

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 725
By: Perry
Criminal Justice
4/1/2015
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Section 411.1471 (DNA Records of Persons Charged With or Convicted of Certain Felonies) of the Government Code requires that all sex offenders and convicted felons, as well as those placed on community supervision, provide a DNA sample to be entered into the Combined DNA Index System (CODIS), a program maintained by the FBI for criminal justice databases that contains DNA profiles contributed by federal, state, and local participating forensic laboratories.

S.B. 725 requires the collection of a DNA sample from all persons convicted of an offense under Title 5, Penal Code, punishable as a Class B misdemeanor or any higher category of offense or placed on deferred adjudication for an offense under Section 21.07 (Public Lewdness) or 21.08 (Indecent Exposure), Penal Code.

Expanding the DNA database is the most effective and certain means to improve successful crime solving in Texas. It will aid in the identification of missing and unidentified persons, assist in solving serious crimes, and help exonerate persons wrongly suspected or accused of a crime. Expansion of DNA collection to include those convicted of a Class B misdemeanor or higher will rapidly and substantially increase the number of hits and criminal investigation links so that serial criminal offenders may be identified, apprehended, and convicted for crimes they committed in the past and prevent them from committing future crimes that would jeopardize public safety and devastate lives.

The state of Texas has a compelling interest in the accurate identification of criminal offenders, and DNA testing at the earliest stages of criminal proceedings will help thwart criminal perpetrators from concealing their identities and thus prevent time-consuming and expensive investigations of innocent persons.

DNA is considered the fingerprint of the 21st century, and other states have recently passed similar legislation.

The DNA database can vindicate a suspect as well as link multiple crimes. Given the recidivistic nature of many crimes, a likelihood exists that the individual who committed the crime being investigated was convicted of a similar crime and already has his or her DNA profile in a DNA database that can be searched by the CODIS. CODIS also permits the cross-comparison of DNA profiles developed from biological evidence found at crime scenes. Even if a perpetrator is not identified through the database, crimes may be linked to each other, thereby aiding multiple investigations, which may eventually lead to the identification of a suspect. (Original Author's/Sponsor's Statement of Intent)

C.S.S.B. 725 amends current law relating to the creation of DNA records for the DNA database system.

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 Articles 102.020(a) and (h-1), Code of Criminal Procedure, as follows:

(a) Requires a person to pay as a cost of court:

(1) Makes no change to this subdivision;

(2) \$50 on conviction of an offense described by Section 411.1471(a)(3), Government Code, other than an offense described by Subdivision (1) of this subsection; or

(3) \$34 on placement of the person on:

(A) Makes no change to this paragraph;

(B) deferred adjudication community supervision for an offense described by Section 411.1471(a)(4), Government Code.

Makes nonsubstantive changes.

(h-1) Requires the clerk of the court to transfer to the comptroller of public accounts of the State of Texas (comptroller) any funds received under Subsection (a)(2) or (3), rather than Subsection (a)(3). Requires the comptroller to credit the funds to the Department of Public Safety of the State of Texas to help defray the cost of collecting or analyzing DNA samples provided by defendants who are required to pay a court cost under this article.

SECTION 2. Amends Section 102.021, Government Code, as follows:

Sec. 102.021. COURT COSTS OF CONVICTION: CODE OF CRIMINAL PROCEDURE. Requires a person convicted of an offense to pay certain costs, in addition to all other costs, under the Code of Criminal Procedure, including a court cost of \$50 for DNA testing for certain misdemeanor and felonies, rather than for the offense of public lewdness or indecent exposure, (Art. 102.020(a)(2) (requiring a person to pay a court cost of \$50 on conviction of a certain listed offense), Code of Criminal Procedure), and a court cost of \$34 for DNA testing for certain misdemeanors and felonies (Art. 102.020(a)(3) (requiring a person to pay a court cost of \$34 on placement of the person on community supervision if the person is required to submit a DNA sample), Code of Criminal Procedure).

SECTION 3. Amends Section 411.142(c), Government Code, to authorize the public safety director (director) to receive, analyze, store, and destroy a DNA record or DNA sample for the purposes described in Section 411.143 (Purposes) and to require the director to destroy a DNA sample immediately after any test results associated with the sample are entered into the DNA database and the Combined DNA Index System (CODIS) database if the sample was collected solely for the purpose of creating a DNA record.

SECTION 4. Amends the heading to Section 411.1471, Government Code, to read as follows:

Sec. 411.1471. DNA RECORDS OF PERSONS ARRESTED FOR, CHARGED WITH, OR CONVICTED OF CERTAIN OFFENSES.

SECTION 5. Amends Sections 411.1471(a), (b), and (f), Government Code, as follows:

(a) Provides that this section applies to a defendant who is:

(1) and (2) Makes no change to these subdivisions;

(3) convicted of an offense:

(A) under the Penal Code that is punishable as a Class A misdemeanor or any higher category of offense, other than an offense described by

Subdivision (1) (relating to a defendant who is indicted or waives indictment for a felony prohibited or punishable under certain Penal Code sections); or

(B) under Title 5 (Offenses Against the Person), Penal Code, that is punishable as a Class B misdemeanor; or

(4) placed on deferred adjudication for an offense under Section 21.07 (Public Lewdness) or 21.08 (Indecent Exposure), Penal Code.

Makes a nonsubstantive change.

(b) Requires the court to require the defendant to provide to a law enforcement agency one or more specimens for the purpose of creating a DNA record after a defendant described by Subsection (a)(3) or (4) is convicted or placed on deferred adjudication.

(f) Provides that a defendant who provides a DNA sample under this section is not required to provide a DNA sample under Section 411.148 (Mandatory DNA Record) of this code or under Section 11(j) (requiring a judge granting community supervision to a defendant convicted of a felony to require a defendant, as a condition of community supervision, to provide a DNA sample under Subchapter G (DNA Database System), Chapter 411, Government Code, for the purpose of creating a DNA record of the defendant, unless the defendant already submitted the required sample under other state law), Article 42.12, Code of Criminal Procedure, unless the attorney representing the state in the prosecution of the felony offense that makes Section 411.148 or 11(j) applicable to the defendant establishes to the satisfaction of the director that the interests of justice or public safety require that the defendant provide additional samples.

SECTION 6. Makes application of Article 102.020, Code of Criminal Procedure, and Section 411.1471, Government Code, as amended by this Act, prospective.

SECTION 7. Effective date: September 1, 2015.