

By: Hernandez Luna

H.B. No. 1063

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. Article 102.020(a), Code of Criminal Procedure,  
5 is amended to read as follows:

6 (a) A person shall pay as a cost of court:

7 (1) \$250 on conviction of an offense listed in Section  
8 411.1471(a)(1), Government Code;

9 (2) \$50 on conviction of an offense described by  
10 [~~listed in~~] Section 411.1471(a)(3), Government Code, other than an  
11 offense described by Subdivision (1) of this subsection [~~of that~~  
12 code]; or

13 (3) \$34 on placement of the person on:

14 (A) community supervision, including deferred  
15 adjudication community supervision, if the person is required to  
16 submit a DNA sample under Section 11(j), Article 42.12; or

17 (B) deferred adjudication community supervision  
18 for an offense described by Section 411.1471(a)(4), Government  
19 Code.

20 SECTION 2. Section 102.021, Government Code, is amended to  
21 read as follows:

22 Sec. 102.021. COURT COSTS ON CONVICTION: CODE OF CRIMINAL  
23 PROCEDURE. A person convicted of an offense shall pay the  
24 following under the Code of Criminal Procedure, in addition to all

1 other costs:

2 (1) court cost on conviction of any offense, other  
3 than a conviction of an offense relating to a pedestrian or the  
4 parking of a motor vehicle (Art. 102.0045, Code of Criminal  
5 Procedure) . . . . . \$4;

6 (2) a fee for services of prosecutor (Art. 102.008,  
7 Code of Criminal Procedure) . . . . . \$25;

8 (3) fees for services of peace officer:

9 (A) issuing a written notice to appear in court  
10 for certain violations (Art. 102.011, Code of Criminal  
11 Procedure) . . . . . \$5;

12 (B) executing or processing an issued arrest  
13 warrant, capias, or capias pro fine (Art. 102.011, Code of Criminal  
14 Procedure) . . . . . \$50;

15 (C) summoning a witness (Art. 102.011, Code of  
16 Criminal Procedure) . . . . . \$5;

17 (D) serving a writ not otherwise listed (Art.  
18 102.011, Code of Criminal Procedure) . . . . . \$35;

19 (E) taking and approving a bond and, if  
20 necessary, returning the bond to courthouse (Art. 102.011, Code of  
21 Criminal Procedure) . . . . . \$10;

22 (F) commitment or release (Art. 102.011, Code of  
23 Criminal Procedure) . . . . . \$5;

24 (G) summoning a jury (Art. 102.011, Code of  
25 Criminal Procedure) . . . . . \$5;

26 (H) attendance of a prisoner in habeas corpus  
27 case if prisoner has been remanded to custody or held to bail (Art.

1 102.011, Code of Criminal Procedure) . . . . . \$8 each day;  
2 (I) mileage for certain services performed (Art.  
3 102.011, Code of Criminal Procedure) . . . . . \$0.29 per mile; and  
4 (J) services of a sheriff or constable who serves  
5 process and attends examining trial in certain cases (Art. 102.011,  
6 Code of Criminal Procedure) . . . . . not to exceed \$5;  
7 (4) services of a peace officer in conveying a  
8 witness outside the county (Art. 102.011, Code of  
9 Criminal Procedure) . . . \$10 per day or part of a day, plus  
10 actual necessary travel expenses;  
11 (5) overtime of peace officer for time spent  
12 testifying in the trial or traveling to or from testifying in the  
13 trial (Art. 102.011, Code of Criminal Procedure) . . . actual cost;  
14 (6) court costs on an offense relating to rules of the  
15 road, when offense occurs within a school crossing zone (Art.  
16 102.014, Code of Criminal Procedure) . . . . . \$25;  
17 (7) court costs on an offense of passing a school bus  
18 (Art. 102.014, Code of Criminal Procedure) . . . . . \$25;  
19 (8) court costs on an offense of truancy or  
20 contributing to truancy (Art. 102.014, Code of Criminal  
21 Procedure) . . . . . \$20;  
22 (9) cost for visual recording of intoxication  
23 arrest before conviction (Art. 102.018, Code of Criminal  
24 Procedure) . . . . . \$15;  
25 (10) cost of certain evaluations (Art. 102.018, Code  
26 of Criminal Procedure) . . . . . actual cost;  
27 (11) additional costs attendant to certain

