

Duplicates/Conflicts with/Companion to/Relates to:
Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis:

Section 1 is new material to be added to the DNA Identification Act [Chapter 29, Article 16 NMSA 1978] and is entitled “Entering DNA into CODIS after Death”

Subsection A provides that the administrative center shall enter the DNA of a person collected pursuant to Section 29-3-10 [“DNA collection from persons arrested”] pursuant to CODIS upon the death of that person if the person dies before being charged with a felony, provided that, if: (A) the person was not in prison at the time of death, the DNA shall be entered only upon a motion of the district attorney and an order from the court with jurisdiction over the felony and (B) if the person was in prison at the time of death or had been released prior to July 1, 1997, the DNA shall be entered automatically.

FISCAL IMPLICATIONS

Note: major assumptions underlying fiscal impact should be documented.

Note: if additional operating budget impact is estimated, assumptions and calculations should be reported in this section.

This could result in DNA hits that could close an unsolved case, thereby freeing up prosecutorial and investigative resources for other avenues.

SIGNIFICANT ISSUES

The bill seeks to make it possible to enter the DNA profiles of deceased persons and the DNA profiles from deceased prisoners who were in custody before the DNA Act took effect into the database to potentially solve cold cases, presumably for the purpose of bringing closure to victims and the community. Moreover, both the administrative center and the DNA oversight committee are tasked with ensuring that DNA collection and use is done in a legally compliant manner. *See* NMSA 1978, §§ 29-16-4 (“Administrative center; powers and duties; head; location; written agreement”); 29-16-5 (“DNA oversight committee; located; powers and duties”).

Section 1, subsection A requires a motion from the district attorney and an order from the court which would have jurisdiction over the felony had it been charged but does not specify what type of findings the court should make or if the court has full discretion to determine if the DNA should be entered into CODIS.

Subsection B involves persons who were in prison or died prior to the date that the DNA Act was passed. Presumably, this would involve working with OMI and/or corrections 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).

PERFORMANCE IMPLICATIONS

n/a

ADMINISTRATIVE IMPLICATIONS

n/a

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

None noted.

TECHNICAL ISSUES

n/a

OTHER SUBSTANTIVE ISSUES

None noted.

ALTERNATIVES

n/a

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo.

AMENDMENTS

n/a