

By: Harris

S.B. No. 651

A BILL TO BE ENTITLED

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 63.001-63.022, 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. (a) A
21 physician acting on the request of a justice of the peace under
22 Subchapter A, Chapter 49, or a county medical examiner, as
23 appropriate, shall collect [~~An entity charged under other state law~~
24 ~~with the responsibility of collecting~~] DNA samples from
25 unidentified human remains. The justice of the peace or medical
26 examiner shall submit those samples to the center for forensic DNA
27 analysis and inclusion of the results in the DNA database.

1 (b) After the center has performed the forensic DNA
2 analysis, the center shall return the remaining sample to the
3 justice of the peace or medical examiner, as applicable [~~entity~~
4 ~~submitting the sample to the center~~].

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

11 (1) a DNA sample for forensic DNA analysis; or

12 (2) for purposes of DNA sampling, a personal article
13 belonging to the high-risk missing person.

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

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

23 Art. 63.059 [~~Sec. 105.459~~]. PROTOCOL FOR OBTAINING SAMPLES
24 RELATING TO HIGH-RISK MISSING PERSONS. (a) The law enforcement
25 agency shall take DNA samples from parents or other appropriate
26 persons under Article 63.057 [~~Section 105.457~~] in any manner
27 prescribed by the center.

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

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

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

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

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

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

- 20 (1) personnel of the center;
- 21 (2) law enforcement agencies;
- 22 (3) medical examiners;
- 23 (4) attorneys representing the state; and
- 24 (5) a parent or other appropriate person voluntarily
- 25 providing a DNA sample or an article under Article 63.057 [~~Section~~
26 ~~105.457~~].

27 Art. 63.063 [~~Sec. 105.463~~]. CRIMINAL PENALTY. (a) A

1 person who collects, processes, or stores a DNA sample from a living
2 person for forensic DNA analysis under this subchapter commits an
3 offense if the person intentionally violates Article 63.061
4 [~~Section 105.461~~] or 63.062 [~~105.462~~].

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

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

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

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

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

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

- 1 (1) establish and maintain center infrastructure;
- 2 (2) pay the costs of DNA sample storage, forensic DNA
3 analysis, and labor costs for cases of high-risk missing persons
4 and unidentified human remains;
- 5 (3) reimburse counties for the purposes of pathology
6 and exhumation as considered necessary by the center;
- 7 (4) publicize the DNA database for the purpose of
8 contacting parents and other appropriate persons so that they may
9 provide a DNA sample or a personal article for DNA sampling;
- 10 (5) educate law enforcement officers about the DNA
11 database and DNA sampling; and
- 12 (6) provide outreach programs related to the purposes
13 of this chapter.

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

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

23 (b) The center shall use any available federal funding to
24 assist in reducing the backlog of high-risk missing person cases
25 and unidentified human remains.

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

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

4 (1) develop the DNA database and center
5 infrastructure; and

6 (2) establish center protocols and employ center
7 personnel.

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

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

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