

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. The heading to Article 102.020, Code of Criminal Procedure, is amended to read as follows:

Art. 102.020. COSTS RELATED TO [~~ON CONVICTION FOR OFFENSES REQUIRING~~] DNA TESTING.

SECTION 2. Article 102.020, Code of Criminal Procedure, is amended by amending Subsections (a) and (h) and adding Subsections (h-1) and (j) to read as follows:

(a) A person shall pay as a cost of court:

(1) \$250 [~~as a court cost~~] on conviction of an offense listed in Section 411.1471(a)(1), Government Code;

(2) [~~, and~~] \$50 [~~as a court cost~~] on conviction of an offense listed in Section 411.1471(a)(3) of that code; or

(3) \$34 on placement of the person on community supervision, including deferred adjudication community supervision, if the person is required to submit a DNA sample under Section 11(j), Article 42.12.

(h) Except as provided by Subsection (h-1), the [~~The~~] comptroller shall deposit 35 percent of the funds received under this article in the state treasury to the credit of the state highway fund and 65 percent of the funds received under this article to the credit of the criminal justice planning account in the

1 general revenue fund.

2 (h-1) The clerk of the court shall transfer to the
3 comptroller any funds received under Subsection (a)(3). The
4 comptroller shall credit the funds to the Department of Public
5 Safety to help defray the cost of any analyses performed on DNA
6 samples provided by defendants who are required to pay a court cost
7 under this article.

8 (j) The court may waive the imposition of a court cost under
9 this article if the court determines that the defendant is indigent
10 and unable to pay the cost.

11 SECTION 3. Chapter 54, Family Code, is amended by adding
12 Section 54.0409 to read as follows:

13 Sec. 54.0409. DNA SAMPLE REQUIRED ON CERTAIN FELONY
14 ADJUDICATIONS. (a) This section applies only to conduct
15 constituting the commission of a felony:

16 (1) that is listed in Section 3g(a)(1), Article 42.12,
17 Code of Criminal Procedure; or

18 (2) for which it is shown that a deadly weapon, as
19 defined by Section 1.07, Penal Code, was used or exhibited during
20 the commission of the conduct or during immediate flight from the
21 commission of the conduct.

22 (b) If a court or jury makes a disposition under Section
23 54.04 in which a child is adjudicated as having engaged in conduct
24 constituting the commission of a felony to which this section
25 applies and the child is placed on probation, the court shall
26 require as a condition of probation that the child provide a DNA
27 sample under Subchapter G, Chapter 411, Government Code, for the

1 purpose of creating a DNA record of the child, unless the child has
2 already submitted the required sample under other state law.

3 SECTION 4. Chapter 54, Family Code, is amended by adding
4 Section 54.0462 to read as follows:

5 Sec. 54.0462. PAYMENT OF FEES FOR OFFENSES REQUIRING DNA
6 TESTING. (a) If a child is adjudicated as having engaged in
7 delinquent conduct that constitutes the commission of a felony and
8 the provision of a DNA sample is required under Section 54.0409 or
9 other law, the juvenile court shall order the child, parent, or
10 other person responsible for the child's support to pay to the court
11 as a cost of court:

12 (1) a \$50 fee if the disposition of the case includes a
13 commitment to a facility operated by or under contract with the
14 Texas Youth Commission; and

15 (2) a \$34 fee if the disposition of the case does not
16 include a commitment described by Subdivision (1) and the child is
17 required to submit a DNA sample under Section 54.0409 or other law.

18 (b) The clerk of the court shall transfer to the comptroller
19 any funds received under this section. The comptroller shall
20 credit the funds to the Department of Public Safety to help defray
21 the cost of any analyses performed on DNA samples provided by
22 children with respect to whom a court cost is collected under this
23 section.

24 (c) If the court finds that a child, parent, or other person
25 responsible for the child's support is unable to pay the fee
26 required under Subsection (a), the court shall enter into the
27 child's case records a statement of that finding. The court may

1 waive a fee under this section only if the court makes the finding
2 under this subsection.

