

BILL ANALYSIS

Senate Research Center
80R10562 SLO-F

H.B. 3295
By: Driver (Williams)
Criminal Justice
5/17/2007
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

H.B. 3295 repeals Section 411.150, Texas Government Code, and removes references to it from various sections. The authority to collect DNA samples described by Section 411.150 was moved into Section 411.148 by H.B. 1068 in 2005. Therefore, the repeal of Section 411.150 removes what is currently a redundant provision. This bill also reenacts Section 411.148, Texas Government Code, relating to mandatory DNA records, because the enactment of the provisions of both H.B. 1068 and H.B. 1681 in 2005 resulted in the creation of two valid sections numbered 411.148. The bill further amends reenacted Section 411.148 to incorporate substantive portions of the second currently valid Section 411.148.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 411.142(g), Government Code, to authorize the DNA database to contain records for, among others, individuals described by Section 411.154 (Enforcement by Court Order), instead of Section 411.150 (DNA Records of Certain Juveniles).

SECTION 2. Amends Section 411.1471(f), Government Code, to provide that a defendant who provides a DNA sample, rather than a specimen, under this section (DNA Records of Persons Charged With or Convicted of Certain Felonies) is not required to provide a DNA sample under SECTION 411.148, rather than Sections 411.1472, 411.148, or 411.150, unless an attorney representing the state in the prosecution of felony offenses establishes to the satisfaction of the public safety director (director) that the interests of justice or public safety require that the defendant provide additional samples. Makes conforming changes.

SECTION 3. Reenacts and amends Section 411.148, Government Code, as reenacted and amended by Chapters 1224 and 1245, Acts of the 79th Legislature, Regular Session, 2005, as follows:

Sec. 411.148. MANDATORY DNA RECORD. (a) Provides that this section applies to, among others, an individual who is ordered by a magistrate or court to provide a sample under Section 411.154, rather than Sections 411.150 or 411.154, or other law.

(b)-(e) Makes no changes to these subsections.

(f) Requires the Texas Department of Criminal Justice (TDCJ) to notify the director that an individual described by Subsection (a)(1)(B), rather than Subsection (a), is to be released from custody not earlier than 120 days before the individual's statutory release date and not later than 90 days before the individual's statutory release date. Prohibits an individual described by Subsection (a)(1)(B) from being held past the individual's statutory release date if the individual fails or refuses to provide a DNA sample under this section. Authorizes TDCJ to take lawful administrative action, including disciplinary action resulting in the loss of good conduct time, against an individual described by Subsection (a)(1)(B) who refuses to provide a sample under this section. Defines "statutory release date."

(f-1) Created from existing Subsection (f). Requires the Texas Youth Commission (TYC) to notify the director that an individual described by Subsection (a)(2), rather than Subsection (a), is to be released from custody not earlier than 120 days, rather than 10 days, before the individual's release date.

(f-2) Created from existing Subsection (f). Requires TDCJ and TYC, in consultation with the director, to determine the form of the notification described by Subsections (f) and (f-1), rather than Subsection (f).

(g)-(l) Makes no changes to these subsections.

SECTION 4. Amends Section 411.153(b), Government Code, to provide that a person commits an offense if the person knowingly discloses to an unauthorized recipient information in a DNA record or information related to a DNA analysis of a sample collected under this subchapter (DNA Database System).

SECTION 5. Repealer: Section 411.150 (DNA Records of Certain Juveniles), Government Code.

SECTION 6. Effective date: upon passage or September 1, 2007.