1 intoxication convictions under Chapter 49, Penal Code, for  
2 emergency medical services, trauma facilities, and trauma care  
3 systems (Art. 102.0185, Code of Criminal Procedure) . . . . . \$100;  
4           (12) additional costs attendant to certain child  
5 sexual assault and related convictions, for child abuse  
6 prevention programs (Art. 102.0186, Code of Criminal  
7 Procedure) . . . . . \$100;  
8           (13) court cost for DNA testing for certain felonies  
9 (Art. 102.020(a)(1), Code of Criminal Procedure) . . . . . \$250;  
10           (14) court cost for DNA testing for certain  
11 misdemeanors and felonies [~~the offense of public lewdness or~~  
12 ~~indecent exposure~~] (Art. 102.020(a)(2), Code of Criminal  
13 Procedure) . . . . . \$50;  
14           (15) court cost for DNA testing for certain  
15 misdemeanors and felonies (Art. 102.020(a)(3), Code of Criminal  
16 Procedure) . . . . . \$34;  
17           (16) if required by the court, a restitution fee for  
18 costs incurred in collecting restitution installments and for the  
19 compensation to victims of crime fund (Art. 42.037, Code of  
20 Criminal Procedure) . . . . . \$12;  
21           (17) if directed by the justice of the peace or  
22 municipal court judge hearing the case, court costs on  
23 conviction in a criminal action (Art. 45.041, Code of  
24 Criminal Procedure) . . . part or all of the costs as directed by  
25 the judge; and  
26           (18) costs attendant to convictions under Chapter 49,  
27 Penal Code, and under Chapter 481, Health and Safety Code, to help

1 fund drug court programs established under Chapter 469, Health and  
2 Safety Code (Art. 102.0178, Code of Criminal Procedure) . . . . \$60.

3 SECTION 3. Section 411.142(c), Government Code, is amended  
4 to read as follows:

5 (c) The director may receive, analyze, store, and destroy a  
6 DNA record or DNA sample for the purposes described by Section  
7 411.143. If a DNA sample was collected solely for the purpose of  
8 creating a DNA record, the director shall destroy the sample  
9 immediately after any test results associated with the sample are  
10 entered into the DNA database and the CODIS database.

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

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

15 SECTION 5. Sections 411.1471(a), (b), and (f), Government  
16 Code, are amended to read as follows:

17 (a) This section applies to a defendant who is:  
18 (1) indicted or waives indictment for a felony  
19 prohibited or punishable under any of the following Penal Code  
20 sections:

- 21 (A) Section 20.04(a)(4);
- 22 (B) Section 21.11;
- 23 (C) Section 22.011;
- 24 (D) Section 22.021;
- 25 (E) Section 25.02;
- 26 (F) Section 30.02(d);
- 27 (G) Section 43.05;

- 1 (H) Section 43.25;
- 2 (I) Section 43.26;
- 3 (J) Section 21.02; or
- 4 (K) Section 20A.03;

5 (2) arrested for a felony described by Subdivision (1)  
6 after having been previously convicted of or placed on deferred  
7 adjudication for an offense described by Subdivision (1) or an  
8 offense punishable under Section 30.02(c)(2), Penal Code; ~~or~~

9 (3) convicted of an offense punishable as a Class B  
10 misdemeanor or any higher category of offense; or

11 (4) placed on deferred adjudication for an offense  
12 under Section 21.07 or 21.08, Penal Code.

13 (b) After a defendant described by Subsection (a)(1) is  
14 indicted or waives indictment, the court in which the case is  
15 pending shall require the defendant to provide to a law enforcement  
16 agency one or more specimens for the purpose of creating a DNA  
17 record. A law enforcement agency arresting a defendant described  
18 by Subsection (a)(2), immediately after fingerprinting the  
19 defendant and at the same location as the fingerprinting occurs,  
20 shall require the defendant to provide one or more specimens for the  
21 purpose of creating a DNA record. After a defendant described by  
22 Subsection (a)(3) or (4) is convicted or placed on deferred  
23 adjudication, as applicable, the court shall require the defendant  
24 to provide to a law enforcement agency one or more specimens for the  
25 purpose of creating a DNA record.

26 (f) A defendant who provides a DNA sample under this section  
27 is not required to provide a DNA sample under Section 411.148 unless

1 an attorney representing the state [~~in the prosecution of felony~~  
2 ~~offenses~~] establishes to the satisfaction of the director that the  
3 interests of justice or public safety require that the defendant  
4 provide additional samples.

5         SECTION 6. The change in law made by this Act in amending  
6 Article 102.020, Code of Criminal Procedure, and Section 411.1471,  
7 Government Code, applies only to an offense committed on or after  
8 the effective date of this Act. An offense committed before the  
9 effective date of this Act is covered by the law in effect at the  
10 time the offense was committed, and the former law is continued in  
11 effect for that purpose. For purposes of this section, an offense  
12 was committed before the effective date of this Act if any element  
13 of the offense occurred before that date.

14         SECTION 7. This Act takes effect September 1, 2013.