

House Bill 2932
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

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

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

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

(A) ~~[(4)]~~ Section 21.02 (Continuous sexual abuse of young child or children), Penal Code;

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

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

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

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

(F) ~~[(6)]~~ Section 30.02 (Burglary), Penal Code, if the offense is punishable under Subsection (d) of that section and the defendant committed the offense with intent to commit an offense described by Paragraph (B), (C), or (E); and

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SECTION 1.

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

SUBCHAPTER D-1. CENTRAL INDEX OF CERTAIN ADDITIONAL OFFENSES SUSPECTED TO HAVE BEEN COMMITTED BY CRIMINAL DEFENDANTS

Sec. 411.0601. DEFINITION. In this subchapter,

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(2) for a defendant who has been arrested for or charged with any felony or misdemeanor offense, other than a misdemeanor offense punishable by fine only;
(A) 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
(B) the offense code for that offense [~~Subdivision (2), (3), or (5)~~].

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"criminal justice agency" has the meaning assigned by Article 60.01, Code of Criminal Procedure.

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

(b) Information relating to a defendant described by Subsection (a) may be entered in the central index only if the information is based on forensic DNA test results indicating that the DNA profile of the defendant cannot be excluded as a donor to the DNA profile of a person suspected to have committed an offense, regardless of whether the defendant has been or will be arrested for or charged with that offense. The information must be:
(1) submitted in the form of an affidavit signed by a representative of an investigating criminal justice agency and approved by a district judge; and
(2) accompanied by a set of the defendant's fingerprints.
Sec. 411.0603. CONFIDENTIALITY AND DISSEMINATION OF INFORMATION IN CENTRAL INDEX. (a) Information maintained by the department

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in the central index established under this subchapter is confidential. The department may not disseminate the information except as otherwise provided by this section.

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

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

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

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

(b) Before responding to a request under Subsection (a), the bureau may require reasonable written verification of the identity of the defendant submitting the request, including written verification of an address, date of birth,

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driver's license number, state identification card number, or social security number.

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

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

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

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

(c) If after review the head of the bureau or that person's designee and the head of the department's crime laboratory in Austin jointly determine there is a high likelihood that the information relating to the defendant

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is accurate, the bureau shall notify the defendant of that determination.

No equivalent provision.

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

(2) "Criminal history record information" means information collected about a person by a criminal justice agency that consists of identifiable descriptions and notations of arrests, detentions, indictments, informations, and other formal criminal charges and their dispositions and, if required by Article 60.051(g)(2), Code of Criminal Procedure, information summarizing any forensic DNA test results indicating a high likelihood that the person committed another offense.

The term does not include:

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

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

SECTION 3.

SECTION 2. (a) Not later than December 1, 2009, the public safety director of the Department of Public Safety of the State of Texas shall adopt the rules required by

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The change in law made by this Act in amending Article 60.051(g), Code of Criminal Procedure, and Section 411.082(2), Government Code, applies only to the inclusion in the computerized criminal history system, on or after the effective date of this Act, of a summary of forensic DNA test results, regardless of whether the test results were obtained before, on, or after that date.

An entry made in the computerized criminal history system before the effective date of this Act is covered by the law in effect on the date the entry was made, and the former law is continued in effect for that purpose.

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

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Section 411.0604, Government Code, as added by this Act.

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

SECTION 3. Same as House version.

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