

1-1 By: Harris S.B. No. 651  
1-2 (In the Senate - Filed February 22, 2005; March 2, 2005,  
1-3 read first time and referred to Committee on Criminal Justice;  
1-4 March 31, 2005, reported adversely, with favorable Committee  
1-5 Substitute by the following vote: Yeas 4, Nays 0; March 31, 2005,  
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 651 By: Ogden

1-8 A BILL TO BE ENTITLED  
1-9 AN ACT

1-10 relating to the University of North Texas Health Science Center at  
1-11 Fort Worth missing persons DNA database.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Articles 63.001 through 63.022, Code of Criminal  
1-14 Procedure, are designated as Subchapter A, Chapter 63, Code of  
1-15 Criminal Procedure, and a subchapter heading is added to read as  
1-16 follows:

1-17 SUBCHAPTER A. GENERAL PROVISIONS

1-18 SECTION 2. Subchapter I, Chapter 105, Education Code, is  
1-19 transferred to Chapter 63, Code of Criminal Procedure, redesignated  
1-20 as Subchapter B, Chapter 63, Code of Criminal Procedure, and  
1-21 amended to read as follows:

1-22 SUBCHAPTER B [~~±~~]. UNIVERSITY OF NORTH TEXAS HEALTH SCIENCE CENTER  
1-23 AT FORT WORTH MISSING PERSONS DNA DATABASE

1-24 Art. 63.051 [~~Sec. 105.451~~]. DEFINITIONS. In this  
1-25 subchapter:

1-26 (1) "Board" means the board of regents of the  
1-27 University of North Texas System.

1-28 (2) "Center" means the University of North Texas  
1-29 Health Science Center at Fort Worth.

1-30 (3) "DNA" means deoxyribonucleic acid.

1-31 (4) "DNA database" means the database containing  
1-32 forensic DNA analysis results, including any known name of the  
1-33 person who is the subject of the forensic DNA analysis, that is  
1-34 maintained by the center.

1-35 (5) "High-risk missing person" means:

1-36 (A) a person missing as a result of an abduction  
1-37 by a stranger;

1-38 (B) a person missing under suspicious or unknown  
1-39 circumstances; or

1-40 (C) a person who has been missing more than 30  
1-41 days, or less than 30 days at the discretion of the investigating  
1-42 agency, if there is reason to believe that the person is in danger  
1-43 or deceased.

1-44 (6) "Law enforcement agency" means the law enforcement  
1-45 agency primarily responsible for investigating a report of a  
1-46 high-risk missing person.

1-47 Art. 63.052 [~~Sec. 105.452~~]. ESTABLISHMENT OF DNA DATABASE  
1-48 FOR MISSING OR UNIDENTIFIED PERSONS. (a) The board shall develop  
1-49 at the University of North Texas Health Science Center at Fort Worth  
1-50 a DNA database for any case based on the report of unidentified  
1-51 human remains or a report of a high-risk missing person.

1-52 (b) The sole purpose of the database is to identify  
1-53 unidentified human remains and high-risk missing persons.

1-54 (c) The database is separate from the database established  
1-55 by the Department of Public Safety under Subchapter G, Chapter 411,  
1-56 Government Code.

1-57 Art. 63.053 [~~Sec. 105.453~~]. INFORMATION STORED IN  
1-58 DATABASE. (a) The database required in Article 63.052 [~~Section~~  
1-59 ~~105.452~~] may contain only DNA genetic markers that are commonly  
1-60 recognized as appropriate for human identification. Except to the  
1-61 extent that those markers are appropriate for human identification,  
1-62 the database may not contain DNA genetic markers that predict  
1-63 biological function. The center shall select the DNA genetic

2-1 markers for inclusion in the DNA database based on existing  
2-2 technology for forensic DNA analysis.

2-3 (b) The results of the forensic DNA analysis must be  
2-4 compatible with the CODIS DNA database established by the Federal  
2-5 Bureau of Investigation and the center must make the results  
2-6 available for inclusion in that database.

2-7 Art. 63.054 [Sec. 105.454]. COMPARISON OF SAMPLES. The  
2-8 center shall compare DNA samples taken from unidentified human  
2-9 remains with DNA samples taken from personal articles belonging to  
2-10 high-risk missing persons or from parents of high-risk missing  
2-11 persons or other appropriate persons.

