

1-1 By: Driver (Senate Sponsor - Williams) H.B. No. 3295
1-2 (In the Senate - Received from the House April 23, 2007;
1-3 April 26, 2007, read first time and referred to Committee on
1-4 Criminal Justice; May 18, 2007, reported favorably by the
1-5 following vote: Yeas 5, Nays 0; May 18, 2007, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to the DNA samples taken from certain offenders.

1-9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-10 SECTION 1. Section 411.142(g), Government Code, is amended
1-11 to read as follows:

1-12 (g) The DNA database may contain DNA records for the
1-13 following:

1-14 (1) an individual described by this subchapter,
1-15 including Section 411.1471, 411.148, or 411.154 [~~411.150~~];

1-16 (2) a biological specimen of a deceased victim of a
1-17 crime;

1-18 (3) a biological specimen that is legally obtained in
1-19 the investigation of a crime, regardless of origin;

1-20 (4) results of testing ordered by a court under this
1-21 subchapter, Article 64.03, Code of Criminal Procedure, or other law
1-22 permitting or requiring the creation of a DNA record;

1-23 (5) an unidentified missing person, or unidentified
1-24 skeletal remains or body parts;

1-25 (6) a close biological relative of a person who has
1-26 been reported missing to a law enforcement agency;

1-27 (7) a person at risk of becoming lost, such as a child
1-28 or a person declared by a court to be mentally incapacitated, if the
1-29 record is required by court order or a parent, conservator, or
1-30 guardian of the person consents to the record; or

1-31 (8) an unidentified person, if the record does not
1-32 contain personal identifying information.

1-33 SECTION 2. Section 411.1471(f), Government Code, is amended
1-34 to read as follows:

1-35 (f) A defendant who provides a DNA sample [~~specimen~~] under
1-36 this section is not required to provide a DNA sample [~~specimen~~]
1-37 under Section [~~411.1472 or provide a sample or specimen under~~
1-38 ~~Section~~] 411.148 [~~or 411.150~~] unless an attorney representing the
1-39 state in the prosecution of felony offenses establishes to the
1-40 satisfaction of the director that the interests of justice or
1-41 public safety require that the defendant provide additional samples
1-42 [~~or specimens~~].

1-43 SECTION 3. Section 411.148, Government Code, as reenacted
1-44 and amended by Chapters 1224 and 1245, Acts of the 79th Legislature,
1-45 Regular Session, 2005, is reenacted and amended to read as follows:

1-46 Sec. 411.148. MANDATORY DNA RECORD. (a) This section
1-47 applies to:

1-48 (1) an individual who is:

1-49 (A) ordered by a magistrate or court to provide a
1-50 sample under Section [~~411.150 or~~] 411.154 or other law; or

1-51 (B) confined in a penal institution operated by
1-52 or under contract with the Texas Department of Criminal Justice; or

1-53 (2) a juvenile who is, after an adjudication for
1-54 conduct constituting a felony, confined in a facility operated by
1-55 or under contract with the Texas Youth Commission.

1-56 (b) An individual described by Subsection (a) shall provide
1-57 one or more DNA samples for the purpose of creating a DNA record.

1-58 (c) A criminal justice agency shall collect a sample ordered
1-59 by a magistrate or court in compliance with the order.

1-60 (d) If an individual described by Subsection (a)(1)(B) is
1-61 received into custody by the Texas Department of Criminal Justice,
1-62 that department shall collect the sample from the individual during
1-63 the diagnostic process or at another time determined by the Texas
1-64 Department of Criminal Justice.

2-1 (e) If an individual described by Subsection (a)(2) is
 2-2 received into custody by the Texas Youth Commission, the youth
 2-3 commission shall collect the sample from the individual during the
 2-4 initial examination or at another time determined by the youth
 2-5 commission.

