

1-1 By: Patrick, Davis S.B. No. 767
 1-2 (In the Senate - Filed February 22, 2013; February 26, 2013,
 1-3 read first time and referred to Committee on Criminal Justice;
 1-4 April 3, 2013, reported adversely, with favorable Committee
 1-5 Substitute by the following vote: Yeas 5, Nays 0; April 3, 2013,
 1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8 Whitmire	X			
1-9 Huffman	X			
1-10 Carona			X	
1-11 Hinojosa	X			
1-12 Patrick	X			
1-13 Rodriguez	X			
1-14 Schwertner			X	

1-16 COMMITTEE SUBSTITUTE FOR S.B. No. 767 By: Patrick

1-17 A BILL TO BE ENTITLED
 1-18 AN ACT

1-19 relating to the creation of DNA records for the DNA database system.
 1-20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
 1-21 SECTION 1. Subsections (a) and (h-1), Article 102.020, Code
 1-22 of Criminal Procedure, are amended to read as follows:
 1-23 (a) A person shall pay as a cost of court:
 1-24 (1) \$250 on conviction of an offense listed in Section
 1-25 411.1471(a)(1), Government Code;
 1-26 (2) \$50 on conviction of an offense described by
 1-27 [~~listed in~~] Section 411.1471(a)(3), Government Code, other than an
 1-28 offense described by Subdivision (1) of this subsection [~~of that~~
 1-29 ~~code~~]; or
 1-30 (3) \$34 on placement of the person on:
 1-31 (A) community supervision, including deferred
 1-32 adjudication community supervision, if the person is required to
 1-33 submit a DNA sample under Section 11(j), Article 42.12; or
 1-34 (B) deferred adjudication community supervision
 1-35 for an offense described by Section 411.1471(a)(4), Government
 1-36 Code.
 1-37 (h-1) The clerk of the court shall transfer to the
 1-38 comptroller any funds received under Subsection (a)(2) or (3)
 1-39 [~~(a)(3)~~]. The comptroller shall credit the funds to the Department
 1-40 of Public Safety to help defray the cost of collecting or analyzing
 1-41 [~~any analyses performed on~~] DNA samples provided by defendants who
 1-42 are required to pay a court cost under this article.
 1-43 SECTION 2. Section 102.021, Government Code, is amended to
 1-44 read as follows:
 1-45 Sec. 102.021. COURT COSTS ON CONVICTION: CODE OF CRIMINAL
 1-46 PROCEDURE. A person convicted of an offense shall pay the following
 1-47 under the Code of Criminal Procedure, in addition to all other
 1-48 costs:
 1-49 (1) court cost on conviction of any offense, other
 1-50 than a conviction of an offense relating to a pedestrian or the
 1-51 parking of a motor vehicle (Art. 102.0045, Code of Criminal
 1-52 Procedure) \$4;
 1-53 (2) a fee for services of prosecutor (Art. 102.008,
 1-54 Code of Criminal Procedure) \$25;
 1-55 (3) fees for services of peace officer:
 1-56 (A) issuing a written notice to appear in court
 1-57 for certain violations (Art. 102.011, Code of Criminal
 1-58 Procedure) \$5;
 1-59 (B) executing or processing an issued arrest
 1-60 warrant, capias, or capias pro fine (Art. 102.011, Code of Criminal

2-1 Procedure) \$50;
 2-2 (C) summoning a witness (Art. 102.011, Code of
 2-3 Criminal Procedure) \$5;
 2-4 (D) serving a writ not otherwise listed (Art.
 2-5 102.011, Code of Criminal Procedure) \$35;
 2-6 (E) taking and approving a bond and, if
 2-7 necessary, returning the bond to courthouse (Art. 102.011, Code of
 2-8 Criminal Procedure) \$10;
 2-9 (F) commitment or release (Art. 102.011, Code of
 2-10 Criminal Procedure) \$5;
 2-11 (G) summoning a jury (Art. 102.011, Code of
 2-12 Criminal Procedure) \$5;
 2-13 (H) attendance of a prisoner in habeas corpus
 2-14 case if prisoner has been remanded to custody or held to bail (Art.
 2-15 102.011, Code of Criminal Procedure) \$8 each day;
 2-16 (I) mileage for certain services performed (Art.
 2-17 102.011, Code of Criminal Procedure) \$0.29 per mile; and
 2-18 (J) services of a sheriff or constable who serves
 2-19 process and attends examining trial in certain cases (Art. 102.011,
 2-20 Code of Criminal Procedure) not to exceed \$5;
 2-21 (4) services of a peace officer in conveying a
 2-22 witness outside the county (Art. 102.011, Code of
 2-23 Criminal Procedure) . . . \$10 per day or part of a day, plus
 2-24 actual necessary travel expenses;
 2-25 (5) overtime of peace officer for time spent
 2-26 testifying in the trial or traveling to or from testifying in the
 2-27 trial (Art. 102.011, Code of Criminal Procedure) . . . actual cost;
 2-28 (6) court costs on an offense relating to rules of the
 2-29 road, when offense occurs within a school crossing zone (Art.
 2-30 102.014, Code of Criminal Procedure) \$25;
 2-31 (7) court costs on an offense of passing a school bus
 2-32 (Art. 102.014, Code of Criminal Procedure) \$25;
 2-33 (8) court costs on an offense of truancy or
 2-34 contributing to truancy (Art. 102.014, Code of Criminal
 2-35 Procedure) \$20;
 2-36 (9) cost for visual recording of intoxication
 2-37 arrest before conviction (Art. 102.018, Code of Criminal
 2-38 Procedure) \$15;
 2-39 (10) cost of certain evaluations (Art. 102.018, Code
 2-40 of Criminal Procedure) actual cost;
 2-41 (11) additional costs attendant to certain
 2-42 intoxication convictions under Chapter 49, Penal Code, for
 2-43 emergency medical services, trauma facilities, and trauma care
 2-44 systems (Art. 102.0185, Code of Criminal Procedure) \$100;
 2-45 (12) additional costs attendant to certain child
 2-46 sexual assault and related convictions, for child abuse
 2-47 prevention programs (Art. 102.0186, Code of Criminal
 2-48 Procedure) \$100;
 2-49 (13) court cost for DNA testing for certain felonies
 2-50 (Art. 102.020(a)(1), Code of Criminal Procedure) \$250;
 2-51 (14) court cost for DNA testing for certain
 2-52 misdemeanors and felonies [~~the offense of public lewdness or~~
 2-53 ~~indecent exposure~~] (Art. 102.020(a)(2), Code of Criminal
 2-54 Procedure) \$50;
 2-55 (15) court cost for DNA testing for certain
 2-56 misdemeanors and felonies (Art. 102.020(a)(3), Code of Criminal
 2-57 Procedure) \$34;
 2-58 (16) if required by the court, a restitution fee for
 2-59 costs incurred in collecting restitution installments and for the
 2-60 compensation to victims of crime fund (Art. 42.037, Code of
 2-61 Criminal Procedure) \$12;
 2-62 (17) if directed by the justice of the peace or
 2-63 municipal court judge hearing the case, court costs on
 2-64 conviction in a criminal action (Art. 45.041, Code of
 2-65 Criminal Procedure) . . . part or all of the costs as directed by
 2-66 the judge; and
 2-67 (18) costs attendant to convictions under Chapter 49,
 2-68 Penal Code, and under Chapter 481, Health and Safety Code, to help
 2-69 fund drug court programs established under Chapter 469, Health and

