

SENATE AMENDMENTS

2nd Printing

By: Vaught, Kent, Pierson, Miklos, Fletcher,
et al.

H.B. No. 2932

A BILL TO BE ENTITLED

AN ACT

1
2 relating to including in the computerized criminal history system
3 certain forensic DNA test results that indicate the person
4 committed another offense.

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

6 SECTION 1. Article 60.051(g), Code of Criminal Procedure,
7 is amended to read as follows:

8 (g) In addition to the information described by Subsections
9 (a)-(f), information in the computerized criminal history system
10 must include:

11 (1) the age of the victim of the offense if the
12 defendant was arrested for or charged with an offense under:

13 (A) [~~1~~] Section 21.02 (Continuous sexual abuse
14 of young child or children), Penal Code;

15 (B) [~~2~~] Section 21.11 (Indecency with a
16 child), Penal Code;

17 (C) [~~3~~] Section 22.011 (Sexual assault) or
18 22.021 (Aggravated sexual assault), Penal Code;

19 (D) [~~4~~] Section 43.25 (Sexual performance by a
20 child), Penal Code;

21 (E) [~~5~~] Section 20.04(a)(4) (Aggravated
22 kidnapping), Penal Code, if the defendant committed the offense
23 with intent to violate or abuse the victim sexually; or

24 (F) [~~6~~] Section 30.02 (Burglary), Penal Code,

1 if the offense is punishable under Subsection (d) of that section
2 and the defendant committed the offense with intent to commit an
3 offense described by Paragraph (B), (C), or (E); and

4 (2) for a defendant who has been arrested for or
5 charged with any felony or misdemeanor offense, other than a
6 misdemeanor offense punishable by fine only:

7 (A) a summary of any forensic DNA test results
8 indicating a high likelihood that the defendant committed another
9 offense, regardless of whether the defendant has been or will be
10 arrested for or charged with that offense; and

11 (B) the offense code for that offense
12 [~~Subdivision (2), (3), or (5)~~].

13 SECTION 2. Section 411.082(2), Government Code, is amended
14 to read as follows:

15 (2) "Criminal history record information" means
16 information collected about a person by a criminal justice agency
17 that consists of identifiable descriptions and notations of
18 arrests, detentions, indictments, informations, and other formal
19 criminal charges and their dispositions and, if required by Article
20 60.051(g)(2), Code of Criminal Procedure, information summarizing
21 any forensic DNA test results indicating a high likelihood that the
22 person committed another offense. The term does not include:

23 (A) identification information, including DNA or
24 fingerprint records, to the extent that the identification
25 information does not indicate involvement of the person in the
26 criminal justice system or, as described by this subdivision, the
27 commission of another offense; or

1 (B) driving record information maintained by the
2 department under Subchapter C, Chapter 521, Transportation Code.

3 SECTION 3. The change in law made by this Act in amending
4 Article 60.051(g), Code of Criminal Procedure, and Section
5 411.082(2), Government Code, applies only to the inclusion in the
6 computerized criminal history system, on or after the effective
7 date of this Act, of a summary of forensic DNA test results,
8 regardless of whether the test results were obtained before, on, or
9 after that date. An entry made in the computerized criminal history
10 system before the effective date of this Act is covered by the law
11 in effect on the date the entry was made, and the former law is
12 continued in effect for that purpose.

13 SECTION 4. This Act takes effect September 1, 2009.

ADOPTED

MAY 27 2009

Atty Gen
Secretary of the Senate

By: Vaught et al. / Carona

H.B. No. 2932

Substitute the following for H.B. No. 2932:

By: *John C. ...*

C.S. H.B. No. 2932

A BILL TO BE ENTITLED

AN ACT

1
2 relating to including in the law enforcement information system
3 information indicating that criminal defendants have committed
4 certain additional offenses.

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

6 SECTION 1. Chapter 411, Government Code, is amended by
7 adding Subchapter D-1 to read as follows:

8 SUBCHAPTER D-1. CENTRAL INDEX OF CERTAIN ADDITIONAL OFFENSES

9 SUSPECTED TO HAVE BEEN COMMITTED BY CRIMINAL DEFENDANTS

10 Sec. 411.0601. DEFINITION. In this subchapter, "criminal
11 justice agency" has the meaning assigned by Article 60.01, Code of
12 Criminal Procedure.

