

By: Hernandez, Faircloth

H.B. No. 941

A BILL TO BE ENTITLED

AN ACT

relating to the creation of DNA records for the DNA database system.

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

SECTION 1. Article 102.020(h-1), Code of Criminal Procedure, is amended to read as follows:

(h-1) The clerk of the court shall transfer to the comptroller any funds received under Subsection (a)(2) or (3) ~~[(a)(3)]~~. The comptroller shall credit the funds to the Department of Public Safety to help defray the cost of collecting or analyzing ~~[any analyses performed on]~~ DNA samples provided by defendants who are required to pay a court cost under this article.

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

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

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

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

(3) fees for services of peace officer:

1           (A) issuing a written notice to appear in court  
2 for certain violations (Art. 102.011, Code of Criminal  
3 Procedure) . . . . . \$5;  
4           (B) executing or processing an issued arrest  
5 warrant, capias, or capias pro fine (Art. 102.011, Code of Criminal  
6 Procedure) . . . . . \$50;  
7           (C) summoning a witness (Art. 102.011, Code of  
8 Criminal Procedure) . . . . . \$5;  
9           (D) serving a writ not otherwise listed (Art.  
10 102.011, Code of Criminal Procedure) . . . . . \$35;  
11           (E) taking and approving a bond and, if  
12 necessary, returning the bond to courthouse (Art. 102.011, Code of  
13 Criminal Procedure) . . . . . \$10;  
14           (F) commitment or release (Art. 102.011, Code of  
15 Criminal Procedure) . . . . . \$5;  
16           (G) summoning a jury (Art. 102.011, Code of  
17 Criminal Procedure) . . . . . \$5;  
18           (H) attendance of a prisoner in habeas corpus  
19 case if prisoner has been remanded to custody or held to bail (Art.  
20 102.011, Code of Criminal Procedure) . . . . . \$8 each day;  
21           (I) mileage for certain services performed (Art.  
22 102.011, Code of Criminal Procedure) . . . . . \$0.29 per mile; and  
23           (J) services of a sheriff or constable who serves  
24 process and attends examining trial in certain cases (Art. 102.011,  
25 Code of Criminal Procedure) . . . . . not to exceed \$5;  
26           (4) services of a peace officer in conveying a  
27 witness outside the county (Art. 102.011, Code of

1 Criminal Procedure) . . . \$10 per day or part of a day, plus  
2 actual necessary travel expenses;

3 (5) overtime of peace officer for time spent  
4 testifying in the trial or traveling to or from testifying in the  
5 trial (Art. [102.011](#), Code of Criminal Procedure) . . . actual cost;

6 (6) court costs on an offense relating to rules of the  
7 road, when offense occurs within a school crossing zone (Art.  
8 [102.014](#), Code of Criminal Procedure) . . . . . \$25;

9 (7) court costs on an offense of passing a school bus  
10 (Art. [102.014](#), Code of Criminal Procedure) . . . . . \$25;

11 (8) court costs on an offense of truancy or  
12 contributing to truancy (Art. [102.014](#), Code of Criminal  
13 Procedure) . . . . . \$20;

14 (9) cost for visual recording of intoxication  
15 arrest before conviction (Art. [102.018](#), Code of Criminal  
16 Procedure) . . . . . \$15;

17 (10) cost of certain evaluations (Art. [102.018](#), Code  
18 of Criminal Procedure) . . . . . actual cost;

19 (11) additional costs attendant to certain  
20 intoxication convictions under Chapter 49, Penal Code, for  
21 emergency medical services, trauma facilities, and trauma care  
22 systems (Art. [102.0185](#), Code of Criminal Procedure) . . . . . \$100;

23 (12) additional costs attendant to certain child  
24 sexual assault and related convictions, for child abuse  
25 prevention programs (Art. [102.0186](#), Code of Criminal  
26 Procedure) . . . . . \$100;

