,974	32,974	65,948	51,948	51,948
G-Travel	5,395	5,395	10,790	10,790	10,790
J-Capital Outlays	2,100		2,100		
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
Total:	\$63,100	\$61,000	\$124,100	\$108,000	\$108,000

III.B-FTE Detail: List FTEs by classification and corresponding annual compensation. Totals need to agree with total FTEs in Part I and Part III.A.

Job Classification	Salary	FY2002	FY2003	2001-03	2003-05	2005-07
Admin Overhead	40,044	.0	.0			
Assistant Attorney General	69,000	.3	.3	.3	.3	.3
Total		.3	.3	.3	.3	.3

Part IV: Capital Budget Impact

Part V: New Rule Making Required

Identify provision(s) of the measure that require the agency to adopt new administrative rules or repeal/revise existing rules.

# IndividualStateAgencyFiscalNote

<b>BillNumber:</b> 5896SB	<b>Title:</b> DNAtestingofevidence	<b>Agency:</b> 310-Departmentof Corrections
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## PartI:Estimates

☒ NoFiscalImpact

Thecashreceiptsandexpenditureestimatesonthispagerepresentthemostlikelyfiscalimpact.Factorsimpactingtheprecisionoftheseestimates, andalternateranges(ifappropriate),areexplainedinPartII.

Checkapplicableboxesandfollowcorrespondinginstructions:

- ☐ Iffiscalimpactisgreaterthan\$50,000perfiscalyearinthecurrentbienniumorinsubsequentbiennia,completeentirefiscalnote formPartsI-V.
- ☐ Iffiscalimpactislessthan\$50,000perfiscalyearinthecurrentbienniumorinsubsequentbiennia,completethispageonly(PartI).
- ☐ Capitalbudgetimpact,completePartIV.
- ☐ Requiresnewrulemaking,completePartV.

LegislativeContact: LilahAmos	Phone: (360)786-7421	Date: 02/14/2001
AgencyPreparation: DougMah	Phone: 360-664-9628	Date: 02/14/2001
AgencyApproval: DonArlow	Phone: 360-586-6024	Date: 02/19/2001
OFMReview: RandiWarick	Phone: 360-902-0570	Date: 02/21/2001



# IndividualStateAgencyFiscalNote

<b>BillNumber:</b> 5896SB	<b>Title:</b> DNAtestingofevidence	<b>Agency:</b> 325-SentencingGuidelines Commission
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## PartI:Estimates

☒ NoFiscalImpact

Thecashreceiptsandexpenditureestimatesonthispagerepresentthemostlikelyfiscalimpact.Factorsimpactingtheprecisionoftheseestimates, andalternateranges(ifappropriate),areexplainedinPartII.

Checkapplicableboxesandfollowcorrespondinginstructions:

- ☐ Iffiscalimpactisgreaterthan\$50,000perfiscalyearinthecurrentbienniumorinsubsequentbiennia,completeentirefiscalnote formPartsI-V.
- ☐ Iffiscalimpactislessthan\$50,000perfiscalyearinthecurrentbienniumorinsubsequentbiennia,completethispageonly(PartI).
- ☐ Capitalbudgetimpact,completePartIV.
- ☐ Requiresnewrulemaking,completePartV.

LegislativeContact: LilahAmos	Phone: (360)786-7421	Date: 02/14/2001
AgencyPreparation: EdVukich	Phone: (360)956-2143	Date: 02/14/2001
AgencyApproval: IdaLeggett	Phone: (360)956-2130	Date: 02/14/2001
OFMReview: RandiWarick	Phone: 360-902-0570	Date: 02/21/2001

PartII:NarrativeExplanation

II.A-BriefDescriptionOfWhatTheMeasureDoesThatHasFiscalImpact

Brieflydescribe,bysectionnumber,thesignificantprovisionsofthebill,andanyrelatedworkloadorpolicyassumptions,thathaverevenueor expenditureimpactontherespondingagency.

Pleasetheattachment.