2-12 Art. 63.055 [Sec. 105.455]. STANDARDS COLLECTION; STORAGE.  
2-13 In consultation with the center, the board by rule shall develop  
2-14 standards and guidelines for the collection of DNA samples  
2-15 submitted to the center and the center's storage of DNA samples.

2-16 Art. 63.056 [Sec. 105.456]. COLLECTION OF SAMPLES FROM  
2-17 UNIDENTIFIED HUMAN REMAINS. (a) A physician acting on the request  
2-18 of a justice of the peace under Subchapter A, Chapter 49, a county  
2-19 coroner, a county medical examiner, or other law enforcement  
2-20 entity, as appropriate, shall collect [An entity charged under  
2-21 other state law with the responsibility of collecting DNA] samples  
2-22 from unidentified human remains. The justice of the peace,  
2-23 coroner, medical examiner, or other law enforcement entity shall  
2-24 submit those samples to the center for forensic DNA analysis and  
2-25 inclusion of the results in the DNA database.

2-26 (b) After the center has performed the forensic DNA  
2-27 analysis, the center shall return the remaining sample to the  
2-28 entity that submitted the sample under Subsection (a) [~~submitting~~  
2-29 ~~the sample to the center~~].

2-30 Art. 63.057 [Sec. 105.457]. DUTY OF LAW ENFORCEMENT AGENCY  
2-31 TO NOTIFY APPROPRIATE PERSONS REGARDING PROVISION OF VOLUNTARY  
2-32 SAMPLE. Not later than the 30th day after the date a report of a  
2-33 high-risk missing person is filed, the law enforcement agency shall  
2-34 inform a parent or any other person considered appropriate by the  
2-35 agency that the person may provide:

2-36 (1) a DNA sample for forensic DNA analysis; or  
2-37 (2) for purposes of DNA sampling, a personal article  
2-38 belonging to the high-risk missing person.

2-39 Art. 63.058 [Sec. 105.458]. RELEASE FORM. (a) The center  
2-40 shall develop a standard release form that authorizes a parent or  
2-41 other appropriate person to voluntarily provide under Article  
2-42 63.057 [Section 105.457] a DNA sample or a personal article for  
2-43 purposes of DNA sampling. The release must explain that the DNA  
2-44 sample is to be used only to identify the high-risk missing person.

2-45 (b) A law enforcement agency may not use any form of  
2-46 incentive or coercion to compel the parent or other appropriate  
2-47 person to provide a sample or article under this subchapter.

2-48 Art. 63.059 [Sec. 105.459]. PROTOCOL FOR OBTAINING SAMPLES  
2-49 RELATING TO HIGH-RISK MISSING PERSONS. (a) The law enforcement  
2-50 agency shall take DNA samples from parents or other appropriate  
2-51 persons under Article 63.057 [Section 105.457] in any manner  
2-52 prescribed by the center.

2-53 (b) The center shall develop a model kit to be used by a law  
2-54 enforcement agency to take DNA samples from parents or other  
2-55 appropriate persons.

2-56 Art. 63.060 [Sec. 105.460]. SUBMISSION OF SAMPLE TO  
2-57 CENTER. (a) Before submitting to the center a DNA sample obtained  
2-58 under Article 63.057 [Section 105.457], the law enforcement agency  
2-59 shall reverify the status of a high-risk missing person.

2-60 (b) As soon as practicable after a DNA sample is obtained,  
2-61 the law enforcement agency shall submit the DNA sample, a copy of  
2-62 the missing person's report, and any supplemental information to  
2-63 the center.

2-64 Art. 63.061 [Sec. 105.461]. DESTRUCTION OF SAMPLES. All  
2-65 DNA samples extracted from a living person shall be destroyed after  
2-66 a positive identification is made and a report is issued.

2-67 Art. 63.062 [Sec. 105.462]. CONFIDENTIALITY. (a) Except  
2-68 as provided by Subsection (b), the results of a forensic DNA  
2-69 analysis performed by the center are confidential.

3-1 (b) The center may disclose the results of a forensic DNA  
3-2 analysis only to:

3-3 (1) personnel of the center;  
3-4 (2) law enforcement agencies;  
3-5 (3) justices of the peace, coroners, medical  
3-6 examiners, or other law enforcement entities submitting a sample to  
3-7 the center under Article 63.056;

3-8 (4) attorneys representing the state; and  
3-9 (5) a parent or other appropriate person voluntarily  
3-10 providing a DNA sample or an article under Article 63.057 [~~Section~~  
3-11 ~~105.457~~].

