

By: Driver

H.B. No. 1068

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the collection and analysis of evidence and testimony
3 based on forensic analysis, crime laboratory accreditation, DNA
4 testing, and the creation and maintenance of DNA records; providing
5 a penalty.

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

7 SECTION 1. Article 38.35, Code of Criminal Procedure, is
8 amended to read as follows:

9 Art. 38.35. FORENSIC ANALYSIS OF EVIDENCE; ADMISSIBILITY.

10 (a) In this article:

11 (1) "Crime laboratory" includes a public or private
12 laboratory or other entity that conducts a forensic analysis
13 subject to this article.

14 (2) "Criminal action" includes an investigation,
15 complaint, arrest, bail, bond, trial, appeal, punishment, or other
16 matter related to conduct proscribed by a criminal offense.

17 (3) "Director" means the public safety director of the
18 Department of Public Safety.

19 (4) "Forensic analysis" means a medical, chemical,
20 toxicologic, ballistic, or other expert examination or test
21 performed on physical evidence, including DNA evidence, for the
22 purpose of determining the connection of the evidence to a criminal
23 action. The term includes an examination or test requested by a law
24 enforcement agency, prosecutor, criminal suspect or defendant, or

1 court. The term does not include:

2 (A) latent print examination;

3 (B) a test of a specimen of breath under Chapter
4 724, Transportation Code; ~~[or]~~

5 (C) digital evidence;

6 (D) an examination or test excluded by rule under
7 Section 411.0205(c), Government Code;

8 (E) a presumptive test performed for the purpose
9 of determining compliance with a term or condition of community
10 supervision or parole and conducted by or under contract with a
11 community supervision and corrections department, the parole
12 division of the Texas Department of Criminal Justice, or the Board
13 of Pardons and Paroles; or

14 (F) an expert examination or test conducted
15 principally for the purpose of scientific research, medical
16 practice, civil or administrative litigation, or other purpose
17 unrelated to determining the connection of physical evidence to a
18 criminal action.

19 (5) ~~[(2)]~~ "Physical evidence" means any tangible
20 object, thing, or substance relating to a criminal action
21 ~~[offense]~~.

22 (b) A law enforcement agency, prosecutor, or court may
23 request ~~[procure]~~ a forensic analysis by a crime laboratory of
24 physical evidence if the evidence was obtained in connection with
25 the requesting entity's ~~[agency's]~~ investigation or disposition of
26 a criminal action and the requesting entity:

27 (A) controls the evidence;

1 (B) submits the evidence to the laboratory; or

2 (C) consents to the analysis [~~offense~~].

3 (c) A law enforcement agency, other governmental agency, or
4 private entity performing a forensic analysis of physical evidence
5 may require the requesting law enforcement agency to pay a fee for
6 such analysis.

7 (d)(1) Except as provided by Subsection (e), a forensic
8 analysis of physical [~~Physical~~] evidence under this article
9 [subjected to a forensic analysis,] and expert testimony relating
10 to [~~regarding~~] the evidence are [~~, under this article is~~] not
11 admissible in a criminal action [~~case~~] if, at the time of the
12 analysis [~~or the time the evidence is submitted to the court~~], the
13 crime laboratory [~~or other entity~~] conducting the analysis was not
14 accredited by the director [~~Department of Public Safety~~] under
15 Section 411.0205, Government Code.

16 (2) If before the date of the analysis the director
17 issues a certificate of accreditation under Section 411.0205,
18 Government Code, to a crime laboratory conducting the analysis, the
19 certificate is prima facie evidence that the laboratory was
20 accredited by the director at the time of the analysis.

21 (e) A forensic analysis of physical evidence under this
22 article and expert testimony relating to the evidence are not
23 inadmissible in a criminal action based solely on the accreditation
24 status of the crime laboratory conducting the analysis if the
25 laboratory:

26 (A) except for making proper application, was
27 eligible for accreditation by the director at the time of the

1 examination or test; and

2 (B) obtains accreditation from the director
3 before the time of testimony about the examination or test.

4 (f) A law enforcement agency, prosecutor, or crime
5 laboratory may petition a court to require, as a condition of
6 community supervision under Article 42.12, or petition the Board of
7 Pardons and Paroles to require, as a condition of release on parole
8 under Chapter 508, Government Code, a person to reimburse the
9 agency, prosecutor, or laboratory for the reasonable cost of the
10 confiscation, analysis, storage, or disposal of evidence,
11 including physical evidence, raw materials, controlled substances,
12 chemical precursors, drug paraphernalia, or other materials seized
13 in connection with the underlying offense.

14 ~~[(c) Notwithstanding Subsection (d), physical evidence~~
15 ~~subjected to a forensic analysis under this article is not~~
16 ~~inadmissible in a criminal case based solely on the accreditation~~
17 ~~status of the crime laboratory or other entity conducting the~~
18 ~~analysis if the laboratory or entity:~~

19 ~~[(1) has preserved one or more separate samples of the~~
20 ~~physical evidence for use by the defense attorney or use under order~~
21 ~~of the convicting court; and~~

22 ~~[(2) has agreed to preserve those samples until all~~
23 ~~appeals in the case are final. This subsection expires September 1,~~
24 ~~2005.]~~

25 SECTION 2. Section 411.0205, Government Code, is amended to
26 read as follows:

27 Sec. 411.0205. CRIME LABORATORY ACCREDITATION PROCESS. (a)

1 In this section, "crime laboratory," "forensic analysis," and
2 "physical evidence" have the meanings assigned by Article 38.35,
3 Code of Criminal Procedure~~[, and "DNA laboratory" has the meaning~~
4 ~~assigned by Section 411.141]~~.

5 (b) The director by rule:

6 (1) shall establish an accreditation process for crime
7 laboratories~~[, including DNA laboratories,]~~ and other entities
8 conducting forensic analyses of physical evidence for use in
9 criminal proceedings; and

10 (2) may modify or remove a crime laboratory exemption
11 under this section if the director determines that the underlying
12 reason for exemption no longer applies.

