

## **BILL ANALYSIS**

C.S.S.B. 1347  
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Corrections  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Today, many persons convicted of felonies are required to provide a DNA sample to the statewide database. C.S.S.B. 1347 requires convicted felons, including juveniles and those on probation, to provide a DNA sample. As a result, Texas will have a more reliable and complete resource to help law enforcement solve crime and apprehend suspects.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority previously granted to the Department of Public Safety, in conjunction with the Texas Youth Commission, is rescinded in SECTION 3 (Section 411.150, Government Code) of this bill.

### **ANALYSIS**

SECTION 1. Amends Subdivision (3), Section 411.141, Government Code, to redefine "criminal justice agency" as a federal or state agency that is engaged in the administration of criminal justice under a statute or executive order and that allocates a substantial part of its annual budget to the administration of criminal justice; a secure correctional facility as defined by Section 1.07, Penal Code; or a community supervision and corrections department, parole office, or a local juvenile probation department or parole office.

SECTION 2. Reenacts and amends Section 411.148, Government Code, as reenacted and amended by Chapters 1224 and 1245, Acts of the 79th Legislature, Regular Session, 2005, as follows:

Sec. 411.148. MANDATORY DNA RECORD. (a) Provides that this section applies to an individual who is ordered by a magistrate or court to provide a DNA sample under Section 411.154 or other law or who is convicted of a felony. Deletes existing text applying this section to an individual confined in a penal institution operated by or under contract with the Texas Department of Criminal Justice (TDCJ) or a juvenile who is, after an adjudication for conduct constituting a felony, confined in a facility operated by or under contract with the Texas Youth Commission (TYC).

(b) Provides that this section does not apply to a juvenile who is ordered by a juvenile court to provide a DNA sample under Section 411.150.

(c) Redesignated from existing Subsection (b).

(d) Redesignated from existing Subsection (c). Requires a criminal justice agency to collect a sample ordered by a magistrate or court as provided by Subsection (a)(1) in compliance with the order.

(e) Requires TDCJ, during the diagnostic process or at another time determined by the Department of Public Safety (DPS), to collect the sample from an individual described by Subsection (a) who is imprisoned in a penal institution operated by or under contract with DPS or who is under the supervision of the pardons and paroles division of TDCJ. Provides that if an individual described by Subsection (a) is in the custody or under the supervision of another criminal justice agency, that agency is required to collect the sample from the individual at a time determined by the agency. Deletes existing text requiring TYC to collect

the sample from the individual during the initial examination or at another time determined if an individual is received into custody by TYC.

(f) Requires TDCJ to notify the public safety director (director) of an individual's release from a penal institution operated by or under contract with TDCJ not earlier than the 120th day before the individual's release date and not later than the 90th day before the individual's release date. Requires TDCJ, rather than TDCJ and TYC, to determine the form of the notification described by this subsection in consultation with the director. Deletes existing text requiring TYC to notify the director within a certain time frame that an individual is to be released from custody.

(g) and (h) Makes no changes to these subsections.

(i) Redesignated from existing Subsection (k). Provides that if a criminal justice agency of this state agrees to accept custody or supervision of a certain individual, the acceptance is conditional on the individual providing a DNA sample under this subchapter if the individual was convicted of a felony. Deletes existing text requiring TDCJ and TYC to cause a sample to be collected as soon as practicable from certain individuals in certain circumstances.

(j) Redesignated from existing Subsection (l).

SECTION 3. Amends Section 411.150, Government Code, as follows:

Sec. 411.150. DNA RECORDS OF CERTAIN JUVENILES. (a) Requires a juvenile to whom this section applies, rather than a juvenile who is committed to TYC, to provide one or more DNA, rather than blood, samples or other specimens for the purpose of creating a DNA record if the juvenile has not already provided the required sample, rather than specimen, under other state law or if the director makes a request for the sample as described by Subsection (h). Requires TYC to collect the sample from an individual committed to or under the supervision of TYC during the initial examination or at another time determined by TYC. Provides that if the juvenile is in the custody or under the supervision of another criminal justice agency, that agency is required to collect the sample at a time determined by the agency. Deletes existing text requiring the juvenile to provide a sample if so ordered or committed to TYC for an adjudication as having engaged in delinquent conduct that violates certain offenses or violations.

