

AN ACT

relating to the storage in and removal from certain DNA databases of certain DNA samples.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 2, Article 38.01, Code of Criminal Procedure, is amended by adding Subdivisions (3-a) and (3-b) to read as follows:

(3-a) "DNA QA database" means a database maintained by a crime laboratory and used to identify possible contamination or other quality assurance events with respect to a DNA sample.

(3-b) "Elimination sample" means a blood sample or other biological sample or specimen voluntarily provided by the victim of an offense or another individual not involved in the alleged offense whose DNA is likely to be present at the scene of the crime to isolate and identify the DNA of a potential perpetrator.

SECTION 2. Article 38.01, Code of Criminal Procedure, is amended by adding Section 4-e to read as follows:

Sec. 4-e. DNA QA DATABASE; STORAGE AND REMOVAL OF CERTAIN DNA RECORDS. The commission shall adopt rules:

(1) requiring a DNA QA database to be maintained separately from any other local, state, or federal database, including the CODIS DNA database established by the Federal Bureau of Investigation;

1 (2) prohibiting a crime laboratory from uploading or
2 storing a DNA record created from an elimination sample, or any
3 other information derived from that record, in any database other
4 than the DNA QA database maintained by the crime laboratory;

5 (3) prohibiting a crime laboratory from allowing any
6 other person to access the crime laboratory's DNA QA database; and

7 (4) requiring each crime laboratory that maintains a
8 DNA QA database to, not later than three months after the date on
9 which a forensic DNA analysis of an elimination sample is
10 completed, remove from the DNA QA database the DNA record created
11 from the elimination sample and any other information derived from
12 that record that is contained in the database.

13 SECTION 3. Section [411.141](#), Government Code, is amended by
14 adding Subdivision (8-a) to read as follows:

15 (8-a) "Elimination sample" means a blood sample or
16 other biological sample or specimen voluntarily provided by the
17 victim of an offense or another individual not involved in the
18 alleged offense whose DNA is likely to be present at the scene of
19 the crime to isolate and identify the DNA of a potential
20 perpetrator.

21 SECTION 4. Section [411.142](#)(g), Government Code, is amended
22 to read as follows:

23 (g) The DNA database may contain DNA records for the
24 following:

25 (1) an individual described by this subchapter,
26 including Section [411.1471](#), [411.148](#), or [411.154](#);

27 (2) ~~[a biological specimen of a deceased victim of a~~

1 ~~crime,~~

2 ~~(3)~~ a biological specimen that is legally obtained
3 in the investigation of a crime, regardless of origin;

4 (3) ~~(4)~~ results of testing ordered by a court under
5 this subchapter, Article 64.03, Code of Criminal Procedure, or
6 other law permitting or requiring the creation of a DNA record;

7 (4) ~~(5)~~ an unidentified missing person, or
8 unidentified skeletal remains or body parts;

9 (5) ~~(6)~~ a close biological relative of a person who
10 has been reported missing to a law enforcement agency;

11 (6) ~~(7)~~ a person at risk of becoming lost, such as a
12 child or a person declared by a court to be mentally incapacitated,
13 if the record is required by court order or a parent, conservator,
14 or guardian of the person consents to the record; or

15 (7) ~~(8)~~ an unidentified person, if the record does
16 not contain personal identifying information.

17 SECTION 5. Subchapter G, Chapter 411, Government Code, is
18 amended by adding Section 411.1431 to read as follows:

19 Sec. 411.1431. INCLUSION OF ELIMINATION SAMPLE IN DNA
20 DATABASE PROHIBITED. Notwithstanding Section 411.142(g), a DNA
21 record created from an elimination sample and all information
22 derived from that record may not be uploaded to, stored in, or
23 capable of being searched for in the DNA database.

24 SECTION 6. As soon as practicable after the effective date
25 of this Act but not later than December 1, 2023:

26 (1) the Texas Forensic Science Commission shall:

27 (A) adopt rules regarding elimination sample DNA

1 records stored in a crime laboratory's DNA QA database, as required
2 by Section 4-e, Article 38.01, Code of Criminal Procedure, as added
3 by this Act; and

4 (B) require each crime laboratory to remove all
5 elimination sample DNA records and any information derived from
6 those records that have been stored in a DNA QA database maintained
7 by the crime laboratory for a period of more than three months; and

8 (2) the public safety director of the Department of
9 Public Safety shall remove all elimination sample DNA records and
10 any information derived from those records that have been stored in
11 the DNA database maintained by the director under Subchapter G,
12 Chapter 411, Government Code.

13 SECTION 7. This Act takes effect September 1, 2023.

President of the Senate

Speaker of the House

I certify that H.B. No. 3506 was passed by the House on May 9, 2023, by the following vote: Yeas 142, Nays 0, 2 present, not voting; and that the House concurred in Senate amendments to H.B. No. 3506 on May 25, 2023, by the following vote: Yeas 137, Nays 0, 1 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 3506 was passed by the Senate, with amendments, on May 21, 2023, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor