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H.B. No. 1399

A BILL TO BE ENTITLED

AN ACT

relating to the creation and storage of DNA records for a person arrested for certain felony offenses.

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

SECTION 1. This Act may be cited as the Krystal Jean Baker Act.

SECTION 2. Article 42A.352, Code of Criminal Procedure, is amended to read as follows:

Art. 42A.352. DNA SAMPLE. A judge granting community supervision to a defendant convicted of a felony shall require as a condition of community supervision that the defendant provide a DNA sample under Subchapter G, Chapter 411, Government Code, for the purpose of creating a DNA record of the defendant, unless the defendant has already submitted the required sample under Section 411.1471, Government Code, or other ~~[state]~~ law.

SECTION 3. Article 102.020(a), Code of Criminal Procedure, is 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 Section 411.1471(a)(2) [~~411.1471(a)(3)~~], Government Code; or

(3) \$34 on placement of the person on community supervision, including deferred adjudication community

1 supervision, if the person is required to submit a DNA sample under
2 Article 42A.352.

3 SECTION 4. Subchapter G, Chapter 411, Government Code, is
4 amended by adding Section 411.1425 to read as follows:

5 Sec. 411.1425. GRANT FUNDS. The director shall apply for
6 any available federal grant funds applicable to the creation and
7 storage of DNA records of persons arrested for certain offenses.

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

10 Sec. 411.1471. DNA RECORDS OF PERSONS ARRESTED FOR [~~7~~
11 ~~CHARGED WITH,~~] OR CONVICTED OF CERTAIN OFFENSES.

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

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

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

19 (A) Section 19.02;

20 (B) Section 19.03;

21 (C) Section 20.03;

22 (D) Section 20.04 [~~20.04(a)(4)~~];

23 (E) Section 20.05;

24 (F) Section 20.06;

25 (G) Section 20A.02;

26 (H) Section 20A.03;

27 (I) Section 21.02;

- 1 (J) [~~(B)~~] Section 21.11;
- 2 (K) Section 22.01;
- 3 (L) [~~(C)~~] Section 22.011;
- 4 (M) Section 22.02;
- 5 (N) [~~(D)~~] Section 22.021;
- 6 (O) [~~(E)~~] Section 25.02;
- 7 (P) Section 29.02;
- 8 (Q) Section 29.03;
- 9 (R) [~~(F)~~] Section 30.02 [~~30.02(d)~~];
- 10 (S) Section 31.03;
- 11 (T) Section 43.03;
- 12 (U) Section 43.04;
- 13 (V) [~~(G)~~] Section 43.05;
- 14 (W) [~~(H)~~] Section 43.25; or
- 15 (X) [~~(I)~~] Section 43.26; or
- 16 [~~(J)~~ Section 21.02; or
- 17 [~~(K)~~ Section 20A.03;]

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

22 [~~(3)~~] convicted of an offense:

23 (A) under Title 5, Penal Code, other than an
24 offense described by Subdivision (1), that is punishable as a Class
25 A misdemeanor or any higher category of offense, except for an
26 offense punishable as a Class A misdemeanor under Section 20.02,
27 22.01, or 22.05, Penal Code; or

1 (B) under Section 21.08, 25.04, 43.02(b),
2 [~~43.03~~], or 43.24, Penal Code.

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

12 (b-1) After a defendant described by Subsection (a)(2)
13 [~~(a)(3)~~] is convicted, the court shall require the defendant to
14 provide to a law enforcement agency one or more specimens for the
15 purpose of creating a DNA record.

16 (e) Notwithstanding Subsection (d), on acquittal of a
17 defendant described by Subsection (a)(1) [~~or (2)~~] or dismissal of
18 the case against the defendant, the court shall order the law
19 enforcement agency taking the specimen to immediately destroy the
20 record of the collection of the specimen and require the department
21 to destroy the specimen and the record of its receipt.

22 SECTION 7. Section 411.1471(c), Government Code, is
23 repealed.

24 SECTION 8. Section 411.1471, Government Code, as amended by
25 this Act, applies only to an offense committed on or after the
26 effective date of this Act. An offense committed before the
27 effective date of this Act is governed by the law in effect on the

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

5 SECTION 9. This Act takes effect September 1, 2019.