(b) Provides that this section applies to certain juveniles. Deletes existing language requiring DPS to adopt rules regarding the collection, preservation, and shipment of a blood sample or other specimen of a juvenile described by this section.

(c) Requires a criminal justice agency to collect a sample ordered by a juvenile court as provided by Subsection (b)(2) in compliance with the order. Deletes existing text requiring TYC to perform certain duties.

(d) Authorizes a medical staff employee of a criminal justice agency, rather than of TYC, to obtain a voluntary sample or specimen from a juvenile.

(e) Makes conforming changes.

(f) Requires TYC to notify the director of a juvenile's release from a facility operated by or under contract with TYC not earlier than the 10th day before the release date. Requires TYC, in consultation with the director, to determine the form of the notification described by this subsection.

(g) Provides that if a criminal justice agency of this state agrees to accept custody or supervision of a juvenile from another state or jurisdiction under an interstate compact or a reciprocal agreement with a local, county, state, or federal agency, the acceptance is conditional on the juvenile providing a DNA sample under this

subchapter if the juvenile was adjudicated as having engaged in conduct constituting the commission of a felony.

(h) Provides that additional samples are not required unless requested by the director if, in consultation with the director, it is determined that an acceptable sample has already been received from a juvenile. Deletes existing Subsection (f) authorizing TYC to contract with an individual or entity for the provision of phlebotomy services under this section.

SECTION 4. Amends Section 11, Article 42.12, Code of Criminal Procedure, by adding Subsection (j), to require a judge granting community supervision to a defendant convicted of a felony to require that the defendant provide a DNA sample under Subchapter G, Chapter 411, Government Code, for the purpose of creating a DNA record, unless the defendant has already submitted the required sample under other state law.

SECTION 5. Amends Chapter 54, Family Code, by adding Section 54.0409, as follows:

Sec. 54.0409. DNA SAMPLE REQUIRED ON FELONY ADJUDICATION. Requires a court to require as a condition of probation that a child adjudicated as having engaged in conduct constituting the commission of a felony provide a DNA sample under Subchapter G, Chapter 411, Government Code, for the purpose of creating a DNA record, unless the child has already submitted the required sample under other state law.

SECTION 6. Amends Subchapter F, Chapter 508, Government Code, by adding Section 508.1861, as follows:

Sec. 508.1861. DNA SAMPLE REQUIRED ON FELONY CONVICTION. Requires a parole panel to require as a condition of parole or mandatory supervision that a releasee convicted of a felony provide a DNA sample under Subchapter G, Chapter 411, for the purpose of creating a DNA record, unless the releasee has already submitted the required sample under other state law.

SECTION 7. Amends Subchapter F, Chapter 61, Human Resources Code, by adding Section 61.0814, as follows:

Sec. 61.0814. DNA SAMPLE REQUIRED ON FELONY ADJUDICATION. Requires TYC to require as a condition of release under supervision that a child adjudicated as having engaged in conduct constituting the commission of a felony provide a DNA sample under Subchapter G, Chapter 411, Government Code, for the purpose of creating a DNA record, unless the child has already submitted the required sample under other state law.

SECTION 8. Provides that the change in law made by this Act applies to an individual who before the effective date of this Act was not otherwise required by state law to provide a DNA sample and is convicted of committing an offense or is adjudicated as having engaged in conduct constituting the commission of an offense on or after the effective date of this Act.

SECTION 9. Effective date: September 1, 2007.

#### **EFFECTIVE DATE**

September 1, 2007.

#### **COMPARISON OF ORIGINAL TO SUBSTITUTE**

C.S.S.B. 1347 removes the provisions in the original bill that made the original bill retroactive.