

CONFIDENTIAL
LEGISLATIVE BILL REVIEW FORM: 2015

Bill Number: S.010 Name of Bill: An act relating to the State DNA database

Agency/Dept: DPS/CJS/Lab Author of Bill Review: Trisha Conti

Date of Bill Review: 2/2/2015 Related Bills and Key Players: _____

Status of Bill: (check one)

Upon Introduction _____ As passed by 1st body _____ As passed by both bodies

Recommended Position:

_____ Support _____ Oppose _____ Remain Neutral Support with modifications identified in # 8 below

Analysis of Bill

1. **Summary of bill and issue it addresses.** *Describe what the bill is intended to accomplish and why.*
This bill seeks to modify existing language to mandate the expansion of DNA sample collection from people when the maximum allowed penalty includes imprisonment – whether or not that is the penalty handed down to them.
2. **Is there a need for this bill?** *Please explain why or why not.*
This bill would significantly increase the size of the State DNA database. While this has the potential to solve more crimes, it will cause a significant increase in the workload of the Vermont Forensic Laboratory (VFL).
3. **What are likely to be the fiscal and programmatic implications of this bill for this Department?**
There will be a significant increase in database samples for the VFL to process; somewhere between 4600 and 9100 additional samples, or 2.5-4.5 times what the VFL currently receives on an annual basis.
All database samples are currently processed using federal grant funds. The reagents alone to process these new samples would cost \$142,600 to \$282,100 more.
An increase in sample collection of this size comes with significant increase both in lab work and administrative work. The VFL would need another administrative position – especially since not all misdemeanors would be covered. A large amount of time would be spent screening samples when they are received in order to make certain they are qualified for analysis. The VFL would also require additional DNA analysts the increase; otherwise the capacity to analyze evidentiary casework would be jeopardized.
A computer system to allow the databases of the VFL, Courts, Vermont Criminal Information Center, and Department of Corrections is necessary to communicate regarding individuals who need to be collected, who are collected, and whose samples are received by the VFL.
4. **What might be the fiscal and programmatic implications of this bill for other departments in state government, and what is likely to be their perspective on it?**
Collection of DNA from these individuals would need to be done mainly by the Department of Corrections. These individuals are already busy with many supervision tasks, including collection of DNA from all felony convictions. This law may include collection of DNA from people who are never under supervision by DOC, in which case, samples from those individuals would need to be identified by the Court and DNA collected there, or by another agency not yet identified.
The computer system mentioned above would need to tie together multiple departments and agencies.
5. **What might be the fiscal and programmatic implications of this bill for others, and what is likely to be their perspective on it?** *(for example, public, municipalities, organizations, business, regulated entities, etc)*
See #4 above.

6. Other Stakeholders:

6.1 Who else is likely to support the proposal and why?

Law enforcement since the additional samples entered into the DNA database would potentially increase the chances of identifying suspects in unsolved crimes.

6.2 Who else is likely to oppose the proposal and why?

Individuals who feel their privacy rights are being violated by being forced to submit a DNA sample to the database.

7. Rationale for recommendation: *Justify recommendation stated above.*

If adequate systems and support are implemented with this bill, the VFL would be in support of its passing.

8. Specific modifications that would be needed to recommend support of this bill: *Not meant to rewrite bill, but rather, an opportunity to identify simple modifications that would change recommended position.* Prefer the requirements for collection be simplified. All misdemeanors would be easiest but would make even more work for the VFL (approximately 9600 convictions annually). All misdemeanors with the ACTUAL penalty of imprisonment would be easier to collect. This is the 4600 individuals represented above as the conservative estimate of the increase the VFL would see. The potential penalty of imprisonment is much harder to screen for. Historically, having to check if a felony was on the qualifying list, or not, was very time consuming and frequently there were errors (both individuals collected who shouldn't have been, and who weren't collected but should have been). This would be a much larger sample size with the same problem as it is estimated that 95% of misdemeanor charges carry a maximum penalty of imprisonment.

1940 – Expungement.

The bill does not currently include points B) C) or D)

B) requires automatic expungement upon notification by the court. This is a huge administrative burden on the VFL. The VFL would prefer to see that the individual needed to request the sample be expunged if either of the circumstances in A) occurs.

If that is not possible the last line of B) states “The department shall notify the person upon completing its responsibilities under this subsection, by certified mail addressed to the person's last known address.”

Certified mail costs are constantly going up and are currently more than \$5 per letter. The VFL received hundreds of expungement orders per year. Many offenders do not leave last known addresses, or the last known address on record does not forward and the letter is returned undelivered. If all of B cannot be removed, please strike that last line.

9. Gubernatorial appointments to board or commission?



Secretary/Commissioner has reviewed this document

Date: 3/12/15