

By: Harris

S.B. No. 651

A BILL TO BE ENTITLED

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AN ACT

relating to the University of North Texas Health Science Center at Fort Worth missing persons DNA database.

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

SECTION 1. Articles 63.001 through 63.022, Code of Criminal Procedure, are designated as Subchapter A, Chapter 63, Code of Criminal Procedure, and a subchapter heading is added to read as follows:

SUBCHAPTER A. GENERAL PROVISIONS

SECTION 2. Subchapter I, Chapter 105, Education Code, is transferred to Chapter 63, Code of Criminal Procedure, redesignated as Subchapter B, Chapter 63, Code of Criminal Procedure, and amended to read as follows:

SUBCHAPTER B [~~±~~]. UNIVERSITY OF NORTH TEXAS HEALTH SCIENCE CENTER
AT FORT WORTH MISSING PERSONS DNA DATABASE

Art. 63.051 [~~Sec. 105.451~~]. DEFINITIONS. In this subchapter:

(1) "Board" means the board of regents of the University of North Texas System.

(2) "Center" means the University of North Texas Health Science Center at Fort Worth.

(3) "DNA" means deoxyribonucleic acid.

(4) "DNA database" means the database containing forensic DNA analysis results, including any known name of the

1 person who is the subject of the forensic DNA analysis, that is
2 maintained by the center.

3 (5) "High-risk missing person" means:

4 (A) a person missing as a result of an abduction
5 by a stranger;

6 (B) a person missing under suspicious or unknown
7 circumstances; or

8 (C) a person who has been missing more than 30
9 days, or less than 30 days at the discretion of the investigating
10 agency, if there is reason to believe that the person is in danger
11 or deceased.

12 (6) "Law enforcement agency" means the law enforcement
13 agency primarily responsible for investigating a report of a
14 high-risk missing person.

15 Art. 63.052 [~~Sec. 105.452~~]. ESTABLISHMENT OF DNA DATABASE
16 FOR MISSING OR UNIDENTIFIED PERSONS. (a) The board shall develop
17 at the University of North Texas Health Science Center at Fort Worth
18 a DNA database for any case based on the report of unidentified
19 human remains or a report of a high-risk missing person.

20 (b) The sole purpose of the database is to identify
21 unidentified human remains and high-risk missing persons.

22 (c) The database is separate from the database established
23 by the Department of Public Safety under Subchapter G, Chapter 411,
24 Government Code.

25 Art. 63.053 [~~Sec. 105.453~~]. INFORMATION STORED IN
26 DATABASE. (a) The database required in Article 63.052 [~~Section~~
27 ~~105.452~~] may contain only DNA genetic markers that are commonly

1 recognized as appropriate for human identification. Except to the
2 extent that those markers are appropriate for human identification,
3 the database may not contain DNA genetic markers that predict
4 biological function. The center shall select the DNA genetic
5 markers for inclusion in the DNA database based on existing
6 technology for forensic DNA analysis.

7 (b) The results of the forensic DNA analysis must be
8 compatible with the CODIS DNA database established by the Federal
9 Bureau of Investigation and the center must make the results
10 available for inclusion in that database.

11 Art. 63.054 [~~Sec. 105.454~~]. COMPARISON OF SAMPLES. The
12 center shall compare DNA samples taken from unidentified human
13 remains with DNA samples taken from personal articles belonging to
14 high-risk missing persons or from parents of high-risk missing
15 persons or other appropriate persons.

16 Art. 63.055 [~~Sec. 105.455~~]. STANDARDS COLLECTION; STORAGE.
17 In consultation with the center, the board by rule shall develop
18 standards and guidelines for the collection of DNA samples
19 submitted to the center and the center's storage of DNA samples.

20 Art. 63.056 [~~Sec. 105.456~~]. COLLECTION OF SAMPLES FROM
21 UNIDENTIFIED HUMAN REMAINS. (a) A physician acting on the request
22 of a justice of the peace under Subchapter A, Chapter 49, a county
23 coroner, a county medical examiner, or other law enforcement
24 entity, as appropriate, shall collect [~~An entity charged under~~
25 ~~other state law with the responsibility of collecting DNA~~] samples
26 from unidentified human remains. The justice of the peace,
27 coroner, medical examiner, or other law enforcement entity shall

1 submit those samples to the center for forensic DNA analysis and
2 inclusion of the results in the DNA database.

3 (b) After the center has performed the forensic DNA
4 analysis, the center shall return the remaining sample to the
5 entity that submitted the sample under Subsection (a) [~~submitting~~
6 ~~the sample to the center~~].

7 Art. 63.057 [~~Sec. 105.457~~]. DUTY OF LAW ENFORCEMENT AGENCY
8 TO NOTIFY APPROPRIATE PERSONS REGARDING PROVISION OF VOLUNTARY
9 SAMPLE. Not later than the 30th day after the date a report of a
10 high-risk missing person is filed, the law enforcement agency shall
11 inform a parent or any other person considered appropriate by the
12 agency that the person may provide:

- 13 (1) a DNA sample for forensic DNA analysis; or
14 (2) for purposes of DNA sampling, a personal article
15 belonging to the high-risk missing person.

16 Art. 63.058 [~~Sec. 105.458~~]. RELEASE FORM. (a) The center
17 shall develop a standard release form that authorizes a parent or
18 other appropriate person to voluntarily provide under Article
19 63.057 [~~Section 105.457~~] a DNA sample or a personal article for
20 purposes of DNA sampling. The release must explain that the DNA
21 sample is to be used only to identify the high-risk missing person.

22 (b) A law enforcement agency may not use any form of
23 incentive or coercion to compel the parent or other appropriate
24 person to provide a sample or article under this subchapter.