13 Sec. 411.0602. ESTABLISHMENT OF CENTRAL INDEX; ENTRY OF
14 INFORMATION. (a) In the law enforcement information system
15 maintained by the department, the bureau of identification and
16 records shall establish and maintain a central index to collect and
17 disseminate information regarding additional offenses that
18 forensic DNA test results indicate may have been committed by a
19 defendant who has been arrested for or charged with any felony or
20 misdemeanor offense, other than a misdemeanor offense punishable by
21 fine only.

22 (b) Information relating to a defendant described by
23 Subsection (a) may be entered in the central index only if the
24 information is based on forensic DNA test results indicating that

1 the DNA profile of the defendant cannot be excluded as a donor to
2 the DNA profile of a person suspected to have committed an offense,
3 regardless of whether the defendant has been or will be arrested for
4 or charged with that offense. The information must be:

5 (1) submitted in the form of an affidavit signed by a
6 representative of an investigating criminal justice agency and
7 approved by a district judge; and

8 (2) accompanied by a set of the defendant's
9 fingerprints.

10 Sec. 411.0603. CONFIDENTIALITY AND DISSEMINATION OF
11 INFORMATION IN CENTRAL INDEX. (a) Information maintained by the
12 department in the central index established under this subchapter
13 is confidential. The department may not disseminate the
14 information except as otherwise provided by this section.

15 (b) On proper inquiry, the department shall disseminate to a
16 criminal justice agency the information collected under Section
17 411.0602. The criminal justice agency may disseminate the
18 information to any other criminal justice agency if the
19 dissemination of that information is for a criminal justice
20 purpose.

21 (c) A criminal justice agency or an employee of a criminal
22 justice agency is not liable for an act or omission relating to the
23 collection, use, or dissemination of information collected under
24 Section 411.0602 if that collection, use, or dissemination is
25 performed in accordance with rules adopted by the director.

26 Sec. 411.0604. RULES. The director shall adopt rules to
27 implement and enforce this subchapter.

1 Sec. 411.0605. RIGHT TO REQUEST NOTICE OF ENTRY IN CENTRAL
2 INDEX. (a) A defendant described by Section 411.0602(a) may submit
3 to the bureau of identification and records a request to determine
4 whether the bureau has entered information relating to the
5 defendant in the central index established under Section 411.0602.
6 The bureau shall respond to the request not later than the 10th
7 business day after the date the bureau receives the request.

8 (b) Before responding to a request under Subsection (a), the
9 bureau may require reasonable written verification of the identity
10 of the defendant submitting the request, including written
11 verification of an address, date of birth, driver's license number,
12 state identification card number, or social security number.

13 Sec. 411.0606. RIGHT TO REQUEST REVIEW OF ENTRY IN CENTRAL
14 INDEX. (a) On receipt by the bureau of identification and records
15 of a written request that is submitted by a defendant described by
16 Section 411.0602(a), that is accompanied by a set of the
17 defendant's fingerprints, and that alleges that the bureau may have
18 entered inaccurate information relating to the defendant in the
19 central index established under Section 411.0602, the head of the
20 bureau or that person's designee and the head of the department's
21 crime laboratory in Austin each shall review the information to
22 determine whether there is a high likelihood that the information
23 is accurate.

24 (b) If after review the head of the bureau or that person's
25 designee or the head of the department's crime laboratory in Austin
26 determines there is not a high likelihood that the information
27 relating to the defendant is accurate, the bureau shall:

1 (1) promptly remove that information from the central
2 index; and

3 (2) notify other appropriate divisions of the
4 department, the investigating criminal justice agency, and the
5 defendant of the bureau's determination and the removal of the
6 information.

7 (c) If after review the head of the bureau or that person's
8 designee and the head of the department's crime laboratory in
9 Austin jointly determine there is a high likelihood that the
10 information relating to the defendant is accurate, the bureau shall
11 notify the defendant of that determination.

