



Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873

May 31, 2011

Joint Committee on Finance

Paper #423

DNA Analysis Resources (Justice)

[LFB 2011-13 Budget Summary: Page 272, #6]

CURRENT LAW

The analysis of deoxyribonucleic acid (DNA) evidence at crime scenes has become an increasingly important forensic tool for law enforcement agencies in recent years. Under s. 165.77 of the statutes, the state crime laboratories are required to provide DNA analysis and maintain a DNA databank. The laboratories are required to analyze the DNA in a human biological specimen, if requested: (a) by a law enforcement agency regarding an investigation; (b) pursuant to a court order; and (c) by an individual regarding his or her own specimen, subject to rules established by the Department of Justice (DOJ). The laboratories may compare the data obtained from this specimen with data obtained from other specimens, but may not include the data from these specimens in the state DNA databank. [However, those subsequently convicted of specified crimes must submit DNA specimens for inclusion in the state DNA databank.] The Department is currently authorized 59.0 DNA analyst positions, including 31.50 GPR-funded positions and 27.50 PR-funded positions.

GOVERNOR

Provide \$394,000 GPR in 2011-12, \$376,300 GPR in 2012-13, and 6.0 DNA analyst positions annually, to provide additional staffing and supplies and services resources to the state crime laboratories for DNA analysis. Funding would include: (a) \$217,000 in 2011-12, and \$289,300 in 2012-13, for salary and fringe benefits costs; and (b) \$177,000 in 2011-12, and \$87,000 in 2012-13, for supplies and services costs.

DISCUSSION POINTS

1. From calendar year 2003 to calendar year 2006, the annual DNA analysis caseload at DOJ grew by 86%, from 1,199 cases in 2003, to 2,226 cases in 2006. In the years preceding the passage of 2007 Acts 5 and 20, incoming DNA analysis cases exceeded cases completed. As a result, at the end of calendar year 2006, the state crime laboratories had a DNA analysis backlog of 1,785 cases.

2. Under 2007 Acts 5 and 20, the Legislature provided additional resources to DOJ to address an increasing DNA analysis caseload/backlog. Prior to the passage of these acts, the state crime laboratories were authorized 29.0 DNA analysts. Together these acts provided position authority and funding for 31.0 additional DNA analysis-related positions including: (a) 29.0 DNA analysts; (b) 1.0 DNA technician; and (c) 1.0 DNA analysis supervisor. These acts also provided funding to DOJ to acquire robotics technology to automate the middle stages of DNA forensic analysis.

3. With the additional resources DOJ eliminated the DNA analysis backlog. At the end of 2009-10, there were 457 cases awaiting analysis. This was less than the total number of DNA analysis cases submitted to the laboratories during the last month of this fiscal year.

4. Nonetheless, the Attorney General has indicated that additional DNA analysts are needed to meet the immediate and estimated demand for DNA analysis services. In testimony before the Committee, the Attorney General stated that:

"DNA case submissions have increased from 2,877 in 2008 to 5,188 in 2010, an increase of 2,311 (80%) over the two-year period. It is projected that case submissions may increase another 30 percent over the next two years, to approximately 6,744 cases annually. This number will exceed the ability of the current DNA staffing levels to process the evidence in a timely fashion, even with our many improved efficiencies. DNA supervisors have estimated that six additional DNA analyst positions will be required to prevent a dangerous backlog from re-occurring."

5. When requesting additional DNA analysis resources from the Legislature in 2007, DOJ estimated that the requested robotics technology would improve analyst productivity from 55 cases per analyst per year in 2006, to 82.5 cases per year by July 1, 2009. Crime laboratory management now estimates that each DNA analyst can be expected to process between 96 and 120 cases per year. The Department indicates that of the 59.0 DNA analysts authorized to DOJ, 54.0 analysts process DNA cases submitted by law enforcement, while the remaining 5.0 analysts process DNA databank cases (processing biological samples for inclusion in the DNA databank following conviction for certain specified crimes).

