

BILL ANALYSIS

H.B. 4386
By: Vaught
Criminal Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Current law requires a person in the custody of the Texas Department of Criminal Justice or the Texas Youth Commission to provide a DNA sample, in addition to a person convicted of a sex crime. However, current law does not require an individual sentenced to probation or deferred adjudication to provide a DNA sample.

H.B. 4386 requires a defendant convicted of a felony or a juvenile adjudicated as having engaged in conduct constituting a felony who is placed on community supervision or probation, respectively, to provide a DNA sample.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

H.B. 4386 amends the Government Code to add a juvenile who, following an adjudication for conduct constituting a felony, is placed on probation to the individuals to whom provisions regarding mandatory DNA records apply. The bill includes the condition that an individual was ordered to provide a DNA sample as part of an order granting community supervision in the provisions relating to individuals to whom provisions regarding mandatory DNA records apply. The bill requires a criminal justice agency other than the Texas Department of Criminal Justice or the Texas Youth Commission (TYC), such as a community supervision and corrections department, a parole office, or a local juvenile probation department or parole office, if an individual who is required to provide a DNA sample is in the custody or under the supervision of that agency, to collect the sample from the individual at a time determined by that agency.

H.B. 4386 adds a deadline of not later than the 90th day before an individual's release to the requirement that TYC notify the public safety director that an individual who is required to provide a DNA sample is to be released from custody. The bill includes an individual who was adjudicated as having engaged in conduct constituting a felony to the individuals the custody or supervision of whom may be accepted from another state or jurisdiction by a criminal justice agency of Texas on the condition that the individual provide a DNA sample.

H.B. 4386 adds to the definition of "criminal justice agency," for purposes of the DNA database system, a secure correctional facility or a community supervision and corrections department, a parole office, or a local juvenile probation department or parole office.

H.B. 4386 amends the Code of Criminal Procedure to require a judge granting community supervision to a defendant convicted of a felony to require the defendant, as a condition of community supervision, to provide a DNA sample for the purpose of creating a DNA record of the defendant, unless the defendant has already submitted the required sample under another state law.

H.B. 4386 amends the Family Code to require a court, if a court or jury makes a disposition in which a child is adjudicated as having engaged in conduct constituting the commission of a felony and is placed on probation, to require as a condition of probation that the child provide a DNA sample for the purpose of creating a DNA record of the child, unless the child has already submitted the required sample under other state law.

H.B. 4386 repeals Section 411.148 (e), Government Code, and incorporates its substance into Section 411.148(d).

EFFECTIVE DATE

September 1, 2009.