12 SECTION 2. (a) Not later than December 1, 2009, the public
13 safety director of the Department of Public Safety of the State of
14 Texas shall adopt the rules required by Section 411.0604,
15 Government Code, as added by this Act.

16 (b) The change in law made by this Act in adding Subchapter
17 D-1, Chapter 411, Government Code, applies to the inclusion of
18 forensic DNA test results in the central index required to be
19 established under that subchapter, regardless of whether the test
20 results were obtained before, on, or after the effective date of
21 this Act.

22 SECTION 3. This Act takes effect September 1, 2009.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 27, 2009

TO: Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB2932 by Vaught (Relating to including in the law enforcement information system information indicating that criminal defendants have committed certain additional offenses.),
As Passed 2nd House

No significant fiscal implication to the State is anticipated.

The bill would require the Department of Public Safety to capture a summary of any forensic DNA test results indicating a high likelihood that the defendant committed another offense, regardless of whether the defendant has been, or will be arrested for, or charged with that offense and the offense code for that offense. This provision would apply to any defendant who has been arrested for or charged with any felony or misdemeanor offense, other than a misdemeanor offense punishable by fine only. The bill would also establish a procedure whereby a person could request notification of entry into the system and appeal the accuracy of the inclusion. The bill would take effect September 1, 2009. This analysis assumes that the fiscal and operational costs associated with implementing the provisions of the bill could be reasonably absorbed within current agency resources.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 405 Department of Public Safety

LBB Staff: JOB, SZ, ESi, GG, MWU

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 21, 2009

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB2932 by Vaught (Relating to including in the law enforcement information system information indicating that criminal defendants have committed certain additional offenses.),
Committee Report 2nd House, Substituted

No significant fiscal implication to the State is anticipated.

The bill would require the Department of Public Safety to capture a summary of any forensic DNA test results indicating a high likelihood that the defendant committed another offense, regardless of whether the defendant has been, or will be arrested for, or charged with that offense and the offense code for that offense. This provision would apply to any defendant who has been arrested for or charged with any felony or misdemeanor offense, other than a misdemeanor offense punishable by fine only. The bill would also establish a procedure whereby a person could request notification of entry into the system and appeal the accuracy of the inclusion. The bill would take effect September 1, 2009. This analysis assumes that the fiscal and operational costs associated with implementing the provisions of the bill could be reasonably absorbed within current agency resources.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 405 Department of Public Safety

LBB Staff: JOB, ESi, GG, MWU

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 15, 2009

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB2932 by Vaught (Relating to including in the computerized criminal history system certain forensic DNA test results that indicate the person committed another offense.), As Engrossed

Estimated Two-year Net Impact to General Revenue Related Funds for HB2932, As Engrossed: an impact of \$0 through the biennium ending August 31, 2011.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2010	\$0
2011	\$0
2012	\$0
2013	\$0
2014	\$0

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from State Highway Fund 6
2010	(\$1,210,000)
2011	\$0
2012	\$0
2013	\$0
2014	\$0

Fiscal Analysis

The bill would amend the Code of Criminal Procedure and the Government Code to require that certain forensic DNA test results be included in the Computerized Criminal History (CCH) system. Section one of the bill would amend the Code of Criminal Procedure to require that a summary of any forensic DNA test results indicating a high likelihood that the defendant committed another offense, regardless of whether the defendant is arrested or charged with that offense, be included in the CCH information along with the offense code for that offense. This provision would apply to any defendant who has been arrested for or charged with any felony or misdemeanor offense, other than a misdemeanor offense punishable by fine only. Section two of the bill would amend the Government Code to include the summary information (if required by Article 60.051(g)(2), Code of Criminal Procedure) in the definition of "Criminal history record information". The bill would take effect

September 1, 2009.

Methodology

The Department of Public Safety (DPS) indicates that the Combined DNA Index System (CODIS) Laboratory would need to be modified in order to comply with the provisions of the bill. Presently, the DPS CODIS Lab only captures a summary of forensic DNA test results when there is a match with a person, and that information is passed to the submitting agency or lab. DPS would need to modify the Criminal History File to capture the additional information, and create an interface with the DNA CODIS database to populate the new fields. DPS also would need to modify the public Criminal History website to display the new data.