13 (c) The director by rule may exempt from the accreditation
14 process established under Subsection (b) a crime laboratory ~~[or~~
15 ~~other entity]~~ conducting a forensic analysis or a type of analysis,
16 examination, or test ~~[of physical evidence for use in criminal~~
17 ~~proceedings]~~ if the director determines that:

18 (1) independent accreditation is unavailable or
19 inappropriate for the laboratory ~~[or entity]~~ or the type of
20 analysis, examination, or test performed by the laboratory ~~[or~~
21 ~~entity];~~

22 (2) the type of analysis, examination, or test
23 performed by the laboratory ~~[or entity]~~ is admissible under a
24 well-established rule of evidence or a statute other than Article
25 38.35, Code of Criminal Procedure; ~~[and]~~

26 (3) the type of analysis, examination, or test
27 performed by the laboratory ~~[or entity]~~ is routinely conducted

1 outside of a crime laboratory [~~or other applicable entity~~] by a
2 person other than an employee of the crime laboratory; or

3 (4) the laboratory:

4 (A) is located outside this state or, if located
5 in this state, is operated by a governmental entity other than the
6 state or a political subdivision of the state; and

7 (B) was accredited at the time of the analysis
8 under an accreditation process with standards that meet or exceed
9 the relevant standards of the process established by the director
10 under Subsection (b) [~~or other applicable entity~~].

11 (d) The director may at any reasonable time enter and
12 inspect the premises or audit the records, reports, procedures, or
13 other quality assurance matters of a crime laboratory that is
14 accredited or seeking accreditation under this section.

15 (e) The director may collect costs incurred under this
16 section for accrediting, inspecting, or auditing a crime
17 laboratory.

18 (f) If the director provides a copy of an audit or other
19 report made under this section, the director may charge \$6 for the
20 copy, in addition to any other cost permitted under Chapter 552 or a
21 rule adopted under that chapter.

22 (g) Funds collected under this section shall be deposited in
23 the state treasury to the credit of the state highway fund, and
24 money deposited to the state highway fund under this section may be
25 used only to defray the cost of administering this section or
26 Subchapter G.

27 SECTION 3. Section 411.141, Government Code, is amended to

1 read as follows:

2 Sec. 411.141. DEFINITIONS. In this subchapter:

3 (1) "CODIS" means the FBI's Combined DNA Index System.
4 The term includes the national DNA index system sponsored by the
5 FBI.

6 (2) "Conviction" includes conviction by a jury or a
7 court, a guilty plea, a plea of nolo contendere, or a finding of not
8 guilty by reason of insanity.

9 (3) "Criminal justice agency" has the meaning assigned
10 by Article 60.01, Code of Criminal Procedure. The term includes a
11 penal institution, a community supervision and corrections
12 department, the parole division of the Texas Department of Criminal
13 Justice, the Board of Pardons and Paroles, a law enforcement
14 agency, or any other criminal justice agency permitted or required
15 to collect a DNA sample for forensic DNA analysis under this
16 subchapter. The term does not include a public defender agency or a
17 public servant engaged in a criminal defense law practice.

18 (4) "DNA" means deoxyribonucleic acid.

19 (5) ~~(2)~~ (5) "DNA database" means one or more databases
20 that contain ~~[the database that contains]~~ forensic DNA records
21 maintained by the director.

22 (6) ~~(3)~~ (6) "DNA laboratory" means a laboratory that
23 performs forensic DNA analysis on samples or specimens derived from
24 a human body, physical evidence, or a crime scene. The term
25 includes a department crime laboratory facility that conducts
26 forensic DNA analysis.

27 (7) ~~(4)~~ (7) "DNA record" means the results of a forensic

1 DNA analysis performed by a DNA laboratory. The term includes a DNA
2 profile and related records, which may include a code or other
3 identifying number referenced to a separate database to locate:

4 (A) the originating entity; and

5 (B) [7] if known, the name and other personally
6 identifying information concerning the individual [of the person]
7 who is the subject of the analysis.

8 (8) "DNA sample" means a blood sample or other
9 biological sample or specimen provided by an individual under this
10 subchapter or submitted to the director under this subchapter for
11 DNA analysis or storage.

12 (9) [5] "FBI" means the Federal Bureau of
13 Investigation.

14 (10) "Forensic analysis" has the meaning assigned by
15 Article 38.35, Code of Criminal Procedure.

16 (11) [6] "Institution of higher education" has the
17 meaning assigned by Section 61.003, Education Code.

18 (12) [7] "Institutional division" means the
19 institutional division of the Texas Department of Criminal Justice.

20 [8] "Penal institution" has the meaning assigned by
21 Section 1.07, Penal Code.

22 SECTION 4. Sections 411.142(b), (c), (d), (f), (g), and
23 (h), Government Code, are amended to read as follows:

24 (b) (1) The director may maintain a [the] DNA database in the
25 department's crime laboratory in Austin or another suitable
26 location.

27 (2) The director may maintain a separate database

1 containing a name or other personally identifying information
2 cross-referenced and searchable by name, code, or other identifier.

3 (3) A CODIS DNA database:

4 (A) may not store a name or other personally
5 identifying information;

6 (B) must be compatible with the national DNA
7 index system to the extent required by the FBI to permit the useful
8 exchange and storage of DNA records or information derived from
9 those records; and

10 (C) may store a code, file, or reference number
11 to another information system only if the director determines the
12 information is necessary to:

13 (i) generate an investigative lead or
14 exclusion;

15 (ii) support the statistical
16 interpretation of a test result; or

17 (iii) allow for the successful
18 implementation of a DNA database.

19 (4) A non-CODIS DNA database:

20 (A) may store a name or other personally
21 identifying information; and

22 (B) must be compatible with the national DNA
23 index system to the extent possible to permit the useful exchange
24 and storage of DNA records or information derived from those
25 records.

26 (c) The director may receive, analyze, store, and destroy a
27 record or DNA sample [~~7 blood sample, or other specimen~~] for the

1 purposes described by Section 411.143.

2 (d) The DNA database must be capable of classifying,
3 matching, and storing the results of analyses of DNA [~~and other~~
4 ~~biological molecules~~].

5 (f) A [~~The DNA database must be compatible with the national~~
6 ~~DNA identification index system (CODIS) used by the FBI to the~~
7 ~~extent required by the FBI to permit the useful exchange and storage~~
8 ~~of DNA records or information derived from those records.~~

9 [~~(g) The~~] DNA database may contain DNA records for the
10 following:

11 (1) an individual [~~a person~~] described by this
12 subchapter, including Section 411.148, 411.149, or 411.150;

13 (2) a biological specimen of a deceased victim of a
14 crime;

15 (3) a biological specimen that is reasonably believed
16 to have been legally obtained in the investigation of a crime,
17 regardless of origin;

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

21 (5) an unidentified missing person, or unidentified
22 skeletal remains or body parts;

23 (6) a close biological relative of a person who has
24 been reported missing to a law enforcement agency;

25 (7) a person at risk of becoming lost, such as a child
26 or a person declared by a court to be mentally incapacitated, if the
27 record is required by court order or a parent, conservator, or

1 guardian of the person consents to the record; or

2 (8) an unidentified person, if the record does not
3 contain personal identifying information.

