

1-1 By: Harris of Williamson, Hull H.B. No. 3506
 1-2 (Senate Sponsor - Hughes)
 1-3 (In the Senate - Received from the House May 10, 2023;
 1-4 May 11, 2023, read first time and referred to Committee on State
 1-5 Affairs; May 17, 2023, reported adversely, with favorable
 1-6 Committee Substitute by the following vote: Yeas 11, Nays 0;
 1-7 May 17, 2023, sent to printer.)

1-8 COMMITTEE VOTE

| | Yea | Nay | Absent | PNV |
|------|-----|-----|--------|-----|
| 1-9 | | | | |
| 1-10 | X | | | |
| 1-11 | X | | | |
| 1-12 | X | | | |
| 1-13 | X | | | |
| 1-14 | X | | | |
| 1-15 | X | | | |
| 1-16 | X | | | |
| 1-17 | X | | | |
| 1-18 | X | | | |
| 1-19 | X | | | |
| 1-20 | X | | | |

1-21 COMMITTEE SUBSTITUTE FOR H.B. No. 3506 By: Hughes

1-22 A BILL TO BE ENTITLED
 1-23 AN ACT

1-24 relating to the storage in and removal from certain DNA databases of
 1-25 certain DNA samples.

1-26 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-27 SECTION 1. Section 2, Article 38.01, Code of Criminal
 1-28 Procedure, is amended by adding Subdivisions (3-a) and (3-b) to
 1-29 read as follows:

1-30 (3-a) "DNA QA database" means a database maintained by
 1-31 a crime laboratory and used to identify possible contamination or
 1-32 other quality assurance events with respect to a DNA sample.

1-33 (3-b) "Elimination sample" means a blood sample or
 1-34 other biological sample or specimen voluntarily provided by the
 1-35 victim of an offense or another individual not involved in the
 1-36 alleged offense whose DNA is likely to be present at the scene of
 1-37 the crime to isolate and identify the DNA of a potential
 1-38 perpetrator.

1-39 SECTION 2. Article 38.01, Code of Criminal Procedure, is
 1-40 amended by adding Section 4-e to read as follows:

1-41 Sec. 4-e. DNA QA DATABASE; STORAGE AND REMOVAL OF CERTAIN
 1-42 DNA RECORDS. The commission shall adopt rules:

1-43 (1) requiring a DNA QA database to be maintained
 1-44 separately from any other local, state, or federal database,
 1-45 including the CODIS DNA database established by the Federal Bureau
 1-46 of Investigation;

1-47 (2) prohibiting a crime laboratory from uploading or
 1-48 storing a DNA record created from an elimination sample, or any
 1-49 other information derived from that record, in any database other
 1-50 than the DNA QA database maintained by the crime laboratory;

1-51 (3) prohibiting a crime laboratory from allowing any
 1-52 other person to access the crime laboratory's DNA QA database; and

1-53 (4) requiring each crime laboratory that maintains a
 1-54 DNA QA database to, not later than three months after the date on
 1-55 which a forensic DNA analysis of an elimination sample is
 1-56 completed, remove from the DNA QA database the DNA record created
 1-57 from the elimination sample and any other information derived from
 1-58 that record that is contained in the database.

1-59 SECTION 3. Section 411.141, Government Code, is amended by
 1-60 adding Subdivision (8-a) to read as follows:

2-1 (8-a) "Elimination sample" means a blood sample or
2-2 other biological sample or specimen voluntarily provided by the
2-3 victim of an offense or another individual not involved in the
2-4 alleged offense whose DNA is likely to be present at the scene of
2-5 the crime to isolate and identify the DNA of a potential
2-6 perpetrator.

2-7 SECTION 4. Section 411.142(g), Government Code, is amended
2-8 to read as follows:

2-9 (g) The DNA database may contain DNA records for the
2-10 following:

2-11 (1) an individual described by this subchapter,
2-12 including Section 411.1471, 411.148, or 411.154;

2-13 (2) ~~[a biological specimen of a deceased victim of a
2-14 crime,~~

2-15 ~~[(3)]~~ a biological specimen that is legally obtained
2-16 in the investigation of a crime, regardless of origin;

2-17 (3) ~~[(4)]~~ results of testing ordered by a court under
2-18 this subchapter, Article 64.03, Code of Criminal Procedure, or
2-19 other law permitting or requiring the creation of a DNA record;

2-20 (4) ~~[(5)]~~ an unidentified missing person, or
2-21 unidentified skeletal remains or body parts;

2-22 (5) ~~[(6)]~~ a close biological relative of a person who
2-23 has been reported missing to a law enforcement agency;

2-24 (6) ~~[(7)]~~ a person at risk of becoming lost, such as a
2-25 child or a person declared by a court to be mentally incapacitated,
2-26 if the record is required by court order or a parent, conservator,
2-27 or guardian of the person consents to the record; or

2-28 (7) ~~[(8)]~~ an unidentified person, if the record does
2-29 not contain personal identifying information.

2-30 SECTION 5. Subchapter G, Chapter 411, Government Code, is
2-31 amended by adding Section 411.1431 to read as follows:

2-32 Sec. 411.1431. INCLUSION OF ELIMINATION SAMPLE IN DNA
2-33 DATABASE PROHIBITED. Notwithstanding Section 411.142(g), a DNA
2-34 record created from an elimination sample and all information
2-35 derived from that record may not be uploaded to, stored in, or
2-36 capable of being searched for in the DNA database.

2-37 SECTION 6. As soon as practicable after the effective date
2-38 of this Act but not later than December 1, 2023:

2-39 (1) the Texas Forensic Science Commission shall:

2-40 (A) adopt rules regarding elimination sample DNA
2-41 records stored in a crime laboratory's DNA QA database, as required
2-42 by Section 4-e, Article 38.01, Code of Criminal Procedure, as added
2-43 by this Act; and

2-44 (B) require each crime laboratory to remove all
2-45 elimination sample DNA records and any information derived from
2-46 those records that have been stored in a DNA QA database maintained
2-47 by the crime laboratory for a period of more than three months; and

2-48 (2) the public safety director of the Department of
2-49 Public Safety shall remove all elimination sample DNA records and
2-50 any information derived from those records that have been stored in
2-51 the DNA database maintained by the director under Subchapter G,
2-52 Chapter 411, Government Code.

2-53 SECTION 7. This Act takes effect September 1, 2023.

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