

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current FIRs (in HTML & Adobe PDF formats) are available on the NM Legislative Website ([www.nmlegis.gov](http://www.nmlegis.gov)). Adobe PDF versions include all attachments, whereas HTML versions may not. Previously issued FIRs and attachments may be obtained from the LFC in Suite 101 of the State Capitol Building North.

## FISCAL IMPACT REPORT

ORIGINAL DATE 02/19/13  
 LAST UPDATED 03/11/13

SPONSOR SJC HB \_\_\_\_\_

SHORT TITLE Post-Conviction DNA Testing Act SB 491/SJCS

ANALYST Jorgensen

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY13	FY14	FY15	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>	NFI	Minimal	Minimal	Minimal	Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Administrative Office of the Courts (AOC)  
 Administrative Office of the District Attorneys (AODA)  
 Attorney General’s Office (AGO)  
 Adult Parole Board (APB)  
 New Mexico Corrections Department (NMCD)  
 New Mexico Sentencing Commission (NMSC)  
 Public Defender Department (PDD)

### SUMMARY

#### Synopsis of Bill

The Senate Judiciary Committee substitute for Senate Bill 491 (SB 491) would amend Section 31-1A-2 NMSA 1978, Procedures for Post-Conviction Consideration of DNA Evidence, in the following ways:

- The addition of language in subsection A which states that “a Petitioner shall be granted full, fair and prompt proceedings upon filing the petition” for DNA testing.
- A new subsection C is added which states that samples submitted for testing shall be entered into the Combined DNA Index System (CODIS)
- Includes a new Subsection O which states that “in proceedings under this section, the Rules of Evidence and the Rules of Civil Procedure for the District Courts shall apply.”

The effective date of the Act is July 1, 2013.

**FISCAL IMPLICATIONS**

Because SB 491 simply amends current law to mandate that petitions for consideration of DNA evidence “be granted a full, fair and prompt proceeding” it is unlikely that this legislation will result in a significant fiscal impact to the state.

**SIGNIFICANT ISSUES**

The United States Supreme Court has held that there is no constitutional right to post-conviction DNA testing. Instead, the Supreme Court recognized that the states can establish their own procedures for post-conviction remedies regarding DNA testing.

NCJ/svb