

By: Hernandez

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. Articles 102.020(a) and (h-1), Code of Criminal Procedure, are amended to read as follows:

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

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

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

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

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

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

(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:

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

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

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

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

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

1 (F) commitment or release (Art. 102.011, Code of
2 Criminal Procedure) \$5;
3 (G) summoning a jury (Art. 102.011, Code of
4 Criminal Procedure) \$5;
5 (H) attendance of a prisoner in habeas corpus
6 case if prisoner has been remanded to custody or held to bail (Art.
7 102.011, Code of Criminal Procedure) \$8 each day;
8 (I) mileage for certain services performed (Art.
9 102.011, Code of Criminal Procedure) \$0.29 per mile; and
10 (J) services of a sheriff or constable who serves
11 process and attends examining trial in certain cases (Art. 102.011,
12 Code of Criminal Procedure) not to exceed \$5;
13 (4) services of a peace officer in conveying a
14 witness outside the county (Art. 102.011, Code of
15 Criminal Procedure) . . . \$10 per day or part of a day, plus
16 actual necessary travel expenses;
17 (5) overtime of peace officer for time spent
18 testifying in the trial or traveling to or from testifying in the
19 trial (Art. 102.011, Code of Criminal Procedure) . . . actual cost;
20 (6) court costs on an offense relating to rules of the
21 road, when offense occurs within a school crossing zone (Art.
22 102.014, Code of Criminal Procedure) \$25;
23 (7) court costs on an offense of passing a school bus
24 (Art. 102.014, Code of Criminal Procedure) \$25;
25 (8) court costs on an offense of truancy or
26 contributing to truancy (Art. 102.014, Code of Criminal
27 Procedure) \$20;

1 (9) cost for visual recording of intoxication
2 arrest before conviction (Art. 102.018, Code of Criminal
3 Procedure) \$15;
4 (10) cost of certain evaluations (Art. 102.018, Code
5 of Criminal Procedure) actual cost;
6 (11) additional costs attendant to certain
7 intoxication convictions under Chapter 49, Penal Code, for
8 emergency medical services, trauma facilities, and trauma care
9 systems (Art. 102.0185, Code of Criminal Procedure) \$100;
10 (12) additional costs attendant to certain child
11 sexual assault and related convictions, for child abuse
12 prevention programs (Art. 102.0186, Code of Criminal
13 Procedure) \$100;
14 (13) court cost for DNA testing for certain felonies
15 (Art. 102.020(a)(1), Code of Criminal Procedure) \$250;
16 (14) court cost for DNA testing for certain felonies
17 ~~[the offense of public lewdness or indecent exposure]~~ (Art.
18 102.020(a)(2), Code of Criminal Procedure) \$50;
19 (15) court cost for DNA testing for certain
20 misdemeanors and felonies (Art. 102.020(a)(3), Code of Criminal
21 Procedure) \$34;
22 (16) if required by the court, a restitution fee for
23 costs incurred in collecting restitution installments and for the
24 compensation to victims of crime fund (Art. 42.037, Code of
25 Criminal Procedure) \$12;
26 (17) if directed by the justice of the peace or
27 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 shall destroy the sample immediately after any test results associated with the sample are entered into the DNA database and the CODIS database.

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

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

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

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

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

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

- (B) Section 21.11;
- (C) Section 22.011;
- (D) Section 22.021;
- (E) Section 25.02;
- (F) Section 30.02(d);
- (G) Section 43.05;
- (H) Section 43.25;
- (I) Section 43.26;
- (J) Section 21.02; or
- (K) Section 20A.03;

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

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

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

(b) After a defendant described by Subsection (a)(1) is indicted or waives indictment, the court in which the case is pending shall require the defendant to provide to a law enforcement agency one or more specimens for the purpose of creating a DNA record. A law enforcement agency arresting a defendant described by Subsection (a)(2), immediately after fingerprinting the defendant and at the same location as the fingerprinting occurs, shall require the defendant to provide one or more specimens for the purpose of creating a DNA record. After a defendant described by

1 Subsection (a)(3) or (4) is convicted or placed on deferred
2 adjudication, as applicable, the court shall require the defendant
3 to provide to a law enforcement agency one or more specimens for the
4 purpose of creating a DNA record.

5 (f) A defendant who provides a DNA sample under this section
6 is not required to provide a DNA sample under Section 411.148 unless
7 an attorney representing the state [~~in the prosecution of felony~~
8 ~~offenses~~] establishes to the satisfaction of the director that the
9 interests of justice or public safety require that the defendant
10 provide additional samples.

11 SECTION 6. The change in law made by this Act in amending
12 Article [102.020](#), Code of Criminal Procedure, and Section 411.1471,
13 Government Code, applies only to an offense committed on or after
14 the effective date of this Act. An offense committed before the
15 effective date of this Act is governed by the law in effect at the
16 time the offense was committed, and the former law is continued in
17 effect for that purpose. For purposes of this section, an offense
18 was committed before the effective date of this Act if any element
19 of the offense occurred before that date.

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