

By: Bailey, Paxton, Dutton, Keel, Flynn

H.B. No. 2704

A BILL TO BE ENTITLED

1 AN ACT

2 relating to post conviction DNA review in criminal cases; providing
3 a fee.

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

5 SECTION 1. Section 411.144, Government Code is amended by
6 adding Subsection (I) to read as follows:

7 (a) The Director by rule shall establish procedures for a
8 DNA laboratory or criminal justice or law enforcement agency in the
9 collection, preservation, shipment, analysis, and use of a blood
10 sample or other specimen for forensic DNA analysis in a manner that
11 permits the exchange of DNA evidence between DNA laboratories and
12 the use of evidence in a criminal case.

13 (b) A DNA laboratory or criminal justice or law enforcement
14 agency shall follow the procedures:

15 (1) establish by the director under this section; and

16 (2) specified by the FBI, including use of comparable
17 test procedures, laboratory equipment, supplies, and computer
18 software.

19 (c) The director may at any reasonable time enter and
20 inspect the premises or audit the procedures of any DNA laboratory
21 that provides DNA records or DNA forensic analyses to the
22 department under this subchapter.

23 (d) A DNA laboratory conducting a DNA analysis under this
24 subchapter shall:

1 (1) forward the DNA record of the analysis to the
2 director at the department's crime laboratory or another location
3 as required by the department; and

4 (2) comply with this subchapter and rules adopted
5 under this subchapter.

6 (e) If a DNA laboratory violates this subchapter or a rule
7 adopted under this subchapter, the director may prohibit the
8 laboratory from exchanging DNA records with another DNA laboratory
9 or criminal justice or law enforcement agency. A DNA laboratory
10 prohibited from exchanging DNA records under this subsection may
11 petition the director for a hearing to show cause why the
12 laboratory's authority to exchange DNA records should be
13 reinstated.

14 (f) The director is the liaison for DNA data, records,
15 evidence, and other related matters between the FBI and a DNA
16 laboratory or a criminal justice or law enforcement agency.

17 (g) The Director may:

18 (1) conduct DNA analyses; or

19 (2) contract with a laboratory, state agency, private
20 entity, or institution of higher education for services to perform
21 DNA analyses for the department.

22 (h) The institutional division may:

23 (1) collect a blood sample or other specimen for
24 forensic DNA analysis; or

25 (2) contract with a laboratory, state agency, private
26 entity, or institution of higher education for services to collect
27 a sample or other specimen under this subchapter.

1 (i) Any post-conviction review of DNA laboratory evidence
2 in a criminal case, requested by the prosecution, shall be under the
3 supervision of the director, and the director shall employ a
4 third-party consultant(s).

5 SECTION 2. Section 411.145, Government Code is amended by
6 adding Subsection (a)(3) to read as follows:

7 (a) The director may collect a reasonable fee under this
8 subchapter:

9 (1) for the DNA analysis of a blood sample or other
10 specimen submitted voluntarily to the department; or

11 (2) for providing population statistics data or other
12 appropriate research data; or

13 (3) for supervising post-conviction reviews as
14 required by Section 411.144(i).

15 SECTION 3. This Act takes effect immediately if it receives
16 a vote of two-thirds of all the members elected to each house, as
17 provided by Section 39, Article III, Texas Constitution. If this
18 Act does not receive the vote necessary for immediate effect, this
19 Act takes effect September 1, 2003.