4 (g) The director [~~(h) The department~~] shall establish
5 standards for DNA analysis by the DNA laboratory that meet or exceed
6 the current standards for quality assurance and proficiency testing
7 for forensic DNA analysis issued by the FBI. The DNA database may
8 contain only DNA records of DNA analyses performed according to the
9 standards adopted by the director [~~department~~].

10 SECTION 5. Sections 411.143(a), (b), (c), and (e),
11 Government Code, are amended to read as follows:

12 (a) The principal purpose of the DNA database is to assist a
13 federal, state, or local criminal justice agency [~~or law~~
14 ~~enforcement agencies~~] in the investigation or prosecution of a
15 criminal offense [~~sex-related offenses or other offenses~~] in which
16 biological evidence is recovered.

17 (b) In criminal cases, the purposes of the DNA database are
18 only for use in the investigation of an offense, the exclusion or
19 identification of suspects or offenders, and the prosecution or
20 defense of the case.

21 (c) Other purposes of the database include:

22 (1) assisting in the recovery or identification of
23 human remains from a disaster or for humanitarian purposes;

24 (2) assisting in the identification of living or
25 deceased missing persons; [~~and~~]

26 (3) if personal identifying information is removed:

27 (A) establishing a population statistics

1 database; and

2 (B) assisting in identification research,
3 forensic validation studies, or forensic ~~[and]~~ protocol
4 development; and

5 (4) retesting to validate or update the original
6 analysis or ~~[(C)]~~ assisting in database or DNA laboratory quality
7 control.

8 (e) A party contracting to carry out a function of another
9 entity under this subchapter shall comply with:

10 (1) a requirement imposed by this subchapter on the
11 other entity, unless the party or other entity is exempted by the
12 director; and

13 (2) any additional requirement imposed by the director
14 on the party. ~~[The director may not store a name or other personal~~
15 ~~identifying information in the CODIS database. A file or reference~~
16 ~~number to another information system may be included in the CODIS~~
17 ~~database only if the director determines the information is~~
18 ~~necessary to:~~

19 ~~[(1) generate an investigative lead or exclusion;~~

20 ~~[(2) support the statistical interpretation of a test~~
21 ~~result; or~~

22 ~~[(3) allow for the successful implementation of the~~
23 ~~DNA database.]~~

24 SECTION 6. Section 411.144, Government Code, is amended to
25 read as follows:

26 Sec. 411.144. REGULATION OF DNA LABORATORIES; PENALTIES.

27 (a) The director by rule shall establish procedures for a DNA

1 laboratory or criminal justice [~~or law enforcement~~] agency in the
2 collection, preservation, shipment, analysis, and use of a DNA
3 sample [~~blood sample or other specimen~~] for forensic DNA analysis
4 in a manner that permits the exchange of DNA evidence between DNA
5 laboratories and the use of the evidence in a criminal case.

6 (b) A DNA laboratory or criminal justice [~~or law~~
7 ~~enforcement~~] agency shall follow the procedures:

8 (1) established by the director under this section;
9 and

10 (2) specified by the FBI, including use of comparable
11 test procedures, laboratory equipment, supplies, and computer
12 software.

13 (c) The director may at any reasonable time enter and
14 inspect the premises or audit the records, reports, procedures, or
15 other quality assurance matters of any DNA laboratory that:

16 (1) provides DNA records [~~or DNA forensic analyses~~] to
17 the director [~~department~~] under this subchapter; or

18 (2) conducts forensic analysis.

19 (d) A DNA laboratory conducting a forensic DNA analysis
20 under this subchapter shall:

21 (1) forward the DNA record of the analysis to the
22 director at the department's crime laboratory or another location
23 as required by the director [~~department~~]; and

24 (2) comply with this subchapter and rules adopted
25 under this subchapter.

26 (e) [~~If a DNA laboratory violates this subchapter or a rule~~
27 ~~adopted under this subchapter, the director may prohibit the~~

1 ~~laboratory from exchanging DNA records with another DNA laboratory~~
2 ~~or criminal justice or law enforcement agency. A DNA laboratory~~
3 ~~prohibited from exchanging DNA records under this subsection may~~
4 ~~petition the director for a hearing to show cause why the~~
5 ~~laboratory's authority to exchange DNA records should be~~
6 ~~reinstated.~~

7 ~~[(f)]~~ The director is the Texas liaison for DNA data,
8 records, evidence, and other related matters between:

9 (1) the FBI; and

10 (2) a DNA laboratory or a criminal justice [~~or law~~
11 ~~enforcement~~] agency.

12 (f) [~~(g)~~] The director may:

13 (1) conduct DNA analyses; or

14 (2) contract with a laboratory, state agency, private
15 entity, or institution of higher education for services to perform
16 DNA analyses for the director [~~department~~].

17 (g) This subchapter does not apply to crime scene collection
18 of evidence, including DNA evidence, by a law enforcement agency.

19 [~~(h) The institutional division may:~~

20 [~~(1) collect a blood sample or other specimen for~~
21 ~~forensic DNA analysis; or~~

22 [~~(2) contract with a laboratory, state agency, private~~
23 ~~entity, or institution of higher education for services to collect~~
24 ~~a sample or other specimen under this subchapter.]~~

25 SECTION 7. Section 411.145, Government Code, is amended to
26 read as follows:

27 Sec. 411.145. FEES. (a) The director may collect a

1 reasonable fee under this subchapter for:

2 (1) [~~for~~] the DNA analysis of a DNA sample [~~blood~~
3 ~~sample or other specimen~~] submitted voluntarily to the director
4 [~~department~~]; or

5 (2) [~~for~~] providing population statistics data or
6 other appropriate research data.

7 (b) If the director provides a copy of an audit or other
8 report made under this subchapter, the director may charge \$6 for
9 the copy, in addition to any other cost permitted under Chapter 552
10 or a rule adopted under that chapter.

11 (c) A fee collected under this section shall be deposited in
12 the state treasury to the credit of the state highway fund, and
13 money deposited to the state highway fund under this section and
14 under Articles 42.12 and [~~Article~~] 102.020(h), Code of Criminal
15 Procedure, may be used only to defray the cost of administering this
16 subchapter and Section 411.0205.