2-6 (f) The Texas Department of Criminal Justice shall notify
 2-7 the director that an individual described by Subsection (a)(1)(B)
 2-8 [~~(a)~~] is to be released from custody not earlier than the 120th day
 2-9 before the individual's statutory release date and not later than
 2-10 the 90th day before the individual's statutory release date. An
 2-11 individual described by Subsection (a)(1)(B) may not be held past
 2-12 the individual's statutory release date if the individual fails or
 2-13 refuses to provide a DNA sample under this section. The Texas
 2-14 Department of Criminal Justice may take lawful administrative
 2-15 action, including disciplinary action resulting in the loss of good
 2-16 conduct time, against an individual described by Subsection
 2-17 (a)(1)(B) who refuses to provide a sample under this section. In
 2-18 this subsection, "statutory release date" means the date on which
 2-19 an individual is discharged from the individual's controlling
 2-20 sentence.

2-21 (f-1) The Texas Youth Commission shall notify the director
 2-22 that an individual described by Subsection (a)(2) [~~(a)~~] is to be
 2-23 released from custody not earlier than the 120th [~~10th~~] day before
 2-24 the individual's release date.

2-25 (f-2) The Texas Department of Criminal Justice and the Texas
 2-26 Youth Commission, in consultation with the director, shall
 2-27 determine the form of the notification described by Subsections (f)
 2-28 and (f-1) [~~this subsection~~].

2-29 (g) A medical staff employee of a criminal justice agency
 2-30 may collect a voluntary sample from an individual at any time.

2-31 (h) An employee of a criminal justice agency may use force
 2-32 against an individual required to provide a DNA sample under this
 2-33 section when and to the degree the employee reasonably believes the
 2-34 force is immediately necessary to collect the sample.

2-35 (i)(1) The Texas Department of Criminal Justice as soon as
 2-36 practicable shall cause a sample to be collected from an individual
 2-37 described by Subsection (a)(1)(B) if:

2-38 (A) the individual is confined in another penal
 2-39 institution after sentencing and before admission to the
 2-40 department; and

2-41 (B) the department determines that the
 2-42 individual is likely to be released before being admitted to the
 2-43 department.

2-44 (2) The administrator of the other penal institution
 2-45 shall cooperate with the Texas Department of Criminal Justice as
 2-46 necessary to allow the Texas Department of Criminal Justice to
 2-47 perform its duties under this subsection.

2-48 (j)(1) The Texas Youth Commission as soon as practicable
 2-49 shall cause a sample to be collected from an individual described by
 2-50 Subsection (a)(2) if:

2-51 (A) the individual is detained in another
 2-52 juvenile detention facility after adjudication and before
 2-53 admission to the youth commission; and

2-54 (B) the youth commission determines the
 2-55 individual is likely to be released before being admitted to the
 2-56 youth commission.

2-57 (2) The administrator of the other juvenile detention
 2-58 facility shall cooperate with the Texas Youth Commission as
 2-59 necessary to allow the youth commission to perform its duties under
 2-60 this subsection.

2-61 (k) When a criminal justice agency of this state agrees to
 2-62 accept custody of an individual from another state or jurisdiction
 2-63 under an interstate compact or a reciprocal agreement with a local,
 2-64 county, state, or federal agency, the acceptance is conditional on
 2-65 the individual providing a DNA sample under this subchapter if the
 2-66 individual was convicted of a felony.

2-67 (l) If, in consultation with the director, it is determined
 2-68 that an acceptable sample has already been received from an
 2-69 individual, additional samples are not required unless requested by

3-1 the director.

3-2 SECTION 4. Section 411.153(b), Government Code, is amended
3-3 to read as follows:

3-4 (b) A person commits an offense if the person knowingly
3-5 discloses to an unauthorized recipient information in a DNA record
3-6 or information related to a DNA analysis of a sample collected under
3-7 this subchapter.

3-8 SECTION 5. Section 411.150, Government Code, is repealed.

3-9 SECTION 6. This Act takes effect immediately if it receives
3-10 a vote of two-thirds of all the members elected to each house, as
3-11 provided by Section 39, Article III, Texas Constitution. If this
3-12 Act does not receive the vote necessary for immediate effect, this
3-13 Act takes effect September 1, 2007.

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