

**LEGISLATIVE SERVICES AGENCY  
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**FISCAL IMPACT STATEMENT**

**LS 6769**  
**BILL NUMBER:** SB 261

**NOTE PREPARED:** Dec 29, 2007  
**BILL AMENDED:**

**SUBJECT:** False Informing and DNA Collection.

**FIRST AUTHOR:** Sen. Merritt  
**FIRST SPONSOR:**

**BILL STATUS:** As Introduced

**FUNDS AFFECTED:**  **GENERAL**  
 **DEDICATED**  
 **FEDERAL**

**IMPACT:** State

**Summary of Legislation:** The bill requires all persons arrested after June 30, 2008, to submit a DNA sample, and makes knowingly providing false information during an official law enforcement investigation a crime. It makes conforming amendments.

**Effective Date:** July 1, 2008.

**Explanation of State Expenditures:** *Summary:* It is estimated that ISP will incur new expenses of between \$4.3 M and \$6.7 M each year to analyze and maintain DNA samples. The increase will result from DNA sampling of any person arrested for a felony or a misdemeanor offense, regardless of disposition of the crime or sentence imposed.

**Background:**

Current law requires individuals **convicted** of a felony offense or conspiring to or attempting to commit a felony offense after June 30, 2005, to provide a DNA sample to the Department of Correction (DOC), the county sheriff, or the agency supervising the individual. This bill would also require any person arrested after June 30, 2008, including those **arrested for felony or misdemeanor** offenses to provide DNA samples.

*Estimating the Added Samples:* No statewide data exists concerning the number of arrests for felony or misdemeanor offenses. Below, the estimated total arrests for felony and misdemeanor offenses is provided based on the Uniform Crime Report (UCR), which is gathered by the Federal Bureau of Investigation, Indiana State Court Administrator court statistics, and 2006 DOC admissions data.

<b>Estimated Total Arrests in Indiana and Additional Samples</b>							
	<u>2002</u>	<u>2003</u>	<u>2004</u>	<u>2005</u>	<u>2006</u>	<u>Average</u>	<u>Minimum</u>
Felony Arrests	196,964	208,042	215,441	229,883	170,293	205,206	170,293
Misdemeanor Arrests	<u>153,326</u>	<u>152,421</u>	<u>155,362</u>	<u>152,198</u>	<u>152,142</u>	<u>153,234</u>	<u>152,142</u>
<b>Total Arrests</b>	<b>352,292</b>	<b>362,466</b>	<b>372,807</b>	<b>382,081</b>	<b>322,435</b>	<b>358,440</b>	<b>322,435</b>
Less: Guilty	109,211	112,364	115,570	118,445	99,955	111,109	99,955
Less: Prior Arrest	<u>119,779</u>	<u>123,238</u>	<u>126,754</u>	<u>129,908</u>	<u>109,628</u>	<u>121,862</u>	<u>109,628</u>
<b>Estimated Additional Samples</b>	<b>123,302</b>	<b>126,863</b>	<b>130,482</b>	<b>133,728</b>	<b>112,852</b>	<b>125,469</b>	<b>112,852</b>

The felony arrests in the table are from the UCR total arrests. The misdemeanor arrests are the number of misdemeanor filings in a court of record. The UCR only reports arrests for certain offenses, and not all Indiana law enforcement agencies report for the UCR. Misdemeanor arrests that are not prosecuted would not reflect in the filing numbers presented.

However, these data overstate the number of individuals who will have to submit a DNA sample for two reasons:

- An individual may be arrested more than one time in a year.
- Individuals may be arrested who already have a DNA sample in the state DNA database.

In order to correct the number of arrests for overstatement, stand-in statistics were developed:

- An estimated 31% of all cases in a court of record are disposed by a guilty plea, admission, or by default based on Case Dispositions for All Cases in Courts of Record from the State Court Administrator between 2002 and 2006. This analysis assumes that these offenders, having been found guilty, would have to provide a DNA sample under current law.
- Based on 2006 DOC admission data, 34% of the offenders classified as new commitments had a prior Indiana commitment to a DOC facility. In this analysis, the percentage is applied to arrests to account for those who would have been previously arrested.