3-12 Art. 63.063 [~~Sec. 105.463~~]. CRIMINAL PENALTY. (a) A  
3-13 person who collects, processes, or stores a DNA sample from a living  
3-14 person for forensic DNA analysis under this subchapter commits an  
3-15 offense if the person intentionally violates Article 63.061  
3-16 [~~Section 105.461~~] or 63.062 [~~105.462~~].

3-17 (b) An offense under this section is a Class B misdemeanor.

3-18 Art. 63.064 [~~Sec. 105.464~~]. CIVIL PENALTY. A person who  
3-19 collects, processes, or stores a DNA sample from a living person for  
3-20 forensic DNA analysis under this subchapter and who intentionally  
3-21 violates Article 63.061 [~~Section 105.461~~] or 63.062 [~~105.462~~] is  
3-22 liable in civil damages to the donor of the DNA in the amount of  
3-23 \$5,000 for each violation, plus reasonable attorney's fees and  
3-24 court costs.

3-25 Art. 63.065 [~~Sec. 105.465~~]. MISSING PERSONS DNA DATABASE  
3-26 FUND. (a) The missing persons DNA database fund is a separate  
3-27 account in the general revenue fund.

3-28 (b) Notwithstanding Article 56.54(g), [~~Code of Criminal~~  
3-29 ~~Procedure,~~] the legislature may appropriate money in the  
3-30 compensation to victims of crime fund and the compensation to  
3-31 victims of crime auxiliary fund to fund the University of North  
3-32 Texas Health Science Center at Fort Worth missing persons DNA  
3-33 database. Legislative appropriations under this subsection shall  
3-34 be deposited to the credit of the account created under Subsection  
3-35 (a).

3-36 (c) Money in the account may be used only for purposes of  
3-37 developing and maintaining the DNA database as described by this  
3-38 section.

3-39 (d) The center may use money in the account only to:  
3-40 (1) establish and maintain center infrastructure;  
3-41 (2) pay the costs of DNA sample storage, forensic DNA  
3-42 analysis, and labor costs for cases of high-risk missing persons  
3-43 and unidentified human remains;

3-44 (3) reimburse counties for the purposes of pathology  
3-45 and exhumation as considered necessary by the center;

3-46 (4) publicize the DNA database for the purpose of  
3-47 contacting parents and other appropriate persons so that they may  
3-48 provide a DNA sample or a personal article for DNA sampling;

3-49 (5) educate law enforcement officers about the DNA  
3-50 database and DNA sampling; and

3-51 (6) provide outreach programs related to the purposes  
3-52 of this chapter.

3-53 (e) Section 403.095(b), Government Code, does not apply to  
3-54 the account established under Subsection (a).

3-55 Art. 63.066 [~~Sec. 105.466~~]. BACKLOG OF UNIDENTIFIED HUMAN  
3-56 REMAINS: ADVISORY COMMITTEE AND OUTSOURCING. (a) The center  
3-57 shall create an advisory committee, consisting of medical  
3-58 examiners, law enforcement officials, and other interested persons  
3-59 as determined appropriate by the center, to impose priorities  
3-60 regarding the identification of the backlog of high-risk missing  
3-61 person cases and unidentified human remains.

3-62 (b) The center shall use any available federal funding to  
3-63 assist in reducing the backlog of high-risk missing person cases  
3-64 and unidentified human remains.

3-65 (c) The reduction of the backlog may be outsourced to other  
3-66 appropriate laboratories at the center's discretion.

3-67 Art. 63.067 [~~Sec. 105.467~~]. INITIAL OPERATIONS. (a) The  
3-68 center shall use funding for the state fiscal year beginning on  
3-69 September 1, 2001, to:

4-1 (1) develop the DNA database and center  
4-2 infrastructure; and

4-3 (2) establish center protocols and employ center  
4-4 personnel.

4-5 (b) The center shall begin case analyses in 2002. The  
4-6 center shall retain the authority to establish priorities regarding  
4-7 case analysis, giving priority to those cases involving children.

4-8 (c) This article [~~section~~] expires January 1, 2006.

4-9 SECTION 3. This Act takes effect immediately if it receives  
4-10 a vote of two-thirds of all the members elected to each house, as  
4-11 provided by Section 39, Article III, Texas Constitution. If this  
4-12 Act does not receive the vote necessary for immediate effect, this  
4-13 Act takes effect September 1, 2005.

4-14 \* \* \* \* \*