27 (13) court cost for DNA testing for certain felonies

(Art. 102.020(a)(1), Code of Criminal Procedure) . . . . . \$250;

(14) court cost for DNA testing for the offense of public lewdness, ~~[or]~~ indecent exposure, or enticing a child (Art. 102.020(a)(2), Code of Criminal Procedure) . . . . . \$50;

(15) court cost for DNA testing for certain felonies (Art. 102.020(a)(3), Code of Criminal Procedure) . . . . . \$34;

(16) if required by the court, a restitution fee for costs incurred in collecting restitution installments and for the compensation to victims of crime fund (Art. 42.037, Code of Criminal Procedure) . . . . . \$12;

(17) if directed by the justice of the peace or municipal court judge hearing the case, court costs on conviction in a criminal action (Art. 45.041, Code of Criminal Procedure) . . . part or all of the costs as directed by the judge; and

(18) costs attendant to convictions under Chapter 49, Penal Code, and under Chapter 481, Health and Safety Code, to help fund drug court programs established under Chapter 122, 123, 124, or 125, Government Code, or former law (Art. 102.0178, Code of Criminal Procedure) . . . \$60.

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

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

1 database and the CODIS database.

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

4 Sec. 411.1471. DNA RECORDS OF PERSONS ARRESTED FOR, CHARGED  
5 WITH, OR CONVICTED OF CERTAIN OFFENSES [~~FELONIES~~].

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

8 (a) This section applies to a defendant who is:

9 (1) indicted or waives indictment for a felony  
10 prohibited or punishable under any of the following Penal Code  
11 sections:

12 (A) Section 20.04(a)(4);

13 (B) Section 21.11;

14 (C) Section 22.011;

15 (D) Section 22.021;

16 (E) Section 25.02;

17 (F) Section 30.02(d);

18 (G) Section 43.05;

19 (H) Section 43.25;

20 (I) Section 43.26;

21 (J) Section 21.02; or

22 (K) Section 20A.03;

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

27 (3) convicted of an offense under Section 21.07, ~~[or]~~

1 [21.08](#), or [25.04](#), Penal Code.

2 (b) After a defendant described by Subsection (a)(1) is  
3 indicted or waives indictment, the court in which the case is  
4 pending shall require the defendant to provide to a law enforcement  
5 agency one or more specimens for the purpose of creating a DNA  
6 record. A law enforcement agency arresting a defendant described  
7 by Subsection (a)(2), immediately after fingerprinting the  
8 defendant and at the same location as the fingerprinting occurs,  
9 shall require the defendant to provide one or more specimens for the  
10 purpose of creating a DNA record. After a defendant described by  
11 Subsection (a)(3) is convicted ~~[or placed on deferred~~  
12 ~~adjudication]~~, the court shall require the defendant to provide to  
13 a law enforcement agency one or more specimens for the purpose of  
14 creating a DNA record.

15 (f) A defendant who provides a DNA sample under this section  
16 is not required to provide a DNA sample under Section 411.148 of  
17 this code or under Section 11(j), Article [42.12](#), Code of Criminal  
18 Procedure, unless the [an] attorney representing the state in the  
19 prosecution of the felony offense that makes Section 411.148 or  
20 11(j) applicable to the defendant ~~[offenses]~~ establishes to the  
21 satisfaction of the director that the interests of justice or  
22 public safety require that the defendant provide additional  
23 samples.

24 SECTION 6. The change in law made by this Act in amending  
25 Article [102.020](#), Code of Criminal Procedure, and Section 411.1471,  
26 Government Code, applies only to an offense committed on or after  
27 the effective date of this Act. An offense committed before the

1 effective date of this Act is governed by the law in effect at the  
2 time the offense was committed, and the former law is continued in  
3 effect for that purpose. For purposes of this section, an offense  
4 was committed before the effective date of this Act if any element  
5 of the offense occurred before that date.

6 SECTION 7. This Act takes effect September 1, 2015.