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FISCAL IMPACT REPORT

SPONSOR Gurrola/Little/Chávez, E./Garratt/Roybal **LAST UPDATED** _____
Caballero **ORIGINAL DATE** 2/17/2025
SHORT TITLE DNA of Certain Offenders in CODIS **BILL**
NUMBER House Bill 340
ANALYST Valdez

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT* (dollars in thousands)

Agency/Program	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
	No fiscal impact	No fiscal impact	No fiscal impact	No fiscal impact	Recurring	General Fund

Parentheses () indicate expenditure decreases.
 *Amounts reflect most recent analysis of this legislation.

Sources of Information

LFC Files

Agency Analysis Received From
 Administrative Office of the Courts (AOC)
 Administrative Office of the District Attorneys (AODA)
 New Mexico Attorney General (NMAG)
 New Mexico Corrections Department (NMCD)

Agency Analysis was Solicited but Not Received From
 Administrative Hearings Office (AHO)

SUMMARY

Synopsis of House Bill 340

House Bill 340 (HB340) adds a new section to the DNA Identification Act, 26-16-1 *et. seq.* NMSA 1978. The new material specifies the conditions that must be met for a person’s DNA to be entered into the Combined DNA Index System (CODIS) after their death but before they were charged with a felony. If the person was not in prison, DNA can only be entered in CODIS by a motion from the district attorney and an order from the court that would have had jurisdiction over the felony if charges had been filed. If the person was in prison when they passed away, or if they were released before July 1, 1997, their DNA “shall be entered automatically.”

Under current law, those over 18 who are arrested must provide a DNA sample to the jail or detention facility upon booking. It is not entered into CODIS unless the arrest was made for a felony arrest warrant, the defendant appeared before a judge or magistrate who found probable cause for the arrest, or the defendant posted bond and was released but failed to appear for a hearing. However, the current law does not specify procedures for cases in which the defendant dies after DNA is collected but before they are charged. HB340 would address those cases. In

addition, HB340 would make it legal to enter the DNA of deceased prisoners who were in custody before the DNA Identification Act took effect into CODIS.

This bill does not contain an effective date and, as a result, would go into effect 90 days after the Legislature adjourns if enacted, or June 20, 2025.

FISCAL IMPLICATIONS

As this bill addresses only a particular set of cases, no major fiscal implications are anticipated. However, codifying the entry of DNA from deceased offenders may help solve outstanding cases, thereby freeing up investigators and prosecutors for other cases.

SIGNIFICANT ISSUES

The Administrative Office of the District Attorneys (AODA) notes that Section 1, Subsection A of the bill is ambiguous about the court’s actual role. The bill does not specify the type of ruling the court should make, or whether the court has full discretion to decide if the DNA in question should be entered into CODIS. In Section 2, Subsection B, AODA highlights the lack of direction about how DNA of those either in prison, or released prior to July 1, 1997 would be obtained and entered into CODIS. Per AODA, “Presumably, this would involve working with Office of the Medical Investigator (OMI) and/or corrections (NMCD) to obtain the DNA profiles. See NMSA 1978, § 29-16-6(E) (providing that the state medical investigator shall provide samples from unidentified human remains).”

ADMINISTRATIVE IMPLICATIONS

The New Mexico Attorney General (NMAG) points out that the DNA oversight committee, which includes the Attorney General, might need to draft and promulgate new rules regarding the retention and submission of DNA if HB340 goes into effect (consistent with Section 29-16-5 NMSA 1978).

JV/rl