

Department of Planning and Budget 2010 Fiscal Impact Statement

1. Bill Number: HB314

House of Origin X Introduced Substitute Engrossed
Second House In Committee Substitute Enrolled

2. Patron: Delegate McClellan

3. Committee: Courts of Justice

4. Title: **DNA data bank**

5. Summary: This bill allows the sharing of DNA data bank information and searches by court order. The bill also allows a person who has reason to believe that his DNA profile is unlawfully included in the data bank to submit a request to the Department of Forensic Science (DFS) to determine whether it is on file and to challenge the accuracy of the inclusion. If the profile is unlawfully included, the Department must purge the sample and all records pertaining to the person.

6. Fiscal impact estimates: Preliminary.

6a. Expenditure impact:

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Positions</i>	<i>Fund</i>
2010	\$71,000	5.00	GF
2011	\$325,000	5.00	GF
2012	\$325,000	5.00	GF
2013	\$325,000	5.00	GF
2014	\$325,000	5.00	GF
2015	\$325,000	5.00	GF
2016	\$325,000	5.00	GF

7. Budget amendment necessary: Yes, Item 396.

8. Fiscal implications: Virginia's DNA data bank, containing over 300,000 profiles, is currently limited to serving as an investigative tool for law enforcement in criminal cases. The bill gives courts of record the ability to order a search of or information obtained from the data bank in criminal proceedings.

The bill also allows any person to request information from DFS about whether or not their profile is in the data bank. The bill does not provide for a fee associated with the request. The agency would be required to develop procedures for verifying the identification of the requestor, running a data bank search, reviewing the documentation supporting an individual's presence in the data bank and, finally, responding to the requestor.

Though the volume of data bank requests is indeterminate, the agency believes that the requirements of the bill will necessitate five additional staff to implement. The agency would

require one Forensic Laboratory Specialist for each of its three regional laboratories and two Forensic Laboratory Specialists for the central laboratory in Richmond, all capable of taking DNA samples, as well as analyzing the DNA data bank. These individuals will need to be hired as soon as possible in order to complete all necessary training prior to the effective date of the legislation. Existing agency staff is unable to absorb the tasks associated with this legislation.

9. Specific agency or political subdivisions affected: Department of Forensic Science.

10. Technical amendment necessary: No.

11. Other comments: Under existing law, DFS procedures ensure that profiles are lawfully included in the data bank. If an arrestee is found not guilty or his charges are dismissed, samples are purged weekly based on a “cleared list” submitted to the Department by the Virginia State Police (VSP). Prior to reporting a data bank hit or match to law enforcement, DFS confirms the sample is in the data bank in good faith. The Department regularly purges profiles and samples based on communications from probation, law enforcement and clerk’s of court indicating a individual samples should not have been taken or submitted to the data bank. Finally, the Department regularly purges profiles and samples related to expunged criminal cases upon notice from VSP.

Date: 1/19/10/jlv

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cc: Secretary of Public Safety