



13 MAY -2 PM 6:53

HOUSE OF REPRESENTATIVES

FLOOR AMENDMENT NO. _____

BY: Eiland

1 Amend C.S.S.B. No. 213 (house committee printing) as
2 follows:

3 (1) Add the following appropriately numbered SECTIONS to
4 the bill and renumber subsequent SECTIONS of the bill accordingly:

5 SECTION _____. Subchapter A, Chapter 102, Code of Criminal
6 Procedure, is amended by adding Article 102.015 to read as follows:

7 Art. 102.015. FEE FOR COLLECTION OF DNA AFTER CERTAIN
8 ARRESTS. (a) This article applies only to a defendant arrested for
9 an offense other than an offense punishable by fine only.

10 (b) The court shall order a defendant to whom this article
11 applies to pay a fee of \$27 to the arresting law enforcement agency
12 to reimburse the agency for the cost of the evidence collection kit
13 used to collect a DNA sample from the defendant under Section
14 411.148(a)(1)(C), Government Code.

15 SECTION _____. Section 103.024, Government Code, is amended
16 to read as follows:

17 Sec. 103.024. MISCELLANEOUS FEES AND COSTS: CODE OF
18 CRIMINAL PROCEDURE. Fees and costs shall be paid or collected under
19 the Code of Criminal Procedure as follows:

20 (1) filing of a restitution lien (Art. 42.22, Code of
21 Criminal Procedure) . . . \$5;

22 (2) issuance and service of a warrant of arrest for
23 certain offenses if prescribed by the municipality (Art. 45.203,
24 Code of Criminal Procedure) . . . not to exceed \$25; [~~and~~]

25 (3) a fee for each agency or organization designated
26 by a registered sex offender for receipt of a copy of an order
27 making the registration nonpublic (Art. [~~Sec.~~] 62.353, Code of
28 Criminal Procedure) . . . \$20; and

29 (4) a fee to reimburse a law enforcement agency for the

1 cost of an evidence collection kit (Art. 102.015, Code of Criminal
2 Procedure) . . . \$27.

3 SECTION _____. The heading to Section 411.1471, Government
4 Code, is amended to read as follows:

5 Sec. 411.1471. DNA RECORDS OF PERSONS CHARGED WITH OR
6 CONVICTED OF CERTAIN OFFENSES [~~FELONIES~~].

7 SECTION _____. Section 411.1471(a), Government Code, is
8 amended to read as follows:

9 (a) This section applies to a defendant who has not already
10 provided a sample to an arresting agency as required by Section
11 411.148(a)(1)(C) and who [~~is~~]:

12 (1) is indicted or waives indictment for a felony
13 prohibited or punishable under any of the following Penal Code
14 sections:

- 15 (A) Section 20.04(a)(4);
- 16 (B) Section 21.11;
- 17 (C) Section 22.011;
- 18 (D) Section 22.021;
- 19 (E) Section 25.02;
- 20 (F) Section 30.02(d);
- 21 (G) Section 43.05;
- 22 (H) Section 43.25;
- 23 (I) Section 43.26;
- 24 (J) Section 21.02; or
- 25 (K) Section 20A.03;

26 (2) is arrested for a felony described by Subdivision
27 (1) after having been previously convicted of or placed on deferred
28 adjudication for an offense described by Subdivision (1) or an
29 offense punishable under Section 30.02(c)(2), Penal Code; or

30 (3) is convicted of an offense under Section 21.07 or
31 21.08, Penal Code.

1 SECTION _____. Section 411.148, Government Code, is amended
2 by amending Subsections (a), (d), (f), and (h) and adding
3 Subsection (d-1) to read as follows:

4 (a) This section applies to:

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

6 (A) ordered by a magistrate or court to provide a
7 DNA sample under Section 411.154 or other law, including as part of
8 an order granting community supervision to the individual; ~~[or]~~

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

11 (C) arrested for any offense punishable as a
12 Class B misdemeanor or higher; or

13 (2) a juvenile who, following an adjudication for
14 conduct constituting a felony, is:

15 (A) confined in a facility operated by or under
16 contract with the Texas Juvenile Justice Department [~~Youth~~
17 ~~Commission~~]; or

18 (B) placed on probation, if the conduct
19 constitutes a felony described by Section 54.0409, Family Code.

20 (d) If an individual described by Subsection (a)(1)(B) is
21 received into custody by the Texas Department of Criminal Justice,
22 that department shall collect the sample from the individual during
23 the diagnostic process or at another time determined by the Texas
24 Department of Criminal Justice. If an individual described by
25 Subsection (a)(2)(A) is received into custody by the Texas Juvenile
26 Justice Department [~~Youth Commission~~], the Texas Juvenile Justice
27 Department [~~youth commission~~] shall collect the sample from the
28 individual during the initial examination or at another time
29 determined by the Texas Juvenile Justice Department [~~youth~~
30 ~~commission~~]. If an individual who is required under this section or
31 other law to provide a DNA sample is in the custody or under the

1 supervision of another criminal justice agency, such as a community
2 supervision and corrections department, a parole office, or a local
3 juvenile probation department or parole office, that agency shall
4 collect the sample from the individual at a time determined by the
5 agency. The duties imposed by this subsection do not apply if a
6 sample has already been collected under Subsection (d-1).

