

By: Vaught, Riddle, Fletcher, Moody

H.B. No. 4386

A BILL TO BE ENTITLED

AN ACT

relating to the creation of DNA records for the DNA database system.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 411.141(3), Government Code, is amended to read as follows:

(3) "Criminal justice agency" means:

(A) 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;

(B) a secure correctional facility as defined by Section 1.07, Penal Code; or

(C) a community supervision and corrections department, a parole office, or a local juvenile probation department or parole office [~~has the meaning assigned by Article 60.01, Code of Criminal Procedure~~].

SECTION 2. Sections 411.148(a), (d), (f-1), (j), and (k), Government Code, are amended to read as follows:

(a) This section applies to:

(1) an individual, other than a juvenile, who is:

(A) ordered by a magistrate or court to provide a DNA sample under Section 411.154 or other law, including as part of an order granting community supervision to the individual; or

(B) confined in a penal institution operated by

1 or under contract with the Texas Department of Criminal Justice; or

2 (2) a juvenile who [~~is~~], following [~~after~~] an
3 adjudication for conduct constituting a felony, is:

4 (A) confined in a facility operated by or under
5 contract with the Texas Youth Commission; or

6 (B) placed on probation.

7 (d) If an individual described by Subsection (a)(1)(B) is
8 received into custody by the Texas Department of Criminal Justice,
9 that department shall collect the sample from the individual during
10 the diagnostic process or at another time determined by the Texas
11 Department of Criminal Justice. If an individual described by
12 Subsection (a)(2)(A) is received into custody by the Texas Youth
13 Commission, the youth commission shall collect the sample from the
14 individual during the initial examination or at another time
15 determined by the youth commission. If an individual who is
16 required under this section or other law to provide a DNA sample is
17 in the custody or under the supervision of another criminal justice
18 agency, such as a community supervision and corrections department,
19 a parole office, or a local juvenile probation department or parole
20 office, that agency shall collect the sample from the individual at
21 a time determined by the agency.

22 (f-1) The Texas Youth Commission shall notify the director
23 that an individual described by Subsection (a)(2)(A) [~~(a)(2)~~] is to
24 be released from custody not earlier than the 120th day before the
25 individual's release date and not later than the 90th day before the
26 individual's release date.

27 (j)(1) The Texas Youth Commission as soon as practicable

1 shall cause a sample to be collected from an individual described by
2 Subsection (a)(2)(A) [~~(a)(2)~~] if:

3 (A) the individual is detained in another
4 juvenile detention facility after adjudication and before
5 admission to the youth commission; and

6 (B) the youth commission determines the
7 individual is likely to be released before being admitted to the
8 youth commission.

9 (2) The administrator of the other juvenile detention
10 facility shall cooperate with the Texas Youth Commission as
11 necessary to allow the youth commission to perform its duties under
12 this subsection.

13 (k) When a criminal justice agency of this state agrees to
14 accept custody or supervision of an individual from another state
15 or jurisdiction under an interstate compact or a reciprocal
16 agreement with a local, county, state, or federal agency, the
17 acceptance is conditional on the individual providing a DNA sample
18 under this subchapter if the individual was convicted of or
19 adjudicated as having engaged in conduct constituting a felony.

20 SECTION 3. Section 11, Article 42.12, Code of Criminal
21 Procedure, is amended by adding Subsection (j) to read as follows:

22 (j) A judge granting community supervision to a defendant
23 convicted of a felony shall require that the defendant, as a
24 condition of community supervision, provide a DNA sample under
25 Subchapter G, Chapter 411, Government Code, for the purpose of
26 creating a DNA record of the defendant, unless the defendant has
27 already submitted the required sample under other state law.

1 SECTION 4. Chapter 54, Family Code, is amended by adding
2 Section 54.0409 to read as follows:

3 Sec. 54.0409. DNA SAMPLE REQUIRED ON FELONY ADJUDICATION.

4 If a court or jury makes a disposition under Section 54.04 in which
5 a child is adjudicated as having engaged in conduct constituting
6 the commission of a felony and is placed on probation, the court
7 shall require as a condition of probation that the child provide a
8 DNA sample under Subchapter G, Chapter 411, Government Code, for
9 the purpose of creating a DNA record of the child, unless the child
10 has already submitted the required sample under other state law.

11 SECTION 5. Section 411.148(e), Government Code, is
12 repealed.

13 SECTION 6. The changes in law made by this Act in adding
14 Section 11(j), Article 42.12, Code of Criminal Procedure, and
15 Section 54.0409, Family Code, apply only to a person who is granted
16 community supervision or placed on juvenile probation on or after
17 the effective date of this Act.

18 SECTION 7. This Act takes effect September 1, 2009.