17 SECTION 8. Section 411.146, Government Code, is amended to
18 read as follows:

19 Sec. 411.146. DNA SAMPLES [~~BLOOD SAMPLES OR OTHER~~
20 ~~SPECIMENS~~]. (a) The director may not accept a DNA record or DNA
21 sample collected [~~blood sample or other specimen taken~~] from an
22 individual [~~a person~~] who at the time of collection is alive, unless
23 the director reasonably believes the sample was [~~is not deceased~~
24 ~~that is~~] submitted voluntarily or as required by this subchapter
25 and is:

26 (1) a blood sample [~~Section 411.148 or 411.150 unless~~
27 ~~the sample or specimen is~~] collected in a medically approved manner

1 by:

2 (A) [(1)] a physician, registered nurse,
3 licensed vocational nurse, licensed clinical laboratory
4 technologist; or

5 (B) an individual [(2) another person] who is
6 trained to properly collect blood samples under this subchapter; or

7 (2) a specimen other than a blood sample collected:

8 (A) in a manner approved by the director by rule
9 adopted under this section; and

10 (B) by an individual who is trained to properly
11 collect the specimen under this subchapter [~~or other specimens and~~
12 ~~supervised by a licensed physician~~].

13 (b) [~~A person collecting a blood sample or other specimen~~
14 ~~under this section may not be held liable in any civil or criminal~~
15 ~~action if the person collects the sample or specimen in a reasonable~~
16 ~~manner according to generally accepted medical or other~~
17 ~~professional practices.~~

18 [(c)] The director shall provide at no cost to a person
19 collecting a DNA sample as described by Subsection (a) the
20 collection kits, [~~specimen vials, mailing tubes and~~] labels, report
21 forms, [~~and~~] instructions, and training for collection of DNA
22 [~~blood~~] samples [~~or other specimens~~] under this section.

23 (c)(1) The director shall adopt rules regarding the
24 collection, preservation, shipment, and analysis of a DNA database
25 sample under this subchapter, including the type of sample or
26 specimen taken.

27 (2) A criminal justice agency permitted or required to

1 collect a DNA sample for forensic DNA analysis under this
2 subchapter:

3 (A) may collect the sample or contract with a
4 phlebotomist, laboratory, state agency, private entity, or
5 institution of higher education for services to collect the sample
6 at the time determined by the agency; and

7 (B) shall:

8 (i) preserve each sample collected until it
9 is forwarded to the director under Subsection (d); and

10 (ii) maintain a record of the collection of
11 the sample.

12 (d) A criminal justice agency that [~~person who~~] collects a
13 DNA [~~blood~~] sample [~~or other specimen~~] under this section shall
14 send the sample [~~or specimen~~] to:

15 (1) the director at the department's crime laboratory;

16 or

17 (2) another location as required by the director by
18 rule.

19 (e) A DNA laboratory may analyze a DNA [~~blood~~] sample
20 collected under this section [~~or other DNA specimen~~] only:

21 (1) to type the genetic markers contained in the
22 sample [~~or specimen~~];

23 (2) for criminal justice or [~~and~~] law enforcement
24 purposes; or

25 (3) for other purposes described by this subchapter.

26 (f) If possible, a second DNA sample [~~specimen~~] must be
27 collected [~~obtained~~] from an individual [~~a suspect~~] in a criminal

1 investigation if forensic DNA evidence is necessary for use as
2 substantive evidence in the investigation, prosecution, or defense
3 of a case.

4 SECTION 9. Section 411.147, Government Code, is amended to
5 read as follows:

6 Sec. 411.147. ACCESS TO DNA DATABASE INFORMATION. (a) The
7 director by rule shall establish procedures:

8 (1) to prevent unauthorized access to a [~~the~~] DNA
9 database; and

10 (2) to release from a DNA database a DNA sample,
11 analysis, record, or other information maintained under this
12 subchapter [~~DNA records, specimens, or analyses from the DNA~~
13 ~~database~~].

14 (b) The director may adopt rules relating to the internal
15 disclosure, access, or use of a sample [~~, specimen,~~] or DNA record in
16 [~~the department or~~] a DNA laboratory.

17 (c) The director [~~department~~] may release a DNA sample,
18 analysis, or record only:

19 (1) to a criminal justice agency for criminal justice
20 or law enforcement identification purposes;

21 (2) for a judicial proceeding, if otherwise admissible
22 under law;

23 (3) for criminal defense purposes to a defendant, if
24 related to the case in which the defendant is charged or released
25 from custody under Article 17.47, Code of Criminal Procedure, or
26 other court order; or

27 (4) for another purpose:

- 1 (A) described in Section 411.143; or
2 (B) required under federal law as a condition for
3 obtaining federal funding [~~if personally identifiable information~~
4 ~~is removed, for:~~
5 [~~(A) a population statistics database;~~
6 [~~(B) identification research and protocol~~
7 ~~development; or~~
8 [~~(C) quality control~~].

9 (d) The director may release a record of the number of
10 requests made for a defendant's individual DNA record and the name
11 of the requesting person.

12 (e) A criminal justice [~~law enforcement~~] agency may have
13 access to a DNA sample for a law enforcement purpose [~~specimens~~]
14 through:

- 15 (1) the agency's laboratory; or
16 (2) a laboratory used by the agency [~~for law~~
17 ~~enforcement purposes~~].

18 (f) The director shall maintain a record of requests made
19 under this section.

20 SECTION 10. Section 411.148, Government Code, as amended by
21 Chapters 211 and 1509, Acts of the 77th Legislature, Regular
22 Session, 2001, is reenacted and amended to read as follows:

23 Sec. 411.148. MANDATORY DNA RECORD [~~RECORDS OF CERTAIN~~
24 ~~INMATES~~]. (a) This section applies to:

- 25 (1) an individual who is:
26 (A) placed on community supervision or deferred
27 adjudication following conviction for a felony;

1 (B) ordered by a magistrate or court to provide a
2 sample under Section 411.150 or 411.154 or other law; or

3 (C) confined in a penal institution operated by
4 or under contract with the Texas Department of Criminal Justice; or

5 (2) a juvenile who is:

6 (A) after an adjudication for conduct
7 constituting a felony, confined in a facility operated by or under
8 contract with the Texas Youth Commission; or

9 (B) placed on community supervision or deferred
10 adjudication after adjudication for conduct constituting a felony.

11 (b) An individual described by Subsection (a) [~~inmate~~
12 ~~serving a sentence for a felony in the institutional division]~~
13 shall provide one or more DNA [~~blood~~] samples [~~or other specimens~~]
14 for the purpose of creating a DNA record.

15 (c) A criminal justice agency shall collect a sample ordered
16 by a magistrate or court in compliance with the order.