The Computerized Criminal History (CCH) system does not currently interact with any automated systems that compile summary forensic DNA test results by state or local agencies. The DNA CODIS Laboratory currently retains information regarding search results confirming a match against an existing, stored DNA record. The bill would require the sending of a CODIS database match report, which links an offender with an unsolved crime, to the Crime Records Service (CRS) for inclusion in the offender's CCH file, along with the Penal Code offense number identifying the unsolved crime. The agency requested one full-time equivalent to perform the modifications, but this analysis assumes that the necessary programming could be completed by existing personnel.

Technology

The CCH system will need to be modified to store new data types. DPS estimates the cost of the modifications to be \$893,750 (5,000 hours multiplied by \$178.75 per hour) in fiscal year 2010. Additionally, the DPS Public CCH website will need to be modified to present new data types. DPS estimates the cost of the modifications to be \$316,250 (2,500 hours multiplied by \$126.50 per hour) in fiscal year 2010.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 405 Department of Public Safety

LBB Staff: JOB, ESi, GG, MWU

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

April 9, 2009

TO: Honorable Tommy Merritt, Chair, House Committee on Public Safety

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB2932 by Vaught (Relating to including in the computerized criminal history system certain forensic DNA test results that indicate the person committed another offense.),
Committee Report 1st House, Substituted

Estimated Two-year Net Impact to General Revenue Related Funds for HB2932, Committee Report 1st House, Substituted: an impact of \$0 through the biennium ending August 31, 2011.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2010	\$0
2011	\$0
2012	\$0
2013	\$0
2014	\$0

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from <i>State Highway Fund</i> 6
2010	(\$1,210,000)
2011	\$0
2012	\$0
2013	\$0
2014	\$0

Fiscal Analysis

The bill would amend the Code of Criminal Procedure and the Government Code to require that certain forensic DNA test results be included in the Computerized Criminal History (CCH) system. Section one of the bill would amend the Code of Criminal Procedure to require that a summary of any forensic DNA test results indicating a high likelihood that the defendant committed another offense, regardless of whether the defendant is arrested or charged with that offense, be included in the CCH information along with the offense code for that offense. This provision would apply to any defendant who has been arrested for or charged with any felony or misdemeanor offense, other than a misdemeanor offense punishable by fine only. Section two of the bill would amend the Government Code to include the summary information (if required by Article 60.051(g)(2), Code of Criminal Procedure) in the definition of "Criminal history record information". The bill would take effect

September 1, 2009.

Methodology

The Department of Public Safety (DPS) indicates that the Combined DNA Index System (CODIS) Laboratory would need to be modified in order to comply with the provisions of the bill. Presently, the DPS CODIS Lab only captures a summary of forensic DNA test results when there is a match with a person, and that information is passed to the submitting agency or lab. DPS would need to modify the Criminal History File to capture the additional information, and create an interface with the DNA CODIS database to populate the new fields. DPS also would need to modify the public Criminal History website to display the new data.

The Computerized Criminal History (CCH) system does not currently interact with any automated systems that compile summary forensic DNA test results by state or local agencies. The DNA CODIS Laboratory currently retains information regarding search results confirming a match against an existing, stored DNA record. The bill would require the sending of a CODIS database match report, which links an offender with an unsolved crime, to the Crime Records Service (CRS) for inclusion in the offender's CCH file, along with the Penal Code offense number identifying the unsolved crime. The agency requested one full-time equivalent to perform the modifications, but this analysis assumes that the necessary programming could be completed by existing personnel.