*Estimating the Added Costs:* County personnel and ISP contractors have two cost components: Collection and analysis. The costs of collection, which includes costs of materials used to collect and mail the sample, is \$18.75. The costs of analysis will depend on whether the sample can be processed in-house at \$19 or outsourced at \$35. For purposes of this fiscal note, a high and low estimate are used.

The following table estimates the number of additional samples that will be collected for persons arrested and costs of collecting and analyzing the additional DNA samples. A cost range is estimated by applying a low and high number of samples that would be processed and multiplying by the a range of collection costs of between \$37.75 (\$18.75 + \$19) if all samples can be processed in-house and \$53.75 if all samples are outsourced for analysis (18.75 + \$35).

Cost Range for Processing New Samples for Persons Who Are Arrested					
Range	Estimated Additional DNA Samples Collected		Collection and Analysis Costs*		Estimated Cost
Low	112,852	x	\$37.75	=	\$4,260,163
High	125,469	x	\$53.75	=	\$6,743,959
* Includes collection costs of \$18.75 and analysis costs of \$30 when outsourced.					

*Expungement:* Besides the costs for collection and analysis, the cost to expunge the record of DNA could increase. Under current law, an individual may request expungement if the conviction on which the authority for inclusion is based has been reversed or the case dismissed.

*DNA Samples Background:* Currently, two DNA samples are sent to the State Police laboratory; one for analysis and one that is stored for future use if another crime is committed. The sample for analysis is sent to a vendor, but will eventually be analyzed in-house when a new State Police laboratory is completed and fully staffed. Once the profile has been entered into the database the sample is destroyed. The current procedure is to require the individual to provide a copy of the court order and then to check the court order with the court or the State Police for verification. It is estimated that there have been five records expunged.

**Explanation of State Revenues:** *Providing False Information to Law Enforcement:* There are no data to indicate if more offenders would be convicted of false informing, a Class B misdemeanor (or Class A misdemeanor if it substantially hinders law enforcement), if the definition of the crime is changed to giving false information to law enforcement, rather than giving false information in an official investigation.

If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class B misdemeanor is \$1,000 and for a Class A misdemeanor is \$5,000. Criminal fines are deposited in the Common School Fund.

If the case is filed in a circuit, superior, or county court, 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund. In addition, some or all of the document storage fee (\$2), automated record keeping fee (\$7), judicial salaries fee (\$17), public defense administration fee (\$3), court administration fee (\$3), judicial insurance adjustment fee (\$1), and the DNA sample processing fee (\$1) are deposited into the state General Fund.

**Explanation of Local Expenditures:** See *Explanation of State Expenditures*. Local law enforcement agencies would have to collect more samples. Mouth swabs are used to collect samples for DNA analysis.

*Providing False Information to Law Enforcement:* A Class B misdemeanor is punishable by up to 180 days in jail, and a Class A misdemeanor is punishable by up to one year in jail. The average daily cost to incarcerate a prisoner in a county jail is approximately \$44.

**Explanation of Local Revenues:** *Providing False Information to Law Enforcement:* If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following

sources: The county general fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. In addition, several additional fees may be collected at the discretion of the judge and depending upon the particular type of criminal case.

**State Agencies Affected:** Indiana State Police; Department of Correction.

**Local Agencies Affected:** Trial courts, local law enforcement agencies.

**Information Sources:** Bureau of Justice Statistics, *Sourcebook of Criminal Justice Statistics Online, 2006*; Ed Littlejohn, [Elittlejohn@isp.IN.gov](mailto:Elittlejohn@isp.IN.gov); Paul Misner, 317-921-5306.

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