25 Art. 63.059 [~~Sec. 105.459~~]. PROTOCOL FOR OBTAINING SAMPLES
26 RELATING TO HIGH-RISK MISSING PERSONS. (a) The law enforcement
27 agency shall take DNA samples from parents or other appropriate

1 persons under Article 63.057 [~~Section 105.457~~] in any manner
2 prescribed by the center.

3 (b) The center shall develop a model kit to be used by a law
4 enforcement agency to take DNA samples from parents or other
5 appropriate persons.

6 Art. 63.060 [~~Sec. 105.460~~]. SUBMISSION OF SAMPLE TO
7 CENTER. (a) Before submitting to the center a DNA sample obtained
8 under Article 63.057 [~~Section 105.457~~], the law enforcement agency
9 shall reverify the status of a high-risk missing person.

10 (b) As soon as practicable after a DNA sample is obtained,
11 the law enforcement agency shall submit the DNA sample, a copy of
12 the missing person's report, and any supplemental information to
13 the center.

14 Art. 63.061 [~~Sec. 105.461~~]. DESTRUCTION OF SAMPLES. All
15 DNA samples extracted from a living person shall be destroyed after
16 a positive identification is made and a report is issued.

17 Art. 63.062 [~~Sec. 105.462~~]. CONFIDENTIALITY. (a) Except
18 as provided by Subsection (b), the results of a forensic DNA
19 analysis performed by the center are confidential.

20 (b) The center may disclose the results of a forensic DNA
21 analysis only to:

- 22 (1) personnel of the center;
- 23 (2) law enforcement agencies;
- 24 (3) justices of the peace, coroners, medical
25 examiners, or other law enforcement entities submitting a sample to
26 the center under Article 63.056;
- 27 (4) attorneys representing the state; and

1 (5) a parent or other appropriate person voluntarily
2 providing a DNA sample or an article under Article 63.057 [~~Section~~
3 ~~105.457~~].

4 Art. 63.063 [~~Sec. 105.463~~]. CRIMINAL PENALTY. (a) A
5 person who collects, processes, or stores a DNA sample from a living
6 person for forensic DNA analysis under this subchapter commits an
7 offense if the person intentionally violates Article 63.061
8 [~~Section 105.461~~] or 63.062 [~~105.462~~].

9 (b) An offense under this section is a Class B misdemeanor.

10 Art. 63.064 [~~Sec. 105.464~~]. CIVIL PENALTY. A person who
11 collects, processes, or stores a DNA sample from a living person for
12 forensic DNA analysis under this subchapter and who intentionally
13 violates Article 63.061 [~~Section 105.461~~] or 63.062 [~~105.462~~] is
14 liable in civil damages to the donor of the DNA in the amount of
15 \$5,000 for each violation, plus reasonable attorney's fees and
16 court costs.

17 Art. 63.065 [~~Sec. 105.465~~]. MISSING PERSONS DNA DATABASE
18 FUND. (a) The missing persons DNA database fund is a separate
19 account in the general revenue fund.

20 (b) Notwithstanding Article 56.54(g), [~~Code of Criminal~~
21 ~~Procedure,~~] the legislature may appropriate money in the
22 compensation to victims of crime fund and the compensation to
23 victims of crime auxiliary fund to fund the University of North
24 Texas Health Science Center at Fort Worth missing persons DNA
25 database. Legislative appropriations under this subsection shall
26 be deposited to the credit of the account created under Subsection
27 (a).

1 (c) Money in the account may be used only for purposes of
2 developing and maintaining the DNA database as described by this
3 section.

4 (d) The center may use money in the account only to:

5 (1) establish and maintain center infrastructure;

6 (2) pay the costs of DNA sample storage, forensic DNA
7 analysis, and labor costs for cases of high-risk missing persons
8 and unidentified human remains;

9 (3) reimburse counties for the purposes of pathology
10 and exhumation as considered necessary by the center;

11 (4) publicize the DNA database for the purpose of
12 contacting parents and other appropriate persons so that they may
13 provide a DNA sample or a personal article for DNA sampling;

14 (5) educate law enforcement officers about the DNA
15 database and DNA sampling; and

16 (6) provide outreach programs related to the purposes
17 of this chapter.

18 (e) Section 403.095(b), Government Code, does not apply to
19 the account established under Subsection (a).

20 Art. 63.066 [~~Sec. 105.466~~]. BACKLOG OF UNIDENTIFIED HUMAN
21 REMAINS: ADVISORY COMMITTEE AND OUTSOURCING. (a) The center
22 shall create an advisory committee, consisting of medical
23 examiners, law enforcement officials, and other interested persons
24 as determined appropriate by the center, to impose priorities
25 regarding the identification of the backlog of high-risk missing
26 person cases and unidentified human remains.

27 (b) The center shall use any available federal funding to

1 assist in reducing the backlog of high-risk missing person cases
2 and unidentified human remains.

3 (c) The reduction of the backlog may be outsourced to other
4 appropriate laboratories at the center's discretion.

5 Art. 63.067 [~~Sec. 105.467~~]. INITIAL OPERATIONS. (a) The
6 center shall use funding for the state fiscal year beginning on
7 September 1, 2001, to:

8 (1) develop the DNA database and center
9 infrastructure; and

10 (2) establish center protocols and employ center
11 personnel.

12 (b) The center shall begin case analyses in 2002. The
13 center shall retain the authority to establish priorities regarding
14 case analysis, giving priority to those cases involving children.

15 (c) This article [~~section~~] expires January 1, 2006.

16 SECTION 3. This Act takes effect immediately if it receives
17 a vote of two-thirds of all the members elected to each house, as
18 provided by Section 39, Article III, Texas Constitution. If this
19 Act does not receive the vote necessary for immediate effect, this
20 Act takes effect September 1, 2005.