

By: Faircloth

H.B. No. 3740

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the creation of DNA records for a person arrested for a
3 Class A misdemeanor or felony offense.

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

5 SECTION 1. This Act may be cited as the Krystal Gene Baker
6 Act.

7 SECTION 2. Section 11(j), Article 42.12, Code of Criminal
8 Procedure, is amended to read as follows:

9 (j) A judge granting community supervision to a defendant
10 convicted of a felony shall require that the defendant, as a
11 condition of community supervision, provide a DNA sample under
12 Subchapter G, Chapter 411, Government Code, for the purpose of
13 creating a DNA record of the defendant, unless the defendant has
14 already submitted the required sample under Section 411.1471,
15 Government Code, or other [state] law.

16 SECTION 3. Article 102.020(a), Code of Criminal Procedure,
17 is amended to read as follows:

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

19 (1) \$250 on conviction of any [an] offense punishable
20 as a Class A misdemeanor or higher [listed in Section
21 411.1471(a)(1), Government Code];

22 (2) \$50 on conviction of any [an] offense punishable
23 as a Class B misdemeanor and specifically listed in Section
24 411.1471, Government Code [411.1471(a)(3) of that code]; or

1 (3) \$34 on placement of the person on community
2 supervision, including deferred adjudication community
3 supervision, if the person is required to submit a DNA sample under
4 Section 11(j), Article 42.12.

5 SECTION 4. Section 102.021, Government Code, is amended to
6 read as follows:

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

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

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

17 (3) fees for services of peace officer:

18 (A) issuing a written notice to appear in court
19 for certain violations (Art. 102.011, Code of Criminal Procedure) .
20 . . \$5;

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

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

26 (D) serving a writ not otherwise listed (Art.
27 102.011, Code of Criminal Procedure) . . . \$35;

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

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

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

8 (H) attendance of a prisoner in habeas corpus
9 case if prisoner has been remanded to custody or held to bail (Art.
10 102.011, Code of Criminal Procedure) . . . \$8 each day;

11 (I) mileage for certain services performed (Art.
12 102.011, Code of Criminal Procedure) . . . \$0.29 per mile; and

13 (J) services of a sheriff or constable who serves
14 process and attends examining trial in certain cases (Art. 102.011,
15 Code of Criminal Procedure) . . . not to exceed \$5;

16 (4) services of a peace officer in conveying a witness
17 outside the county (Art. 102.011, Code of Criminal Procedure) . . .
18 \$10 per day or part of a day, plus actual necessary travel expenses;

19 (5) overtime of peace officer for time spent
20 testifying in the trial or traveling to or from testifying in the
21 trial (Art. 102.011, Code of Criminal Procedure) . . . actual cost;

22 (6) court costs on an offense relating to rules of the
23 road, when offense occurs within a school crossing zone (Art.
24 102.014, Code of Criminal Procedure) . . . \$25;

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

27 (8) court costs on an offense of truancy or

1 contributing to truancy (Art. 102.014, Code of Criminal Procedure)
2 . . . \$20;

3 (9) cost for visual recording of intoxication arrest
4 before conviction (Art. 102.018, Code of Criminal Procedure) . . .
5 \$15;

6 (10) cost of certain evaluations (Art. 102.018, Code
7 of Criminal Procedure) . . . actual cost;

8 (11) additional costs attendant to certain
9 intoxication convictions under Chapter 49, Penal Code, for
10 emergency medical services, trauma facilities, and trauma care
11 systems (Art. 102.0185, Code of Criminal Procedure) . . . \$100;

12 (12) additional costs attendant to certain child
13 sexual assault and related convictions, for child abuse prevention
14 programs (Art. 102.0186, Code of Criminal Procedure) . . . \$100;

15 (13) court cost for DNA testing for certain Class A
16 misdemeanors and felonies (Art. 102.020(a)(1), Code of Criminal
17 Procedure) . . . \$250;

18 (14) court cost for DNA testing for certain Class B
19 misdemeanors [~~the offense of public lewdness or indecent exposure~~]
20 (Art. 102.020(a)(2), Code of Criminal Procedure) . . . \$50;

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

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

27 (17) if directed by the justice of the peace or

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

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

9 SECTION 5. The heading to Section 411.1471, Government
10 Code, is amended to read as follows:

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

13 SECTION 6. Section 411.1471, Government Code, is amended by
14 amending Subsections (a), (b), (e), and (f) and adding Subsection
15 (b-1) to read as follows:

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

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

20 [~~(A) Section 20.04(a)(4),~~

21 [~~(B) Section 21.11,~~

22 [~~(C) Section 22.011,~~

23 [~~(D) Section 22.021,~~

24 [~~(E) Section 25.02,~~

25 [~~(F) Section 30.02(d),~~

26 [~~(G) Section 43.05,~~

27 [~~(H) Section 43.25,~~

1 ~~[(I) Section 43.26,~~

2 ~~[(J) Section 21.02, or~~

3 ~~[(K) Section 20A.03,~~

4 ~~[(2)]~~ arrested for any offense punishable as a Class A
5 misdemeanor or higher ~~[felony described by Subdivision (1) after~~
6 ~~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 (2) ~~[(3)]~~ convicted of or placed on deferred
10 adjudication community supervision for an offense under Section
11 ~~[21.07 or] 21.08, Penal Code.~~

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

21 (b-1) After a defendant described by Subsection (a)(2)
22 ~~[(a)(3)]~~ is convicted or placed on deferred adjudication, the court
23 shall require the defendant to provide to a law enforcement agency
24 one or more specimens for the purpose of creating a DNA record.

25 (e) Notwithstanding Subsection (d), on acquittal of a
26 defendant described by Subsection (a)(1) ~~[or (2)]~~ or dismissal of
27 the case against the defendant, the court shall order the law

1 enforcement agency taking the specimen to immediately destroy the
2 record of the collection of the specimen and require the department
3 to destroy the specimen and the record of its receipt.

4 (f) A defendant who provides a DNA sample under this section
5 is not required to provide a DNA sample under Section [411.148](#) of
6 this code or under Section 11(j), Article [42.12](#), Code of Criminal
7 Procedure, unless the ~~[an]~~ attorney representing the state in the
8 prosecution of the felony offense that makes Section [411.148](#) or
9 11(j) applicable to the defendant ~~[offenses]~~ establishes to the
10 satisfaction of the director that the interests of justice or
11 public safety require that the defendant provide additional
12 samples.

13 SECTION 7. Section [411.1471\(c\)](#), Government Code, is
14 repealed.

15 SECTION 8. Section [411.1471](#), Government Code, as amended by
16 this Act, applies only to an offense committed on or after the
17 effective date of this Act. An offense committed before the
18 effective date of this Act is governed by the law in effect on the
19 date the offense was committed, and the former law is continued in
20 effect for that purpose. For purposes of this section, an offense
21 was committed before the effective date of this Act if any element
22 of the offense occurred before that date.

23 SECTION 9. This Act takes effect September 1, 2015.