Technology

The CCH system will need to be modified to store new data types. DPS estimates the cost of the modifications to be \$893,750 (5,000 hours multiplied by \$178.75 per hour) in fiscal year 2010. Additionally, the DPS Public CCH website will need to be modified to present new data types. DPS estimates the cost of the modifications to be \$316,250 (2,500 hours multiplied by \$126.50 per hour) in fiscal year 2010.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 405 Department of Public Safety

LBB Staff: JOB, ESi, GG, MWU

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LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

March 31, 2009

TO: Honorable Tommy Merritt, Chair, House Committee on Public Safety

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB2932 by Vaught (Relating to including in the computerized criminal history system certain forensic DNA test results that indicate the person committed another offense.), As Introduced

Estimated Two-year Net Impact to General Revenue Related Funds for HB2932, As Introduced: an impact of \$0 through the biennium ending August 31, 2011.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2010	\$0
2011	\$0
2012	\$0
2013	\$0
2014	\$0

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from <i>State Highway Fund</i> 6
2010	(\$1,210,000)
2011	\$0
2012	\$0
2013	\$0
2014	\$0

Fiscal Analysis

The bill would amend the Code of Criminal Procedure and the Government Code to require that certain forensic DNA test results be included in the Computerized Criminal History (CCH) system. Section one of the bill would amend the Code of Criminal Procedure to require that a summary of any forensic DNA test results indicating a high likelihood that the defendant committed another offense, regardless of whether the defendant is arrested or charged with that offense, be included in the CCH information along with the offense code for that offense. This provision would apply to any defendant who has been arrested for or charged with any felony or misdemeanor offense, other than a misdemeanor offense punishable by fine only. Section two of the bill would amend the Government Code to include the summary information (if required by Article 60.051(g)(2), Code of Criminal Procedure) in the definition of "Criminal history record information". The bill would take effect

September 1, 2009.

Methodology

The Department of Public Safety (DPS) indicates that the Combined DNA Index System (CODIS) Laboratory would need to be modified in order to comply with the provisions of the bill. Presently, the DPS CODIS Lab only captures a summary of forensic DNA test results when there is a match with a person, and that information is passed to the submitting agency or lab. DPS would need to modify the Criminal History File to capture the additional information, and create an interface with the DNA CODIS database to populate the new fields. DPS also would need to modify the public Criminal History website to display the new data.

The Computerized Criminal History (CCH) system does not currently interact with any automated systems that compile summary forensic DNA test results by state or local agencies. The DNA CODIS Laboratory currently retains information regarding search results confirming a match against an existing, stored DNA record. The bill would require the sending of a CODIS database match report, which links an offender with an unsolved crime, to the Crime Records Service (CRS) for inclusion in the offender's CCH file, along with the Penal Code offense number identifying the unsolved crime. The agency requested one full-time equivalent to perform the modifications, but this analysis assumes that the necessary programming could be completed by existing personnel.

Technology

The CCH system will need to be modified to store new data types. DPS estimates the cost of the modifications to be \$893,750 (5,000 hours multiplied by \$178.75 per hour) in fiscal year 2010. Additionally, the DPS Public CCH website will need to be modified to present new data types. DPS estimates the cost of the modifications to be \$316,250 (2,500 hours multiplied by \$126.50 per hour) in fiscal year 2010.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 405 Department of Public Safety

LBB Staff: JOB, ESi, GG, MWU

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LEGISLATIVE BUDGET BOARD
Austin, Texas

CRIMINAL JUSTICE IMPACT STATEMENT

81ST LEGISLATIVE REGULAR SESSION

May 20, 2009

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB2932 by Vaught (Relating to including in the law enforcement information system information indicating that criminal defendants have committed certain additional offenses.),
Committee Report 2nd House, Substituted

No significant impact on the programs and workload of state corrections agencies or on the demand for resources and services of those agencies is anticipated from any provisions of this bill that authorize or require a change in the sanctions applicable to adults convicted of felony crimes.

Source Agencies:

LBB Staff: JOB, TMP

LEGISLATIVE BUDGET BOARD

Austin, Texas

CRIMINAL JUSTICE IMPACT STATEMENT

81ST LEGISLATIVE REGULAR SESSION

May 15, 2009

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB2932 by Vaught (Relating to including in the computerized criminal history system certain forensic DNA test results that indicate the person committed another offense.), **As Engrossed**

No significant impact on the programs and workload of state corrections agencies or on the demand for resources and services of those agencies is anticipated from any provisions of this bill that authorize or require a change in the sanctions applicable to adults convicted of felony crimes.

Source Agencies:

LBB Staff: JOB, LM

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