3 SECTION 5. Subsection (a), Section 61.002, Family Code, is
4 amended to read as follows:

5 (a) Except as provided by Subsection (b), this chapter
6 applies to a proceeding to enter a juvenile court order:

7 (1) for payment of probation fees under Section
8 54.061;

9 (2) for restitution under Sections 54.041(b) and
10 54.048;

11 (3) for payment of graffiti eradication fees under
12 Section 54.0461;

13 (4) for community service under Section 54.044(b);

14 (5) for payment of costs of court under Section
15 54.0411 or other provisions of law;

16 (6) requiring the person to refrain from doing any act
17 injurious to the welfare of the child under Section 54.041(a)(1);

18 (7) enjoining contact between the person and the child
19 who is the subject of a proceeding under Section 54.041(a)(2);

20 (8) ordering a person living in the same household
21 with the child to participate in counseling under Section
22 54.041(a)(3);

23 (9) requiring a parent or guardian of a child found to
24 be truant to participate in an available program addressing truancy
25 under Section 54.041(f);

26 (10) requiring a parent or other eligible person to
27 pay reasonable attorney's fees for representing the child under

1 Section 51.10(e);

2 (11) requiring the parent or other eligible person to
3 reimburse the county for payments the county has made to an attorney
4 appointed to represent the child under Section 51.10(j);

5 (12) requiring payment of deferred prosecution
6 supervision fees under Section 53.03(d);

7 (13) requiring a parent or other eligible person to
8 attend a court hearing under Section 51.115;

9 (14) requiring a parent or other eligible person to
10 act or refrain from acting to aid the child in complying with
11 conditions of release from detention under Section 54.01(r); ~~or~~

12 (15) requiring a parent or other eligible person to
13 act or refrain from acting under any law imposing an obligation of
14 action or omission on a parent or other eligible person because of
15 the parent's or person's relation to the child who is the subject of
16 a proceeding under this title; or

17 (16) for payment of fees under Section 54.0462.

18 SECTION 6. Section 11, Article 42.12, Code of Criminal
19 Procedure, is amended by adding Subsection (j) to read as follows:

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

26 SECTION 7. (a) Section 102.021, Government Code, is
27 amended to conform to Chapter 1263 (H.B. 3060), Acts of the 80th

1 Legislature, Regular Session, 2007, and is further amended to read
2 as follows:

3 Sec. 102.021. COURT COSTS ON CONVICTION: CODE OF CRIMINAL
4 PROCEDURE. A person convicted of an offense shall pay the following
5 under the Code of Criminal Procedure, in addition to all other
6 costs:

7 (1) court cost on conviction of any offense, other
8 than a conviction of an offense relating to a pedestrian or the
9 parking of a motor vehicle (Art. 102.0045, Code of Criminal
10 Procedure) . . . \$4;

11 (2) a fee for services of prosecutor (Art. 102.008,
12 Code of Criminal Procedure) . . . \$25;

13 (3) fees for services of peace officer:

14 (A) issuing a written notice to appear in court
15 for certain violations (Art. 102.011, Code of Criminal Procedure)
16 . . . \$5;

17 (B) executing or processing an issued arrest
18 warrant, ~~or~~ capias, or capias pro fine (Art. 102.011, Code of
19 Criminal Procedure) . . . \$50;

20 (C) summoning a witness (Art. 102.011, Code of
21 Criminal Procedure) . . . \$5;

22 (D) serving a writ not otherwise listed (Art.
23 102.011, Code of Criminal Procedure) . . . \$35;

24 (E) taking and approving a bond and, if
25 necessary, returning the bond to courthouse (Art. 102.011, Code of
26 Criminal Procedure) . . . \$10;