II.B-CashreceiptsImpact

Brieflydescribeandquantifythecashreceiptsimpactofthelegislationontherespondingagency,identifyingthecashreceiptsprovisionsbysection numberandwhenappropriate,thetailoftherevenuesources.Brieflydescribetheactualbasisoftheassumptionsandthetmethodbywhichthe cashreceiptsimpactisderived.Explainhowworkloadassumptionstranslateintoestimates.Distinguishbetweenonetimeandongoingfunctions.

None.

II.C-Expenditures

Brieflydescribetheagencyexpendituresnecessarytoimplementthislegislation(orsavingsresultingfromthislegislation),identifyingbysection numbertheprovisionsofthelegislationthatresultintheexpenditures(orsavings).Brieflydescribetheactualbasisoftheassumptionsandthe methodbywhichtheexpenditureimpactisderived.Explainhowworkloadassumptionstranslateintocostestimates.Distinguishbetweenonetime andongoingfunctions.

Pleasetheattachment.

PartIII:ExpenditureDetail

PartIV:CapitalBudgetImpact

None.

PartV:NewRuleMakingRequired

Identifyprovisionsofthetmeasurethatrequiretheagencytoadoptnewadministrativerulesorrepeal/revisetexistingrules.

None.

**SB 5896**  
**DNA TESTING OF EVIDENCE**  
**325 – Sentencing Guidelines Commission**  
**February 14, 2001**

**SUMMARY**

**A brief description of what the measure does that has fiscal impact.**

Section 2 establishes guidelines under which an offender who was convicted of a felony and is serving a term of imprisonment may request DNA testing, and under what circumstances the testing should be granted.

**EXPENDITURES**

**Assumptions.**

None.

**Impact on the Sentencing Guidelines Commission.**

None.

**Impact on prison and jail beds.**

This bill allows an imprisoned felony offender to request DNA testing of evidence, under certain circumstances, in order to attempt to prove his/her innocence of the crime for which [s]he is imprisoned.

The Sentencing Guidelines Commission has no information with which to predict how many imprisoned offenders might request DNA testing, how many of these requests might be granted nor how many of the approved requests may ultimately result in exoneration and release from confinement. Therefore, the Commission cannot reliably estimate jail bed and prison bed impacts resulting from the bill.

# LOCAL GOVERNMENT FISCAL NOTE

Department of Community, Trade and Economic Development

**Bill Number:** 5896SB

**Title:** DNA testing of evidence

**Part I: Jurisdiction-** Location, type or status of political subdivision defines range of fiscal impacts.

## Legislation Impacts:

- ☐ Cities:
- ☒ Counties:
- ☐ Special Districts:
- ☐ Specific jurisdiction only:
- ☐ Variance occurs due to:

## Part II: Estimates

- ☐ No fiscal impacts.
- ☐ Expenditures represent one-time costs:
- ☐ Legislation provides local option:
- ☒ Key variables cannot be estimated with certainty at this time:      number of convicted felons that will file a motion for DNA testing, the amount of biological evidence required to be retained by local law enforcement

### Estimated revenue impacts to:

Jurisdiction	FY2002	FY2003	2001-03	2003-05	2005-07
City					
County					
Special District					
<b>TOTAL</b>					
<b>GRAND TOTAL</b>					

### Estimated expenditure impacts to:

<b>Indeterminate Impact</b>
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## Part III: Preparation and Approval

Fiscal Note Analyst: Paul Johnson	Phone: (360)725-5035	Date: 02/16/2001
Leg. Committee Contact: Lilah Amos	Phone: (360)786-7421	Date: 02/14/2001
Agency Approval: Val Richey	Phone: 360-725-5036	Date: 04/04/2001
OFM Review: Linda Swanson	Phone: 360-902-0541	Date: 04/05/2001

## **Part IV: Analysis**

### **A. SUMMARY OF BILL**

*Provide a clear, succinct description of the bill with an emphasis on how it impacts local government.*

Section 2 allows any person convicted of a felony, and currently serving a term of imprisonment, to make a motion for DNA testing in the trial court that entered judgment of conviction in his or her case.

