

By: Hernandez Luna

H.B. No. 3228

A BILL TO BE ENTITLED

AN ACT

relating to the creation of DNA records for the state and federal DNA database systems.

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

SECTION 1. The heading to Subchapter G, Chapter 411, Government Code, is amended to read as follows:

SUBCHAPTER G. DNA [~~DATABASE SYSTEM~~]

SECTION 2. Subchapter G, Chapter 411, Government Code, is amended by adding Section 411.150 to read as follows:

Sec. 411.150. FORENSIC IDENTIFICATION PROFILES FOR PERSONS SUSPECTED OF A CRIMINAL OFFENSE. (a) A biological specimen that is obtained from a person who is a suspect in a criminal investigation may be analyzed for forensic identification profiles, including DNA profiles, by:

(1) the DNA laboratory of the United States Department of Justice; or

(2) public or private accredited crime laboratories in this state that meet the quality assurance standards prescribed by federal law.

(b) A law enforcement agency that submits a person's specimen under this section to the DNA laboratory of the United States Department of Justice or to an accredited public or private crime laboratory in this state shall:

(1) inform the applicable laboratory, not later than

1 the second anniversary of the date the specimen is submitted, as to
2 whether the person remains a suspect in a criminal investigation;
3 and

4 (2) seek the expunction of any DNA records of a person
5 who is no longer considered to be a suspect, if the suspicion of the
6 person was the sole reason for the inclusion of those records in a
7 database.

8 SECTION 3. Section 411.151, Government Code, is amended by
9 adding Subsection (e) to read as follows:

10 (e) When a person's DNA sample and DNA record are expunged
11 from the DNA database under this subchapter, the director or the
12 director's designee shall ensure that the person's DNA sample and
13 DNA record are also expunged from the CODIS database. The
14 department's failure to expunge a DNA record as required by this
15 section may not serve as the sole grounds for a court in a criminal
16 proceeding to exclude evidence based on or derived from the
17 contents of that record.

18 SECTION 4. The change in law made by this Act in adding
19 Section 411.150, Government Code, applies only to a biological
20 specimen obtained from a suspect on or after the effective date of
21 this Act. A biological specimen obtained from a suspect before the
22 effective date of this Act is governed by the law in effect on the
23 date the specimen was obtained, and the former law is continued in
24 effect for that purpose.

25 SECTION 5. This Act takes effect September 1, 2011.