7 (d-1) If an individual described by Subsection (a)(1)(C) is
8 lawfully arrested, the arresting agency shall collect the sample
9 from the individual during the fingerprinting and booking process.

10 (f) The Texas Department of Criminal Justice shall notify
11 the director that an individual described by Subsection (a)(1)(B)
12 is to be released from custody not earlier than the 120th day before
13 the individual's statutory release date and not later than the 90th
14 day before the individual's statutory release date. The [An]
15 individual [~~described by Subsection (a)(1)(B)~~] may not be held past
16 the individual's statutory release date if the individual fails or
17 refuses to provide a DNA sample under this section. The Texas
18 Department of Criminal Justice may take lawful administrative
19 action, including disciplinary action resulting in the loss of good
20 conduct time, against an individual [~~described by Subsection~~
21 ~~(a)(1)(B)~~] who refuses to provide a sample as required by
22 Subsection (d) [~~under this section~~]. In this subsection,
23 "statutory release date" means the date on which an individual is
24 discharged from the individual's controlling sentence.

25 (h) An employee of a criminal justice agency or of an
26 arresting agency may use force against an individual required to
27 provide a DNA sample under this section when and to the degree the
28 employee reasonably believes the force is immediately necessary to
29 collect the sample.

30 SECTION _____. Section 411.148(i)(1), Government Code, is
31 amended to read as follows:

1 (1) The Texas Department of Criminal Justice as soon
2 as practicable shall cause a sample to be collected from an
3 individual, other than an individual who has already provided a
4 sample to an arresting agency as required by Subsection (a)(1)(C),
5 ~~[described by Subsection (a)(1)(B)]~~ if:

6 (A) the individual is confined in another penal
7 institution after sentencing and before admission to the
8 department; and

9 (B) the department determines that the
10 individual is likely to be released before being admitted to the
11 department.

12 SECTION _____. Section 411.151, Government Code, is amended
13 by amending Subsection (a) and adding Subsection (f) to read as
14 follows:

15 (a) The director shall expunge a DNA record of an individual
16 from a DNA database, including the destruction of the associated
17 DNA sample, if the person:

18 (1) notifies the director in writing that the DNA
19 record has been ordered to be expunged under this section or Chapter
20 55, Code of Criminal Procedure, and provides the director with a
21 certified copy of the court order that expunges the DNA record; or

22 (2) provides the director with:

23 (A) a certified copy of a court order issued
24 under Section 58.003, Family Code, that seals the juvenile record
25 of the adjudication that resulted in the DNA record;

26 (B) a certified copy of the judgment in the case
27 showing an acquittal, an entry of nolle prosequi, or a discharge and
28 dismissal after the successful completion of a pretrial diversion
29 program or the successful completion of a period of deferred
30 adjudication community supervision; or

31 (C) if the DNA sample was collected in relation

1 to the arrest of the person, a sworn affidavit stating that no
2 charges arising from the arrest have been filed before the first
3 anniversary of the date of the person's arrest.

4 (f) When a person's DNA sample and DNA record are expunged
5 from the DNA database under this subchapter, the director or the
6 director's designee shall ensure that the person's DNA sample and
7 DNA record are also expunged from the CODIS database.

8 SECTION _____. (a) The changes in law made by this Act in
9 adding Article 102.015, Code of Criminal Procedure, and in amending
10 Sections 103.024, 411.1471, and 411.148, Government Code, apply
11 only to a person arrested for an offense committed on or after the
12 effective date of this Act. A person arrested for an offense
13 committed before the effective date of this Act is governed by the
14 law in effect on the date the offense was committed, and the former
15 law is continued in effect for that purpose. For purposes of this
16 subsection, an offense was committed before the effective date of
17 this Act if any element of the offense occurred before that date.

18 (b) The change in law made by this Act in amending Section
19 411.151, Government Code, applies to the expunction of a DNA record
20 from a DNA database regardless of whether the record was created
21 before, on, or after the effective date of this Act.

22 (2) Strike SECTION 41 of the bill (page 36, line 3) and
23 substitute the following appropriately numbered SECTION:

24 SECTION _____. (a) Except as provided by Subsections (b) and
25 (c) of this section, this Act takes effect September 1, 2013.

26 (b) Sections ____ through ____ of this Act, adding Article
27 102.015, Code of Criminal Procedure, and amending Sections 103.024,
28 411.1471, and 411.148, Government Code, take effect 30 days after
29 the date on which the comptroller of public accounts certifies that
30 the Department of Public Safety of the State of Texas has received
31 sufficient gifts or grants or funds from sources other than the

1 General Appropriations Act to improve its crime laboratory
2 equipment and services to enable the analysis of DNA samples
3 collected from arrested persons as required by Section
4 411.148(a)(1)(C), Government Code. The department shall provide to
5 the comptroller timely notice of the receipt of sufficient gifts,
6 grants, or funds.

7 (c) If the comptroller by September 1, 2015, does not make
8 the certification described by Subsection (b) of this section,
9 Sections ____ through ____ of this Act have no effect.