17 (d) If an individual described by Subsection (a)(1)(C) is
18 received into custody by the Texas Department of Criminal Justice,
19 that department [~~(b) The institutional division]~~ shall collect
20 [~~obtain~~] the sample [~~or specimen~~] from the individual [~~an inmate of~~
21 ~~the division]~~ during the diagnostic process or at another time
22 determined by the Texas Department of Criminal Justice.

23 (e) If an individual described by Subsection (a)(2) is
24 received into custody by the Texas Youth Commission, the youth
25 commission shall collect the sample from the individual during the
26 initial examination or at another time determined by the youth
27 commission.

1 (f) ~~[The institutional division shall obtain the sample or~~
2 ~~specimen from an inmate confined in another penal institution as~~
3 ~~soon as practicable if the Board of Pardons and Paroles informs the~~
4 ~~division that the inmate is likely to be paroled before being~~
5 ~~admitted to the division. The administrator of the other penal~~
6 ~~institution shall cooperate with the institutional division as~~
7 ~~necessary to allow the institutional division to perform its duties~~
8 ~~under this section.~~

9 ~~[(c) The institutional division shall:~~

10 ~~[(1) preserve each blood sample or other specimen~~
11 ~~collected;~~

12 ~~[(2) maintain a record of the collection of the sample~~
13 ~~or specimen; and~~

14 ~~[(3) send the sample or specimen to the director for~~
15 ~~scientific analysis under this subchapter.~~

16 ~~[(d) An inmate may not be held past a statutory release date~~
17 ~~if the inmate fails or refuses to provide a blood sample or other~~
18 ~~specimen under this section. A penal institution may take other~~
19 ~~lawful administrative action against the inmate.~~

20 ~~[(e)]~~ The Texas Department of Criminal Justice and the Texas
21 Youth Commission, as appropriate, [institutional division] shall
22 notify the director that an individual ~~[inmate]~~ described by
23 Subsection (a) is to be released from custody ~~[the institutional~~
24 ~~division]~~ not earlier than the 120th day before the individual's
25 ~~[inmate's]~~ release date and not later than the 90th day before the
26 individual's ~~[inmate's]~~ release date. The Texas Department of
27 Criminal Justice and the Texas Youth Commission, in consultation

1 with the director, shall determine the form of the notification
2 described by this subsection.

3 (g) [~~(f)~~] A medical staff employee of a criminal justice
4 agency [~~the institutional division~~] may collect [~~obtain~~] a
5 voluntary sample [~~or specimen~~] from an individual at any time
6 [~~inmate~~].

7 (h) [~~(g)~~] An employee of a criminal justice agency [~~the~~
8 ~~institutional division~~] may use force against an individual
9 [~~inmate~~] required to provide a DNA sample under this section when
10 and to the degree the employee reasonably believes the force is
11 immediately necessary to collect [~~obtain~~] the sample [~~or specimen~~].

12 (i)(1) [~~(h)~~] The Texas Department of Criminal Justice as
13 soon as practicable shall cause a sample to be collected from an
14 individual described by Subsection (a)(1)(C) if:

15 (A) the individual is confined in another penal
16 institution after sentencing and before admission to the
17 department; and

18 (B) the department determines that the
19 individual is likely to be released before being admitted to the
20 department.

21 (2) The administrator of the other penal institution
22 shall cooperate with the Texas Department of Criminal Justice as
23 necessary to allow the Texas Department of Criminal Justice to
24 perform its duties under this subsection.

25 (j)(1) The Texas Youth Commission as soon as practicable
26 shall cause a sample to be collected from an individual described by
27 Subsection (a)(2) if:

1 (A) the individual is detained in another
2 juvenile detention facility after adjudication and before
3 admission to the youth commission; and

4 (B) the youth commission determines the
5 individual is likely to be released before being admitted to the
6 youth commission.

7 (2) The administrator of the other juvenile detention
8 facility shall cooperate with the Texas Youth Commission as
9 necessary to allow the youth commission to perform its duties under
10 this subsection [~~may contract with an individual or entity for the~~
11 ~~provision of phlebotomy services under this section~~].

12 (k)(1) When a criminal justice agency of this state agrees
13 to accept custody or supervision of an individual from another
14 state or jurisdiction under an interstate compact or a reciprocal
15 agreement with a local, county, state, or federal agency, whether
16 the individual is confined or released, the acceptance is
17 conditional on the individual providing a DNA sample under this
18 subchapter if the individual was convicted of:

19 (A) an offense in the other jurisdiction that
20 involves the same conduct as an offense described by Subsection
21 (a)(1)(A) or (2); or

22 (B) an equivalent offense in any other
23 jurisdiction.

24 (2) The individual shall provide the DNA sample as
25 determined by the custodial or supervising entity.

26 (1) If, in consultation with the director, it is determined
27 that an acceptable sample has already been received from an

1 individual, additional samples are not required unless requested by
2 the director.

3 (m) The detention, arrest, or conviction of a person based
4 on a database match or database information is not invalid,
5 unlawful, or inadmissible based solely on mistaken or other
6 erroneous collection, storage, or retention of the sample or record
7 unless the error was an intentional or knowing act.

8 ~~[(i) Notwithstanding Subsection (a), if at the beginning of~~
9 ~~a fiscal year the executive director of the Texas Department of~~
10 ~~Criminal Justice determines that sufficient funds have not been~~
11 ~~appropriated to the department to obtain a sample from each inmate~~
12 ~~otherwise required to provide a sample under Subsection (a), the~~
13 ~~executive director shall direct the institutional division to give~~
14 ~~priority to obtaining samples from inmates ordered by a court to~~
15 ~~give the sample or specimen or serving sentences for:~~

16 ~~[(1) an offense:~~

17 ~~[(A) under Section 19.02, Penal Code (murder), or~~
18 ~~Section 22.02, Penal Code (aggravated assault),~~

19 ~~[(B) under Section 30.02, Penal Code (burglary),~~
20 ~~if the offense is punishable under Subsection (c)(2) or (d) of that~~
21 ~~section; or~~

22 ~~[(C) for which the inmate is required to register~~
23 ~~as a sex offender under Chapter 62, Code of Criminal Procedure; or~~

24 ~~[(2) any offense if the inmate has previously been~~
25 ~~convicted of or adjudicated as having engaged in:~~

26 ~~[(A) an offense described in Subdivision (1); or~~

27 ~~[(B) an offense under federal law or laws of~~

1 ~~another state that involves the same conduct as an offense~~
2 ~~described by Subdivision (1).]~~

3 SECTION 11. Section 411.149, Government Code, is amended to
4 read as follows:

5 Sec. 411.149. VOLUNTARY DNA RECORD [~~SUBMISSION OF BLOOD~~
6 ~~SAMPLES~~]. An individual, including an individual required to
7 provide a DNA sample under this subchapter, [A person] may at any
8 time voluntarily provide or cause to be provided to a criminal
9 justice agency a sample to be forwarded [submit a blood sample or
10 other specimen] to the director [department] for the purpose of
11 creating a DNA record under this subchapter.

