

January 20, 2004

Hon. Bill Lockyer
Attorney General
1300 I Street, 17th Floor
Sacramento, California 95814

Attention: Ms. Tricia Knight
Initiative Coordinator

Dear Attorney General Lockyer:

Pursuant to Elections Code Section 9005, we have reviewed the proposed initiative referred to as the DNA Fingerprint, Unsolved Crime, and Innocence Protection Act (File No. SA2003RF0065).

Background

Under current law, any person convicted of certain sex offenses or other violent crimes is required to provide DNA samples for law enforcement purposes. The samples are collected by state and local law enforcement agencies, and then submitted to the California Department of Justice (DOJ). The DOJ analyzes the biological samples and stores the DNA profiles of convicted felons in a statewide DNA databank. The DNA profiles are also submitted by DOJ to the Combined DNA Index System (CODIS), a national repository maintained by the Federal Bureau of Investigation. The information in the DNA databank is compared to forensic identification profiles collected from crime scenes for possible matches. The use of DNA evidence has been effectively used to arrest and convict criminals, as well as exonerate persons wrongly accused or convicted.

Key Features of the Measure

The proposed initiative makes the following changes to current law:

Expands DNA Collection and Databank. Current law limits the collection of DNA samples to individuals convicted of certain sex offenses or other violent crimes. The measure expands the collection of DNA and the databank to include (1) persons, including juveniles, convicted of *any felony* offense; (2) anyone who must register as a sex offender; (3) adults *arrested* for certain sex offenses or other violent offenses; and (4) starting in 2009, adults arrested and charged with *any felony* offense. The expanded

list of qualifying offenses would be retroactive regardless of when the person was convicted or adjudicated.

Requires Timely Collection and Analysis of Samples. Immediately following an arrest, conviction, or adjudication, state or local law enforcement personnel would be required to collect a sample from the inner cheek cells of the mouth. (This sample would be in addition to the right thumbprints and full palm print impression of each hand currently required by law.) The measure requires DOJ to contract with public or private laboratories to process specimens that it has not fully analyzed and entered into CODIS within six months of receipt. The DOJ and California Department of Corrections (CDC) would be required to publish and place on their Web sites a quarterly progress report on the processing of DNA samples.

Provides Additional Funding. The measure raises existing criminal penalties. Specifically, an additional \$1 in penalties would be levied for every \$10 in penalties. It requires that revenues from the increased fines be used to fund the proposed expansion of the databank program. The revenues would be shared by the state and local governments, and deposited in state and local DNA Identification Funds created by the measure. The measure further requires the Legislature to make a General Fund loan of \$7 million to DOJ for the implementation of this measure, which is required to be paid back with interest, no later than four years after it is made.

Fiscal Impact

State Government. This measure would result in unknown annual state costs of over \$10 million initially, increasing to a couple tens of millions of dollars annually when fully implemented. These costs are primarily related to analyzing up to 400,000 additional DNA samples annually. This includes ongoing and one-time costs to hire and train staff, purchase equipment and supplies, acquire additional laboratory space, and possibly contract with public or private labs for the processing of DNA specimen samples. Also, because the measure applies retroactively to individuals currently in state custody, CDC and Youth Authority would require additional state resources for specimen collection. The state costs would be partially offset by revenues generated by the proposed increase in criminal penalties. Based on a historical collection rate, the increase could generate as much as a couple tens of millions of dollars annually. Of that amount, the state would receive 70 percent in the first two years, 50 percent in the third year, and 25 percent annually thereafter.

The measure further requires the Legislature to make a General Fund loan of \$7 million to the DOJ for the implementation of this measure. This loan would be repaid with interest, no later than four years after it is made.

Local Governments. Local law enforcement agencies primarily would be required to collect additional DNA samples. This would likely require additional staff and training. The fiscal effect on local governments is unknown, but could potentially range annually from several millions of dollars initially to over \$10 million once fully implemented. The costs will depend on the level of staff resources and training required to comply with the measure. The local share of penalty revenues generated under the measure could offset these costs.

Indirect Effects. The proposed measure would result in unknown potential indirect fiscal effects on state and local governments. To the extent that expanded DNA collection results in higher rates of incarceration, there would be unknown increased incarceration costs to state and local governments. It may also lead to additional unknown state costs or savings by identifying individuals who have been falsely accused and imprisoned. The resulting costs or savings would depend on the amount of damages paid and the prison costs avoided.

Summary of Fiscal Effects

This measure would result in the following direct fiscal effects:

- Unknown annual state costs potentially over \$10 million initially, increasing to a couple tens of millions of dollars when fully implemented to collect, analyze, and store increased DNA samples. These costs would be partially offset by increased criminal penalty revenues.
- Unknown annual local costs potentially several million dollars initially, increasing to over \$10 million when fully implemented to collect DNA samples. These costs could be offset by increased criminal penalty revenues.

Sincerely,

Elizabeth G. Hill
Legislative Analyst

Donna Arduin
Director of Finance