6. If every DNA analyst processed 112 cases annually, the Department would need 60.0 DNA analysts to process the estimated annual caseload of 6,744 DNA analysis cases from law enforcement beginning in 2011-12. It may be worth noting that from July 1, 2010, through April 30, 2011, the Department has opened 6,476 new DNA cases for DNA analysis. As a result, the

Department's estimate for annual DNA caseload beginning in 2011-12 appears reasonable. Therefore, the Committee could consider approving the Governor's recommendation to provide \$394,000 GPR in 2011-12, \$376,300 GPR in 2012-13, and 6.0 DNA analyst positions annually, to provide additional staffing and supplies and services resources to the state crime laboratories for DNA analysis. [Alternative 1]

7. The Attorney General has warned that if additional resources for this initiative are not provided that a substantial DNA analysis backlog could re-occur. If additional resources were not provided, the Department could undertake to prioritize requests for DNA analysis in order to manage the resources provided by the Legislature and not permit a backlog to re-occur. As the Department rarely provides DNA analysis in a misdemeanor case, however, prioritizing cases would require the Department to prioritize among felony cases. The current allocation of 54.0 DNA analysts would permit the Department to process an estimated 90% of the 2011-12 caseload. [Alternative 2] This alternative would also require an amendment to current law to provide that the state crime laboratories may, not must, analyze DNA in a human biological specimen, if requested by a law enforcement agency regarding an investigation. [Alternative 3]

8. Finally, the Committee could consider requiring that funding and position authority provided to the Department for DNA analysis be separately tracked for budgetary purposes (as is the case under current law for narcotics enforcement). In recent years, the Legislature has provided substantial resources to DOJ for DNA analysis. Prior to 2007 Acts 5 and 20, the Legislature had provided 29.0 DNA analysts to DOJ. Under 2007 Act 5, the Legislature authorized 31.0 additional GPR-funded positions for DNA analysis, and \$96,600 GPR in 2006-07, to support the creation of 15.0 of these positions on April 1, 2007. Act 20 provided an additional \$3,409,400 GPR and \$704,900 PR in 2007-08, and \$3,479,700 GPR and \$140,000 PR in 2008-09 for DNA analysis activities. Under the bill, the Governor would provide an additional \$394,000 GPR in 2011-12, \$376,300 GPR in 2012-13, and 6.0 DNA analyst positions annually to provide additional staffing and supplies and services resources for DNA analysis. Of the 147.33 positions authorized to the three state crime laboratories under the bill, 44% of these positions would be DNA analysts.

9. Requiring the separate tracking of resources provided for DNA analysis for budgetary purposes would permit the Legislature to maintain more oversight over the positions (and associated compensation) and supplies and services funding provided for DNA analysis. [Alternative 4]

10. On the other hand, in order to permit DOJ more flexibility in how it utilizes funding and positions provided to the state crime laboratories to carry out the various types of analysis, the Committee could maintain current law and not provide for separate budgetary tracking of DNA analysis resources.

ALTERNATIVES

1. Approve the Governor's recommendation to provide \$394,000 GPR in 2011-12,

\$376,300 GPR in 2012-13, and 6.0 deoxyribonucleic acid (DNA) analyst positions annually, to provide additional staffing and supplies and services resources to the state crime laboratories for DNA analysis. Funding would include: (a) \$217,000 in 2011-12, and \$289,300 in 2012-13, for salary and fringe benefits costs; and (b) \$177,000 in 2011-12, and \$87,000 in 2012-13, for supplies and services costs.

2. Delete provision.

ALT 2	Change to Bill	
	Funding	Positions
GPR	- \$770,300	- 6.00

3. Provide that the state crime laboratories may analyze the DNA in a human biological specimen if requested by a law enforcement agency regarding an investigation. [*This alternative could be selected in addition to Alternative 2 in order to permit the Department of Justice (DOJ) to prioritize requests for DNA analysis from law enforcement agencies regarding an investigation.*]

4. Require that the funding and position authority provided to DOJ for DNA analysis be separately tracked for budgetary purposes. [*This alternative may be selected in addition to either Alternative 1 or Alternative 2.*]

Prepared by: Paul Onsager