

By: Patrick, Dan

S.B. No. 727

A BILL TO BE ENTITLED

1 AN ACT

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

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

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

6 (3) "Criminal justice agency" means:

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

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

13 (C) a community supervision and corrections  
14 department, a parole office, or a local juvenile probation  
15 department or parole office [~~has the meaning assigned by Article~~  
16 ~~60.01, Code of Criminal Procedure~~].

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

19 (a) This section applies to:

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

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

24 (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.