3-1 Safety Code (Art. 102.0178, Code of Criminal Procedure) . . . \$60.
3-2 SECTION 3. Subsection (c), Section 411.142, Government
3-3 Code, is amended to read as follows:

3-4 (c) The director may receive, analyze, store, and destroy a
3-5 DNA record or DNA sample for the purposes described by Section
3-6 411.143. If a DNA sample was collected solely for the purpose of
3-7 creating a DNA record, the director shall destroy the sample
3-8 immediately after any test results associated with the sample are
3-9 entered into the DNA database and the CODIS database.

3-10 SECTION 4. The heading to Section 411.1471, Government
3-11 Code, is amended to read as follows:

3-12 Sec. 411.1471. DNA RECORDS OF PERSONS CHARGED WITH OR
3-13 CONVICTED OF CERTAIN OFFENSES [~~FELONIES~~].

3-14 SECTION 5. Subsections (a), (b), and (f), Section 411.1471,
3-15 Government Code, are amended to read as follows:

3-16 (a) This section applies to a defendant who is:

3-17 (1) indicted or waives indictment for a felony
3-18 prohibited or punishable under any of the following Penal Code
3-19 sections:

- 3-20 (A) Section 20.04(a)(4);
- 3-21 (B) Section 21.11;
- 3-22 (C) Section 22.011;
- 3-23 (D) Section 22.021;
- 3-24 (E) Section 25.02;
- 3-25 (F) Section 30.02(d);
- 3-26 (G) Section 43.05;
- 3-27 (H) Section 43.25;
- 3-28 (I) Section 43.26;
- 3-29 (J) Section 21.02; or
- 3-30 (K) Section 20A.03;

3-31 (2) arrested for a felony described by Subdivision (1)
3-32 after having been previously convicted of or placed on deferred
3-33 adjudication for an offense described by Subdivision (1) or an
3-34 offense punishable under Section 30.02(c)(2), Penal Code; [~~or~~]

3-35 (3) convicted of an offense punishable as a Class B
3-36 misdemeanor or any higher category of offense; or

3-37 (4) placed on deferred adjudication for an offense
3-38 under Section 21.07 or 21.08, Penal Code.

3-39 (b) After a defendant described by Subsection (a)(1) is
3-40 indicted or waives indictment, the court in which the case is
3-41 pending shall require the defendant to provide to a law enforcement
3-42 agency one or more specimens for the purpose of creating a DNA
3-43 record. A law enforcement agency arresting a defendant described
3-44 by Subsection (a)(2), immediately after fingerprinting the
3-45 defendant and at the same location as the fingerprinting occurs,
3-46 shall require the defendant to provide one or more specimens for the
3-47 purpose of creating a DNA record. After a defendant described by
3-48 Subsection (a)(3) or (4) is convicted or placed on deferred
3-49 adjudication, as applicable, the court shall require the defendant
3-50 to provide to a law enforcement agency one or more specimens for the
3-51 purpose of creating a DNA record.

3-52 (f) A defendant who provides a DNA sample under this section
3-53 is not required to provide a DNA sample under Section 411.148 unless
3-54 an attorney representing the state [~~in the prosecution of felony~~
3-55 ~~offenses~~] establishes to the satisfaction of the director that the
3-56 interests of justice or public safety require that the defendant
3-57 provide additional samples.

3-58 SECTION 6. The change in law made by this Act in amending
3-59 Article 102.020, Code of Criminal Procedure, and Section 411.1471,
3-60 Government Code, applies only to an offense committed on or after
3-61 the effective date of this Act. An offense committed before the
3-62 effective date of this Act is covered by the law in effect at the
3-63 time the offense was committed, and the former law is continued in
3-64 effect for that purpose. For purposes of this section, an offense
3-65 was committed before the effective date of this Act if any element
3-66 of the offense occurred before that date.

3-67 SECTION 7. This Act takes effect September 1, 2013.