12 SECTION 12. Section 411.150, Government Code, is amended to
13 read as follows:

14 Sec. 411.150. COURT-ORDERED DNA RECORDS [OF CERTAIN
15 JUVENILES]. (a) A magistrate or court may order a suspect or
16 defendant to provide one or more DNA samples to a criminal justice
17 agency for the purpose of creating a DNA record if the individual:

18 (1) is the target of an evidentiary search warrant
19 seeking the sample under Article 18.02(10), Code of Criminal
20 Procedure, for any offense;

21 (2) is released on any form of bail or bond after
22 arrest for a felony offense; or

23 (3) is indicted or waives indictment for a felony
24 offense.

25 (b) A court shall order a defendant to provide one or more
26 samples to a criminal justice agency for the purpose of creating a
27 DNA record if the individual is placed on community supervision or

1 deferred adjudication for a felony offense.

2 (c) A magistrate or court:

3 (1) shall order a sheriff, deputy sheriff, or other
4 peace officer or employee representing a local law enforcement
5 agency or a community supervision and corrections department to
6 collect or cause to be collected one or more samples from an
7 individual as required or permitted under this section unless a DNA
8 sample has already been obtained under this subchapter; and

9 (2) shall order the sample to be forwarded to the
10 director.

11 (d) An employee of a criminal justice agency may collect a
12 sample from an individual under this section if the employee
13 complies with each rule adopted by the director under this
14 subchapter, including collecting, preserving, maintaining a record
15 of the collection of, and forwarding the sample to the director.
16 This subsection does not authorize an otherwise unqualified person
17 to collect a blood sample.

18 (e) If in consultation with the director it is determined
19 that an acceptable sample has already been received from an
20 individual, additional samples are not required unless requested by
21 the director. ~~[(a) A juvenile who is committed to the Texas Youth~~
22 ~~Commission shall provide one or more blood samples or other~~
23 ~~specimens taken by or at the request of the commission for the~~
24 ~~purpose of creating a DNA record if the juvenile has not already~~
25 ~~provided the required specimen under other state law and if the~~
26 ~~juvenile is ordered by a juvenile court to give the sample or~~
27 ~~specimen or is committed to the commission for an adjudication as~~

1 ~~having engaged in delinquent conduct that violates:~~

2 ~~[(1) an offense:~~

3 ~~[(A) under Section 19.02, Penal Code (murder), or~~
4 ~~Section 22.02, Penal Code (aggravated assault);~~

5 ~~[(B) under Section 30.02, Penal Code (burglary),~~
6 ~~if the offense is punishable under Subsection (c)(2) or (d) of that~~
7 ~~section; or~~

8 ~~[(C) for which the juvenile is required to~~
9 ~~register as a sex offender under Chapter 62, Code of Criminal~~
10 ~~Procedure; or~~

11 ~~[(2) a penal law if the juvenile has previously been~~
12 ~~convicted of or adjudicated as having engaged in:~~

13 ~~[(A) a violation of a penal law described in~~
14 ~~Subsection (a)(1); or~~

15 ~~[(B) a violation of a penal law under federal law~~
16 ~~or the laws of another state that involves the same conduct as a~~
17 ~~violation of a penal law described by Subsection (a)(1).~~

18 ~~[(b) The department, in conjunction with the Texas Youth~~
19 ~~Commission, shall adopt rules regarding the collection,~~
20 ~~preservation, and shipment of a blood sample or other specimen of a~~
21 ~~juvenile described by this section.~~

22 ~~[(c) The Texas Youth Commission shall:~~

23 ~~[(1) obtain blood samples or other specimens from~~
24 ~~juveniles under this section;~~

25 ~~[(2) preserve each sample or other specimen collected;~~

26 ~~[(3) maintain a record of the collection of the sample~~
27 ~~or specimen; and~~

1 ~~[(4) send the sample or specimen to the director for~~
2 ~~scientific analysis under this subchapter.~~

3 ~~[(d) A medical staff employee of the Texas Youth Commission~~
4 ~~may obtain a voluntary sample or specimen from any juvenile.~~

5 ~~[(e) An employee of the Texas Youth Commission may use force~~
6 ~~against a juvenile required to provide a sample under this section~~
7 ~~when and to the degree the employee reasonably believes the force is~~
8 ~~immediately necessary to obtain the sample or specimen.~~

9 ~~[(f) The Texas Youth Commission may contract with an~~
10 ~~individual or entity for the provision of phlebotomy services under~~
11 ~~this section.]~~

12 SECTION 13. Section 411.151, Government Code, is amended to
13 read as follows:

14 Sec. 411.151. EXPUNCTION OR REMOVAL OF DNA RECORDS. (a)
15 The director shall expunge a DNA record of an individual from a
16 ~~[person from the]~~ DNA database if the person:

17 (1) notifies the director in writing that the DNA
18 record has been ordered to be expunged under this section or Chapter
19 55, Code of Criminal Procedure, and provides the director with a
20 certified copy of the court order that expunges the DNA record; or

21 (2) provides the director with a certified copy of a
22 court order issued under Section 58.003, Family Code, that seals
23 the juvenile record of the adjudication that resulted in the DNA
24 record.

25 (b) A person may petition for the expunction of a DNA record
26 under the procedures established under Article 55.02, Code of
27 Criminal Procedure, if the person is entitled to the expunction of

1 records relating to the offense to which the DNA record is related
2 under Article 55.01, Code of Criminal Procedure.

3 (c) This section does not require the director to expunge a
4 record or destroy a sample if the director determines that the
5 individual is otherwise required to submit a DNA sample under this
6 subchapter.

7 (d) This section does not require the director to destroy an
8 item of physical evidence obtained during the investigation of a
9 criminal action.

10 (e) The director by rule may permit administrative removal
11 of a record, sample, or other information erroneously included in a
12 database.

13 SECTION 14. Section 411.152, Government Code, is amended to
14 read as follows:

15 Sec. 411.152. RULES. (a) The director may adopt rules
16 permitted by this subchapter that are necessary to administer or
17 enforce this subchapter but shall adopt a rule expressly required
18 by this subchapter.

