

By: Patrick, Davis

S.B. No. 767

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.