27 (F) commitment or release (Art. 102.011, Code of

1 Criminal Procedure) . . . \$5;
2 (G) summoning a jury (Art. 102.011, Code of
3 Criminal Procedure) . . . \$5;
4 (H) attendance of a prisoner in habeas corpus
5 case if prisoner has been remanded to custody or held to bail (Art.
6 102.011, Code of Criminal Procedure) . . . \$8 each day;
7 (I) mileage for certain services performed (Art.
8 102.011, Code of Criminal Procedure) . . . \$0.29 per mile; and
9 (J) services of a sheriff or constable who serves
10 process and attends examining trial in certain cases (Art. 102.011,
11 Code of Criminal Procedure) . . . not to exceed \$5;
12 (4) services of a peace officer in conveying a witness
13 outside the county (Art. 102.011, Code of Criminal Procedure) . . .
14 \$10 per day or part of a day, plus actual necessary travel expenses;
15 (5) overtime of peace officer for time spent
16 testifying in the trial or traveling to or from testifying in the
17 trial (Art. 102.011, Code of Criminal Procedure) . . . actual cost;
18 (6) court costs on an offense relating to rules of the
19 road, when offense occurs within a school crossing zone (Art.
20 102.014, Code of Criminal Procedure) . . . \$25;
21 (7) court costs on an offense of passing a school bus
22 (Art. 102.014, Code of Criminal Procedure) . . . \$25;
23 (8) court costs on an offense of truancy or
24 contributing to truancy (Art. 102.014, Code of Criminal Procedure)
25 . . . \$20;
26 (9) cost for visual recording of intoxication arrest
27 before conviction (Art. 102.018, Code of Criminal Procedure) . . .

1 \$15;

2 (10) cost of certain evaluations (Art. 102.018, Code
3 of Criminal Procedure) . . . actual cost;

4 (11) additional costs attendant to certain
5 intoxication convictions under Chapter 49, Penal Code, for
6 emergency medical services, trauma facilities, and trauma care
7 systems (Art. 102.0185, Code of Criminal Procedure) . . . \$100;

8 (12) additional costs attendant to certain child
9 sexual assault and related convictions, for child abuse prevention
10 programs (Art. 102.0186, Code of Criminal Procedure) . . . \$100;

11 (13) court cost for DNA testing for certain felonies
12 (Art. 102.020(a)(1) [~~102.020~~], Code of Criminal Procedure) . . .
13 \$250;

14 (14) court cost for DNA testing for the [~~on an~~] offense
15 of public lewdness or indecent exposure (Art. 102.020(a)(2)
16 [~~102.020~~], Code of Criminal Procedure) . . . \$50;

17 (15) court cost for DNA testing for certain felonies
18 (Art. 102.020(a)(3), Code of Criminal Procedure) . . . \$34;

19 (16) if required by the court, a restitution fee for
20 costs incurred in collecting restitution installments and for the
21 compensation to victims of crime fund (Art. 42.037, Code of
22 Criminal Procedure) . . . \$12; [~~and~~]

23 (17) [~~(16)~~] if directed by the justice of the peace or
24 municipal court judge hearing the case, court costs on conviction
25 in a criminal action (Art. 45.041, Code of Criminal Procedure)
26 . . . part or all of the costs as directed by the judge; and

27 (18) costs attendant to convictions under Chapter 49,

1 Penal Code, and under Chapter 481, Health and Safety Code, to help
2 fund drug court programs established under Chapter 469, Health and
3 Safety Code (Art. 102.0178, Code of Criminal Procedure) . . . \$50.

4 (b) Section 102.0215, Government Code, is repealed.

5 SECTION 8. Section 103.0212, Government Code, is amended to
6 conform to Chapters 910 (H.B. 2949) and 1053 (H.B. 2151), Acts of
7 the 80th Legislature, Regular Session, 2007, and is further amended
8 to read as follows:

9 Sec. 103.0212. ADDITIONAL FEES AND COSTS IN CRIMINAL OR
10 CIVIL CASES: FAMILY CODE. An accused or defendant, or a party to a
11 civil suit, as applicable, shall pay the following fees and costs
12 under the Family Code if ordered by the court or otherwise required:

13 (1) in family matters:

14 (A) issuing writ of withholding (Sec. 8.262,
15 Family Code) . . . \$15;

16 (B) filing copy of writ of withholding to
17 subsequent employer (Sec. 8.267, Family Code) . . . \$15;

18 (C) issuing and delivering modified writ of
19 withholding or notice of termination (Sec. 8.302, Family Code)
20 . . . \$15;

21 (D) issuing and delivering notice of termination
22 of withholding (Sec. 8.303, Family Code) . . . \$15;

23 (E) issuance of change of name certificate (Sec.
24 45.106, Family Code) . . . \$10;

25 (F) protective order fee (Sec. 81.003, Family
26 Code) . . . \$16;

27 (G) filing suit requesting adoption of child

1 (Sec. 108.006, Family Code) . . . \$15;
2 (H) filing fees for suits affecting parent-child
3 relationship (Sec. 110.002, Family Code):
4 (i) suit or motion for modification (Sec.
5 110.002, Family Code) . . . \$15;
6 (ii) motion for enforcement (Sec. 110.002,
7 Family Code) . . . \$15;
8 (iii) notice of application for judicial
9 writ of withholding (Sec. 110.002, Family Code) . . . \$15;
10 (iv) motion to transfer (Sec. 110.002,
11 Family Code) . . . \$15;
12 (v) petition for license suspension (Sec.
13 110.002, Family Code) . . . \$15;
14 (vi) motion to revoke a stay of license
15 suspension (Sec. 110.002, Family Code) . . . \$15; and
16 (vii) motion for contempt (Sec. 110.002,
17 Family Code) . . . \$15;
18 (I) order or writ of income withholding to be
19 delivered to employer (Sec. 110.004, Family Code) . . . not to
20 exceed \$15;
21 (J) filing fee for transferred case (Sec.
22 110.005, Family Code) . . . \$45;
23 (K) filing a writ of withholding (Sec. 158.319,
24 Family Code) . . . \$15;
25 (L) filing a request for modified writ of
26 withholding or notice of termination (Sec. 158.403, Family Code)
27 . . . not to exceed \$15;

1 (M) filing an administrative writ to employer
2 (Sec. 158.503, Family Code) . . . not to exceed \$15; and

3 (N) genetic testing fees in relation to a child
4 born to a gestational mother (Sec. 160.762, Family Code) . . . as
5 assessed by the court; and

6 (2) in juvenile court:

7 (A) fee schedule for deferred prosecution
8 services (Sec. 53.03, Family Code) . . . maximum fee of \$15 a month;

9 (B) a request fee for a teen court program
10 ~~[administration fee]~~ (Sec. 54.032, Family Code) . . . \$20, if the
11 court ordering the fee is located in the Texas-Louisiana border
12 region, but otherwise not to exceed \$10;

13 (C) court costs for juvenile probation diversion
14 fund (Sec. 54.0411, Family Code) . . . \$20;

15 (D) a juvenile delinquency prevention fee (Sec.
16 54.0461, Family Code) . . . \$50 [~~\$5~~]; [~~and~~]

17 (E) a court fee for child's probationary period
18 (Sec. 54.061, Family Code) . . . not to exceed \$15 a month;

19 (F) a fee to cover costs of required duties of
20 teen court (Sec. 54.032, Family Code) . . . \$20, if the court
21 ordering the fee is located in the Texas-Louisiana border region,
22 but otherwise not to exceed \$10;

23 (G) a fee for DNA testing on commitment to
24 certain facilities (Sec. 54.0462, Family Code) . . . \$50; and

25 (H) a fee for DNA testing after placement on
26 probation or as otherwise required by law (Sec. 54.0462, Family
27 Code) . . . \$34.

1 SECTION 9. Subdivision (3), Section 411.141, Government
2 Code, is amended to read as follows:

3 (3) "Criminal justice agency" means:

4 (A) a federal or state agency that is engaged in
5 the administration of criminal justice under a statute or executive
6 order and that allocates a substantial part of its annual budget to
7 the administration of criminal justice;

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

10 (C) a community supervision and corrections
11 department, a parole office, or a local juvenile probation
12 department or parole office [~~has the meaning assigned by Article~~
13 ~~60.01, Code of Criminal Procedure~~].