Section 2 requires that notice of the motions shall be provided to the prosecuting attorney in the county of conviction, the attorney general, and the governmental agency or laboratory holding the evidence sought to be tested. Responses, if any, must be filed within 60 days of the date on which the prosecuting attorney and attorney general are served with the motion. If the evidence was subjected to previous DNA or other forensic testing, then the court shall order the prosecution or defense to provide all parties and the court with access to the laboratory reports, data, and notes prepared in connection with the testing.

Section 2 allows the court to order a hearing and to order the convicted person to be present at the hearing.

Section 2 requires the court to appoint counsel for the convicted person filing a motion if the person is indigent.

Section 2 further provides that testing be conducted by a laboratory mutually agreed on by the prosecuting attorney and the person filing the motion. If the parties cannot agree, the court shall consider designating a laboratory accredited by the American Society of Criminal Laboratory Directors Laboratory Accreditation Board.

Section 2 further provides that the cost of this DNA testing shall be borne by the state or the applicant, as the court may order in the interest of justice. However, if the county conducts additional testing then the prosecutor must pay for this testing.

Section 3 requires that the appropriate governmental entity must retain any biological material secured in connection with a criminal case for the period of time that any person remains incarcerated for that case. The government entity would have discretion to determine how the evidence is retained as long as it is consistent with preserving it for DNA testing.

Section 3 allows the governmental entity to dispose of this evidence before the expiration of incarceration if it (1) notifies all parties and agencies involved with the case and (2) the entity does not receive either of the following within 90 days:

- (a) A motion for DNA testing described in Section 2 of this bill;
- (b) A request to delay disposal because the declarant will file a DNA testing motion within 180 days.

Section 3 would expire January 1, 2006.

Section 6 provides that this act is null and void if funding for this act is not provided by June 30, 2001.

### **B. SUMMARY OF EXPENDITURE IMPACTS**

*Briefly describe and quantify the expenditure impacts of the legislation on local governments, identifying the expenditure provisions by section number, and when appropriate, the detail of expenditures. Delineate between city, county and special district impacts.*

Due to the unknown number of motions for DNA testing, the total expenditure impact is indeterminate. The increased costs for adequately complying with biological evidence storage is unknown. There would be no impact on jail costs. The following assumptions are intended to provide estimates for the purposes of this fiscal note.

#### **ASSUMPTIONS:**

##### **1. Number of Motions/Responses/Hearings:**

The language of the bill applies to those convicted of a felony and currently serving a "term of imprisonment". Therefore, LGFN assumes this legislation would apply to those persons currently incarcerated in state prison. In addition, the Office of Administrator for Courts (OAC) assumes the number of individuals requesting DNA testing would probably be limited to those incarcerated in state prison for crimes against persons.

According to the Washington Association of Prosecuting Attorneys (WAPA) persons convicted after 1992 would have already had DNA testing of evidence. Therefore, WAPA estimates that only those convicted prior to 1993 would avail themselves of the provisions of this bill. WAPA further estimates that pre-1993 cases with adequate DNA evidence represent a very small percentage of the total requests, however the precise number is unknown.

Department of Corrections (DOC) estimates the number of individuals imprisoned for convictions of crimes against persons and incarcerated prior to 1/1/93 to be 1,328.

## 2. Prosecuting Attorney Costs:

a. The average wage for a deputy criminal prosecutor is \$33.17 per hour. The estimated cost for a prosecutor to draft and file a response to a motion before the superior court is approximately 2 hours at \$33.17 = \$66.34.

b. According to a survey of prosecuting attorneys, the average time for case preparation is estimated to take 2 hours or more, depending on the complexity of the case. Preparation costs are estimated to be at least 2 hours at \$33.17 = \$66.34 per case.

c. According to OAC, it is estimated that each hearing will take 3 hours. Based on above wages, prosecuting attorney costs for a single hearing would be  $3 \times \$33.17 = \$99.51$ .

TOTAL: the total cost for one prosecuting attorney to handle a motion and hearing is estimated to be \$232.19 per case. ( $66.34 + 66.34 + 99.51 = 232.19$ ).