19 (b) The director by rule may release or permit access to
20 information to confirm or deny whether an individual has a
21 preexisting record under this subchapter. After receiving a
22 request regarding an individual whose DNA record has been expunged
23 or removed under Section 411.151, the director shall deny the
24 preexisting record.

25 (c) The director by rule may exempt:

26 (1) a non-CODIS laboratory, procedure, or other matter
27 from a CODIS requirement;

1 (2) a laboratory conducting non-human forensic DNA
2 analysis from a rule adopted under this subchapter; and

3 (3) certain categories of individuals from a
4 requirement to provide an additional sample after an acceptable DNA
5 record exists for the individual.

6 (d) The director by rule may permit an attorney representing
7 the state in the prosecution of felony offenses to establish to the
8 satisfaction of the director that the interests of justice or
9 public safety require that an individual provide an additional
10 sample.

11 (e) The director by rule may determine whether a DNA sample
12 complies with a collection provision of this subchapter.

13 SECTION 15. Section 411.153, Government Code, as amended by
14 Chapters 1490 and 1509, Acts of the 77th Legislature, Regular
15 Session, 2001, is reenacted and amended to read as follows:

16 Sec. 411.153. CONFIDENTIALITY OF [~~POSTCONFINEMENT~~] DNA
17 RECORDS. (a) A DNA record stored in the DNA database is
18 confidential and is not subject to disclosure under the public
19 information [~~open records~~] law, Chapter 552.

20 (b) A person commits an offense if the person knowingly
21 discloses information in a DNA record or information related to a
22 DNA analysis of a sample collected [~~blood specimen taken~~]
23 this subchapter [~~Section 411.148 or 411.150 except as authorized by~~
24 ~~this chapter~~].

25 (c) An offense under this section [~~subsection~~] is a state
26 jail felony.

27 (d) [~~e~~] A violation under this section constitutes

1 official misconduct.

2 (e) It is an affirmative defense to prosecution under this
3 section that the actor reasonably believed the actor's conduct was
4 authorized by this subchapter or a rule adopted under this
5 subchapter.

6 SECTION 16. Section 411.154(b), Government Code, is amended
7 to read as follows:

8 (b) The court may issue an order requiring a person:

9 (1) to act in compliance with this subchapter or a rule
10 adopted under this subchapter;

11 (2) to refrain from acting in violation of this
12 subchapter or a rule adopted under this subchapter;

13 (3) to provide a DNA sample [~~give a blood sample or~~
14 ~~other specimen~~]; or

15 (4) if the person has already provided a DNA sample
16 [~~given a blood sample or other specimen~~], to provide [~~give~~] another
17 sample if good cause is shown.

18 SECTION 17. Subchapter G, Chapter 411, Government Code, is
19 amended by adding Sections 411.155 and 411.156 to read as follows:

20 Sec. 411.155. OFFENSE: REFUSAL TO PROVIDE SAMPLE. (a) A
21 person commits an offense if the person knowingly fails or refuses
22 to provide a DNA sample and the person:

23 (1) is required to provide a sample under this
24 subchapter; and

25 (2) receives notification of the requirement to
26 provide the sample.

27 (b) An offense under this section is a felony of the third

1 degree.

2 Sec. 411.156. LIABILITY. (a) This section applies to a
3 person:

4 (1) ordering, collecting with or without force,
5 preserving, possessing, transmitting, receiving, analyzing,
6 releasing, disclosing, using, or maintaining a DNA sample or record
7 under this subchapter; or

8 (2) administering this subchapter.

9 (b) A person described in Subsection (a) is immune from
10 civil liability for any act or omission resulting in death, damage,
11 or injury if the person:

12 (1) acts in the course of duties under this subchapter
13 or a rule adopted under this subchapter;

14 (2) reasonably believes the person's act or omission
15 was in substantial compliance with this subchapter or a rule
16 adopted under this subchapter; and

17 (3) collects the sample in a reasonable manner
18 according to generally accepted medical or other professional
19 practices.

20 SECTION 18. Article 17.47, Code of Criminal Procedure, is
21 amended to read as follows:

22 Art. 17.47. CONDITIONS REQUIRING SUBMISSION OF SPECIMEN. A
23 magistrate may [~~shall~~] require as a condition of release on bail or
24 bond of a defendant [~~described by Section 411.1471(a), Government~~
25 ~~Code,~~] that the defendant provide to a local law enforcement agency
26 one or more specimens for the purpose of creating a DNA record under
27 Subchapter G, Chapter 411, Government Code.

1 SECTION 19. Sections 11(a) and (e), Article 42.12, Code of
2 Criminal Procedure, are amended to read as follows:

3 (a) The judge of the court having jurisdiction of the case
4 shall determine the conditions of community supervision and may, at
5 any time, during the period of community supervision alter or
6 modify the conditions. The judge may impose any reasonable
7 condition that is designed to protect or restore the community,
8 protect or restore the victim, or punish, rehabilitate, or reform
9 the defendant. Conditions of community supervision may include,
10 but shall not be limited to, the conditions that the defendant
11 shall:

12 (1) Commit no offense against the laws of this State or
13 of any other State or of the United States;

14 (2) Avoid injurious or vicious habits;

15 (3) Avoid persons or places of disreputable or harmful
16 character;

17 (4) Report to the supervision officer as directed by
18 the judge or supervision officer and obey all rules and regulations
19 of the community supervision and corrections department;

20 (5) Permit the supervision officer to visit him at his
21 home or elsewhere;

22 (6) Work faithfully at suitable employment as far as
23 possible;

24 (7) Remain within a specified place;

25 (8) Pay his fine, if one be assessed, and all court
26 costs whether a fine be assessed or not, in one or several sums;

27 (9) Support his dependents;

1 (10) Participate, for a time specified by the judge in
2 any community-based program, including a community-service work
3 program under Section 16 of this article;

4 (11) Reimburse the county in which the prosecution was
5 instituted for compensation paid to appointed counsel for defending
6 him in the case, if counsel was appointed, or if he was represented
7 by a county-paid public defender, in an amount that would have been
8 paid to an appointed attorney had the county not had a public
9 defender;

10 (12) Remain under custodial supervision in a community
11 corrections facility, obey all rules and regulations of such
12 facility, and pay a percentage of his income to the facility for
13 room and board;

14 (13) Pay a percentage of his income to his dependents
15 for their support while under custodial supervision in a community
16 corrections facility;

