

Fiscal Estimate Narratives

DOJ 4/13/2010

LRB Number	09-4568/1	Introduction Number	AB-0896	Estimate Type	Original
Description Collection of deoxyribonucleic acid samples and requiring the exercise of rule-making authority					

Assumptions Used in Arriving at Fiscal Estimate

Currently, under s. 51, s. 165, s. 938, s. 971, s. 973, and s. 980 certain offenders are required, or shall be ordered by the court, to provide a biological specimen to the state crime laboratories for deoxyribonucleic acid analysis and data maintenance of the DNA databank under s. 165.77. The crime labs receive specimens collected from offenders by the Department of Corrections and sheriffs' offices.

2009 Assembly Bill 896 specifies that under s. 51.20 (13) (cr), the dna specimen provided by a juvenile found by the court to be not responsible by reason of mental disease or defect for certain violations, and under 971.17 (1m) (a), the dna specimen provided by a person found not guilty by reason of mental disease or defect for certain violations, shall be provided to the sheriff as provided in rules promulgated by DOJ. AB 896 also specifies that under 980.063 (1), the dna specimen provided by a sexually violent person shall be provided to the sheriff as provided in rules promulgated by DOJ.

In addition, AB 896 specifies that under 938.34 (15), a juvenile is immediately placed in the physical custody of the sheriff for a time sufficient to provide a specimen to the sheriff under the rules promulgated by DOJ if the juvenile is adjudicated delinquent for certain violations and, under 973.047 (1f), a person is immediately placed in the physical custody of the sheriff for a time sufficient to provide a specimen to the sheriff under the rules promulgated by DOJ if the person is sentenced or placed on probation for a felony or certain misdemeanors.

It is possible that the enactment of AB 896 will result in the collection of additional specimens due to these provisions. Most likely, however, specimens that would have been collected by the Department of Corrections will be collected by sheriffs if this bill is enacted. While annual numbers fluctuate, in a typical year, DOJ receives approximately 8,500 specimens a year, nearly all of which are collected by sheriffs and the Department of Corrections. The majority of these specimens are collected by sheriffs under current law, while a sizable minority are collected by the Department of Corrections from inmates sentenced to prison who have not previously submitted a specimen.

DOJ's cost for each specimen are as follows:

Biological specimens are placed in collection kits and mailed to DOJ. The department covers the cost of the collection kits to sheriffs and the Department of Corrections (\$1.14/kit) and covers postage (\$.80/kit) each way between DOJ and sheriff offices. DOJ contracts with a private vendor to do the DNA analysis of offender samples. The private vendor currently charges DOJ \$33.50 for each sample analyzed.

In addition, DOJ also currently reimburses sheriffs \$20 for their work each time they obtain a sample.*

* Prior to 1999 Wisconsin Act 9, courts were required to order only persons sentenced or placed on probation for a violation of s. 940.225, 948.02 (1) or (2), or 948.025 to provide a biological specimen to the state crime labs for DNA analysis. Generally, DOC collected samples from offenders in prison for those crimes and sheriffs collected samples from offenders of those crimes who were not in prison. Act 9 created the current requirement that courts order persons sentenced or placed on probation for any felony conviction to provide a biological specimen to the state crime labs for DNA analysis. No additional resources were provided to cover the cost of obtaining samples from all felons.

At that time, several sheriffs called the change an unfunded mandate and some refused to collect samples. In 2001, DOJ's Crime Laboratories/DNA Analysis appropriation under s. 20.455 (2) (Lm) had an unexpected surplus and then Attorney General Doyle worked with DOA, through the state's allotment process, to increase the appropriation's spending authority to an amount sufficient to reimburse sheriffs \$20 for each sample collected. While the s. 20.455 (2) (Lm) appropriation surplus no longer exists, DOJ has continued to reimburse sheriffs \$20 for each sample collected for the past eight years. If AB 896 were to pass without resources sufficient to allow DOJ to reimburse sheriffs for collecting samples or to directly fund sheriffs' collection costs, once again, sheriffs may view an expansion of DNA collection as an unfunded mandate.

In addition to costs to sheriffs offices that would arise from the work transfer from the Department of Corrections to collecting sheriffs offices, DOJ notes that these changes would require an alteration in sheriff staffing at court proceedings. Sheriffs are in the best position to address the impacts of these costs on their counties.

Long-Range Fiscal Implications