Note: These figures would likely increase based on the type of felony involved, the complexity of the crime, the availability of evidence, staffing requirements, investigative work, etc.

## 3. Indigent Defense Costs:

According to the Office of Public Defense, the cost for appointed counsel at these hearings would be \$150 per case. LGFN assumes approximately 90% of the cases would qualify for indigent representation.

## 4. Costs to Process/Test DNA Evidence:

The amount of evidence ordered to be tested per case is unknown. According to a survey of local law enforcement agencies, processing one request for evidence takes approximately 1 hour of time at \$17.80 per hour for an evidence specialist. In addition, there would be cost of approximately \$10 for mailing the evidence to the state crime lab or private lab. This is based on an average of \$5 to \$15 for sending a 10-pound package by certified mail either with the Postal Service or UPS. Package weights may vary depending on the evidence requested. The cost to process would be \$27.80 per request. ( $17.80 + 10.00 = 27.80$ ).

Under this bill the state or applicant would pay for the cost of testing DNA evidence.

5. The following scenarios are intended to represent potential expenditures for county prosecuting attorneys and law enforcement for the purpose of this fiscal note. There is no way to determine the actual number of DNA testing requests.

Example 1. Assume 25% of 1,328 persons, or 332, file a motion for testing and receive a hearing. The cost to prosecuting attorneys would be  $332 \times \$232.19 = \$77,087$ . The cost for indigent defense would be  $299 \times \$150 = \$44,850$ . (90% of 332 = 299). Assuming 10% of those motions are granted the additional cost would be  $33 \times \$27.80 = \$917$ . The total cost would be  $77,087 + 44,850 + 917 = \$122,854$ .

Example 2. Assume 1% of 1,328, or 13, file a motion for testing and receive a hearing. The cost for prosecuting attorneys would be  $13 \times \$232.19 = \$3,018$ . The cost for indigent defense would be approximately  $11 \times \$150 = \$1,650$ . Assuming 100% of those were approved for processing, the additional cost would be  $13 \times \$27.80 = \$361$ . The total cost would be  $3,018 + 1,650 + 361 = \$5,029$ .

## 6. Retention of Evidence:

Based on a survey of local law enforcement agencies, evidence is kept on a case by case basis depending on such factors as severity of the crime, manner in which case was resolved (plead or trial), age of crime, etc. There is no adequate method to determine the cost for implementing a new DNA evidence storage system.

According to a survey of local county clerks, the cost to retain evidence depends on the size and nature of the evidence, and disposition of the case. Since it is assumed many of the requests for DNA evidence will be made for older cases, it is possible that local law enforcement may no longer have the evidence. In addition, it is unknown how long evidence would be retained based on a case by case basis.

It is unknown which local government entity would store biological evidence for the period of incarceration. Assuming county law enforcement will be required to retain biological material, a system for properly retaining it in a conditions suitable for DNA testing must be created.

## 7. Jail Costs:

According to the Sentencing Guidelines Commission (SGC), there is no method to determine the number of requests that may result in exoneration and release due to DNA testing under this bill. In addition, the bill is assumed to apply only to individuals serving a term of imprisonment, not jail confinement. As a result, there would be no impact on jail beds.

Data:

1999CTEDsurveyofcountybudgets,including1998actualexpendituresforprosecutingattorneys

1999CTEDsurveyofpublicdefenderscaseloadcosts

AssociationofWashingtonCities1999SalarySurvey

DepartmentofCorrections

OfficeoftheAdministratorforCourts

WashingtonAssociationofCountyOfficials

WashingtonStateAssociationofCounties

WashingtonStatePatrolCrimeLab

WashingtonAssociationofProsecutingAttorneys

OfficeofPublicDefense

SentencingGuidelinesCommission

## **C.SUMMARYOFREVENUEIMPACTS**

*Brieflydescribeandquantifytherevenueimpactsofthelegislationonlocalgovernments,identifyingtherevenueprovisionsbysection number,andwhenappropriate,thedetailofrevenuesources.Delineatebetweenecity,countyandspecialdistrictimpacts.*

None.