17 (14) Submit to testing for alcohol or controlled
18 substances;

19 (15) Attend counseling sessions for substance abusers
20 or participate in substance abuse treatment services in a program
21 or facility approved or licensed by the Texas Commission on Alcohol
22 and Drug Abuse;

23 (16) With the consent of the victim of a misdemeanor
24 offense or of any offense under Title 7, Penal Code, participate in
25 victim-defendant mediation;

26 (17) Submit to electronic monitoring;

27 (18) Reimburse the general revenue fund for any

1 amounts paid from that fund to a victim, as defined by Article 56.01
2 of this code, of the defendant's offense or if no reimbursement is
3 required, make one payment to the fund in an amount not to exceed
4 \$50 if the offense is a misdemeanor or not to exceed \$100 if the
5 offense is a felony;

6 (19) Reimburse a law enforcement agency or crime
7 laboratory for the costs of confiscation, analysis, storage, or
8 disposal of evidence, including physical evidence, raw materials,
9 controlled substances, chemical precursors, drug paraphernalia, or
10 other materials seized in connection with the offense and any other
11 costs incurred in the administration of services for the
12 defendant's case under Subchapter G, Chapter 411, Government Code;

13 (20) Pay all or part of the reasonable and necessary
14 costs incurred by the victim for psychological counseling made
15 necessary by the offense or for counseling and education relating
16 to acquired immune deficiency syndrome or human immunodeficiency
17 virus made necessary by the offense;

18 (21) Make one payment in an amount not to exceed \$50 to
19 a crime stoppers organization as defined by Section 414.001,
20 Government Code, and as certified by the Crime Stoppers Advisory
21 Council;

22 (22) Submit a DNA [~~blood~~] sample [~~or other specimen~~]
23 to the Department of Public Safety under Subchapter G, Chapter 411,
24 Government Code, for the purpose of creating a DNA record of the
25 defendant; and

26 (23) In any manner required by the judge, provide
27 public notice of the offense for which the defendant was placed on

1 community supervision in the county in which the offense was
2 committed.

3 (e) A judge granting community supervision to a defendant
4 required to register as a sex offender under Chapter 62 shall
5 require that the defendant, as a condition of community
6 supervision:

7 (1) register under that chapter; and

8 (2) submit a DNA [~~blood~~] sample [~~or other specimen~~] to
9 the Department of Public Safety under Subchapter G, Chapter 411,
10 Government Code, for the purpose of creating a DNA record of the
11 defendant, unless the defendant has already submitted the required
12 sample [~~specimen~~] under other state law.

13 SECTION 20. Articles 102.020(a) and (h), Code of Criminal
14 Procedure, are amended to read as follows:

15 (a) A person shall pay \$160 [~~\$250~~] as a court cost on
16 conviction of or adjudication for an offense described in Section
17 411.148 [~~listed in Section 411.1471(a)(1)~~], Government Code, to
18 reimburse the department for services provided under Subchapter G,
19 Chapter 411, Government Code. Payment of a court cost under this
20 article shall be required as a condition of community supervision
21 under Article 42.12 [~~, and \$50 as a court cost on conviction of an~~
22 ~~offense listed in Section 411.1471(a)(3) of that code~~].

23 (h) The comptroller shall deposit 90 [~~35~~] percent of the
24 funds received under this article in the state treasury to the
25 credit of the state highway fund and 10 [~~65~~] percent of the funds
26 received under this article to the credit of an institution
27 administering the functions of the Missing Persons DNA Database as

1 described by Section 105.451, Education Code [~~the criminal justice~~
2 ~~planning account in the general revenue fund~~].

3 SECTION 21. The following are repealed:

4 (1) Article 102.056(e), Code of Criminal Procedure;

5 (2) Sections 411.0206, 411.143(f), 411.1471,
6 411.1472, 411.1481, 411.1531, and 411.1532, Government Code; and

7 (3) Section 481.160(f), Health and Safety Code.

8 SECTION 22. (a) The change in law made by this Act applies
9 to:

10 (1) evidence tested or offered into evidence on or
11 after the effective date of this Act; and

12 (2) an individual who, on or after the effective date
13 of this Act:

14 (A) is placed on community supervision or
15 deferred adjudication following conviction for a felony as
16 described in Section 411.148(a)(1)(A), Government Code, as amended
17 by this Act;

18 (B) is confined in a penal institution operated
19 by or under contract with the Texas Department of Criminal Justice
20 as described in Section 411.148(a)(1)(C), Government Code, as
21 amended by this Act;

22 (C) is confined in a facility operated by or
23 under contract with the Texas Youth Commission or placed on
24 community supervision or deferred adjudication after adjudication
25 for conduct constituting a felony as described in Section
26 411.148(a)(2), Government Code, as amended by this Act;

27 (D) voluntarily submits or causes to be submitted

1 a DNA sample as described in Section 411.149, Government Code, as
2 amended by this Act;

3 (E) is ordered by a magistrate or court to
4 provide a DNA sample under Section 411.150 or 411.154 or other law,
5 including an order issued under circumstances described in Section
6 411.150(a)(1), Government Code, as amended by this Act;

7 (F) is ordered by a magistrate or court to
8 provide a DNA sample if the individual is released on any form of
9 bail or bond after arrest for a felony offense as described in
10 Section 411.150(a)(2), Government Code, as amended by this Act;

11 (G) is ordered by a court to provide a specimen if
12 the individual is indicted or waives indictment for a felony as
13 described in Section 411.150(a)(3), Government Code, as amended by
14 this Act; or

15 (H) is ordered by a court to provide a DNA sample
16 if the individual is placed on community supervision or deferred
17 adjudication for a felony offense as described in Section
18 411.150(b), Government Code, as amended by this Act.

19 (b) As required by Section 411.148, Government Code, as
20 amended by this Act, the Texas Department of Criminal Justice shall
21 collect a DNA sample from an inmate serving a sentence for a felony
22 from whom a DNA sample was not required before the effective date of
23 this Act. The department shall collect the sample during the
24 diagnostic process or at any other reasonable time determined by
25 the department.

26 (c) As required by Section 411.148, Government Code, as
27 amended by this Act, the Texas Youth Commission shall collect a DNA

1 sample from a juvenile committed to the Texas Youth Commission for a
2 felony from whom a DNA sample was not required before the effective
3 date of this Act or from a juvenile previously committed to the
4 Texas Youth Commission for a felony. The commission shall collect
5 the sample during the initial examination or at any other
6 reasonable time determined by the commission.

7 SECTION 23. This Act takes effect September 1, 2005.