

By: Harris of Williamson, Hull

H.B. No. 3506

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the removal of certain DNA samples from certain DNA
3 databases.

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

5 SECTION 1. Section 2, Article 38.01, Code of Criminal
6 Procedure, is amended by adding Subdivision (3-a) to read as
7 follows:

8 (3-a) "Elimination sample" means a blood sample or
9 other biological sample or specimen voluntarily provided:

10 (A) by an individual to compare the individual's
11 DNA to another DNA sample and exclude the person from consideration
12 as the suspect or offender in a criminal case; or

13 (B) by the victim of an offense or another
14 individual not involved in the alleged offense whose DNA is likely
15 to be present at the scene of the crime to isolate and identify the
16 DNA of a potential perpetrator.

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

19 Sec. 4-e. RULES FOR REMOVAL OF CERTAIN DNA RECORDS FROM DNA
20 DATABASE. The commission shall adopt rules requiring each crime
21 laboratory that maintains a DNA database to, not later than three
22 months after the date on which a forensic DNA analysis of an
23 elimination sample is completed, remove from the DNA database the
24 DNA record created from the elimination sample and any other

1 information derived from that record that is contained in the
2 database.

3 SECTION 3. Section 411.141, Government Code, is amended by
4 adding Subdivision (8-a) to read as follows:

5 (8-a) "Elimination sample" means a blood sample or
6 other biological sample or specimen voluntarily provided:

7 (A) by an individual to compare the individual's
8 DNA to another DNA sample and exclude the person from consideration
9 as the suspect or offender in a criminal case; or

10 (B) by the victim of an offense or another
11 individual not involved in the alleged offense whose DNA is likely
12 to be present at the scene of the crime to isolate and identify the
13 DNA of a potential perpetrator.

14 SECTION 4. Section 411.142(g), Government Code, is amended
15 to read as follows:

16 (g) The DNA database may contain DNA records for the
17 following:

18 (1) an individual described by this subchapter,
19 including Section 411.1471, 411.148, or 411.154;

20 ~~(2) [a biological specimen of a deceased victim of a~~
21 ~~crime,~~

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

24 (3) [(4)] results of testing ordered by a court under
25 this subchapter, Article 64.03, Code of Criminal Procedure, or
26 other law permitting or requiring the creation of a DNA record;

27 (4) [(5)] an unidentified missing person, or

1 unidentified skeletal remains or body parts;

2 (5) [~~(6)~~] a close biological relative of a person who
3 has been reported missing to a law enforcement agency;

4 (6) [~~(7)~~] a person at risk of becoming lost, such as a
5 child or a person declared by a court to be mentally incapacitated,
6 if the record is required by court order or a parent, conservator,
7 or guardian of the person consents to the record; or

8 (7) [~~(8)~~] an unidentified person, if the record does
9 not contain personal identifying information.

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

12 Sec. 411.1431. REMOVAL OF ELIMINATION SAMPLE DNA RECORD
13 FROM DNA DATABASE. Notwithstanding Section 411.142(g), not later
14 than three months after the date on which a forensic DNA analysis of
15 an elimination sample is completed, the director shall remove from
16 the DNA database the DNA record created from the elimination sample
17 and all information derived from that record that is contained in
18 the database.

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

21 (1) the Texas Forensic Science Commission shall:

22 (A) adopt rules for the removal of elimination
23 sample DNA records from a crime laboratory's DNA database, as
24 required by Section 4-e, Article 38.01, Code of Criminal Procedure,
25 as added by this Act; and

26 (B) require each crime laboratory to remove all
27 elimination sample DNA records and any information derived from

1 those records that have been stored in a DNA database maintained by
2 the crime laboratory for a period of more than three months; and

3 (2) the public safety director of the Department of
4 Public Safety shall remove all elimination sample DNA records and
5 any information derived from those records that have been stored in
6 the DNA database maintained by the director for a period of more
7 than three months.

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