14 SECTION 10. Subsections (a), (d), (f-1), (j), and (k),
15 Section 411.148, Government Code, are amended to read as follows:

16 (a) This section applies to:

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

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

21 (B) confined in a penal institution operated by
22 or under contract with the Texas Department of Criminal Justice; or

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

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

27 (B) placed on probation, if the conduct

1 constitutes a felony described by Section 54.0409, Family Code.

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

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

21 (j)(1) The Texas Youth Commission as soon as practicable
22 shall cause a sample to be collected from an individual described by
23 Subsection (a)(2)(A) [~~(a)(2)~~] if:

24 (A) the individual is detained in another
25 juvenile detention facility after adjudication and before
26 admission to the youth commission; and

27 (B) the youth commission determines the

1 individual is likely to be released before being admitted to the
2 youth commission.

3 (2) The administrator of the other juvenile detention
4 facility shall cooperate with the Texas Youth Commission as
5 necessary to allow the youth commission to perform its duties under
6 this subsection.

7 (k) When a criminal justice agency of this state agrees to
8 accept custody or supervision of an individual from another state
9 or jurisdiction under an interstate compact or a reciprocal
10 agreement with a local, county, state, or federal agency, the
11 criminal justice agency that agrees to accept custody or
12 supervision of the individual shall collect [~~acceptance is~~
13 ~~conditional on the individual providing~~] a DNA sample under this
14 subchapter if the individual was convicted of or adjudicated as
15 having engaged in conduct constituting a felony and is otherwise
16 required to provide a DNA sample under this section.

17 SECTION 11. Subsection (e), Section 411.148, Government
18 Code, is repealed.

19 SECTION 12. (a) The changes in law made by this Act in
20 adding Subsection (j), Section 11, Article 42.12, Code of Criminal
21 Procedure, and Section 54.0409, Family Code, apply only to a person
22 who is granted community supervision or placed on juvenile
23 probation on or after the effective date of this Act.

24 (b) The changes in law made by this Act in amending Article
25 102.020, Code of Criminal Procedure, and adding Section 54.0462,
26 Family Code, apply only to an offense committed or conduct engaged
27 in on or after the effective date of this Act. An offense committed

1 or conduct engaged in before the effective date of this Act is
2 covered by the law in effect at the time the offense was committed
3 or the conduct was engaged in, and the former law is continued in
4 effect for that purpose. For purposes of this section, an offense
5 was committed or conduct was engaged in before the effective date of
6 this Act if any element of the offense or conduct occurred before
7 that date.

8 SECTION 13. To the extent of any conflict, this Act prevails
9 over another Act of the 81st Legislature, Regular Session, 2009,
10 relating to nonsubstantive additions to and corrections in enacted
11 codes.

12 SECTION 14. This Act does not make an appropriation. A
13 provision in this Act that creates a new governmental program,
14 creates a new entitlement, or imposes a new duty on a governmental
15 entity is not mandatory during a fiscal period for which the
16 legislature has not made a specific appropriation to implement the
17 provision.

18 SECTION 15. This Act takes effect September 1, 2009.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 727 passed the Senate on April 14, 2009, by the following vote: Yeas 30, Nays 0; May 15, 2009, Senate refused to concur in House amendments and requested appointment of Conference Committee; May 18, 2009, House granted request of the Senate; May 30, 2009, Senate adopted Conference Committee Report by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 727 passed the House, with amendments, on May 12, 2009, by the following vote: Yeas 143, Nays 0, one present not voting; May 18, 2009, House granted request of the Senate for appointment of Conference Committee; May 28, 2009, House adopted Conference Committee Report by the following vote: Yeas 138, Nays 5, one present not voting.

Chief Clerk of the House

Approved:

Date

Governor