

1-1 By: Smith, et al. (Senate Sponsor - Creighton) H.B. No. 1399
1-2 (In the Senate - Received from the House April 25, 2019;
1-3 May 10, 2019, read first time and referred to Committee on State
1-4 Affairs; May 19, 2019, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 8, Nays 1;
1-6 May 19, 2019, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11		X		
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			
1-17	X			

1-18 COMMITTEE SUBSTITUTE FOR H.B. No. 1399 By: Creighton

1-19 A BILL TO BE ENTITLED
1-20 AN ACT

1-21 relating to the creation and storage of DNA records for a person
1-22 arrested for certain felony offenses.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. This Act may be cited as the Krystal Jean Baker
1-25 Act.

1-26 SECTION 2. Article 42A.352, Code of Criminal Procedure, is
1-27 amended to read as follows:

1-28 Art. 42A.352. DNA SAMPLE. A judge granting community
1-29 supervision to a defendant convicted of a felony shall require as a
1-30 condition of community supervision that the defendant provide a DNA
1-31 sample under Subchapter G, Chapter 411, Government Code, for the
1-32 purpose of creating a DNA record of the defendant, unless the
1-33 defendant has already submitted the required sample under Section
1-34 411.1471, Government Code, or other ~~[state]~~ law.

1-35 SECTION 3. Article 102.020(a), Code of Criminal Procedure,
1-36 is amended to read as follows:

1-37 (a) A person shall pay as a cost of court:

1-38 (1) \$250 on conviction of an offense listed in Section
1-39 411.1471(a)(1), Government Code;

1-40 (2) \$50 on conviction of an offense described by
1-41 Section 411.1471(a)(2) [~~411.1471~~(a)(3)], Government Code; or

1-42 (3) \$34 on placement of the person on community
1-43 supervision, including deferred adjudication community
1-44 supervision, if the person is required to submit a DNA sample under
1-45 Article 42A.352.

1-46 SECTION 4. Subchapter G, Chapter 411, Government Code, is
1-47 amended by adding Section 411.1425 to read as follows:

1-48 Sec. 411.1425. GRANT FUNDS. The director shall apply for
1-49 any available federal grant funds applicable to the creation and
1-50 storage of DNA records of persons arrested for certain offenses.

1-51 SECTION 5. The heading to Section 411.1471, Government
1-52 Code, is amended to read as follows:

1-53 Sec. 411.1471. DNA RECORDS OF PERSONS ARRESTED FOR [~~7~~
1-54 ~~CHARGED WITH,~~] OR CONVICTED OF CERTAIN OFFENSES.

1-55 SECTION 6. Section 411.1471, Government Code, is amended by
1-56 amending Subsections (a), (b), and (e) and adding Subsection (b-1)
1-57 to read as follows:

1-58 (a) This section applies to a defendant who is:

1-59 (1) arrested [~~indicted or waives indictment~~] for a
1-60 felony prohibited [~~or punishable~~] under any of the following Penal

2-1 Code sections:

2-2 (A) Section 19.02;

2-3 (B) Section 19.03;

2-4 (C) Section 20.03;

2-5 (D) Section 20.04 [~~20.04(a)(4)~~];

2-6 (E) Section 20.05;

2-7 (F) Section 20.06;

2-8 (G) Section 20A.02;

2-9 (H) Section 20A.03;

2-10 (I) Section 21.02;

2-11 (J) [~~(B)~~] Section 21.11;

2-12 (K) Section 22.01;

2-13 (L) [~~(C)~~] Section 22.011;

2-14 (M) Section 22.02;

2-15 (N) [~~(D)~~] Section 22.021;

2-16 (O) [~~(E)~~] Section 25.02;

2-17 (P) Section 29.02;

2-18 (Q) Section 29.03;

2-19 (R) [~~(F)~~] Section 30.02 [~~30.02(d)~~];

2-20 (S) Section 31.03;

2-21 (T) Section 43.03;

2-22 (U) Section 43.04;

2-23 (V) [~~(G)~~] Section 43.05;

2-24 (W) [~~(H)~~] Section 43.25; or

2-25 (X) [~~(I)~~] Section 43.26; or

2-26 [~~(J)~~] Section 21.02; or

2-27 [~~(K)~~] Section 20A.03;

2-28 (2) [~~arrested for a felony described by Subdivision~~

2-29 ~~(1) after having been previously convicted of or placed on deferred~~

2-30 ~~adjudication for an offense described by Subdivision (1) or an~~

2-31 ~~offense punishable under Section 30.02(c)(2), Penal Code; or~~

2-32 ~~(3)] convicted of an offense:~~

2-33 (A) under Title 5, Penal Code, other than an

2-34 offense described by Subdivision (1), that is punishable as a Class

2-35 A misdemeanor or any higher category of offense, except for an

2-36 offense punishable as a Class A misdemeanor under Section 20.02,

2-37 22.01, or 22.05, Penal Code; or

2-38 (B) under Section 21.08, 25.04, 43.02(b),

2-39 [~~43.03,~~] or 43.24, Penal Code.

2-40 (b) [~~After a defendant described by Subsection (a)(1) is~~

2-41 ~~indicted or waives indictment, the court in which the case is~~

2-42 ~~pending shall require the defendant to provide to a law enforcement~~

2-43 ~~agency one or more specimens for the purpose of creating a DNA~~

2-44 ~~record.] A law enforcement agency arresting a defendant described~~

2-45 ~~by Subsection (a)(1) [(a)(2)], immediately after fingerprinting~~

2-46 ~~the defendant and at the same location as the fingerprinting~~

2-47 ~~occurs, shall require the defendant to provide one or more~~

2-48 ~~specimens for the purpose of creating a DNA record.~~

2-49 (b-1) After a defendant described by Subsection (a)(2)

2-50 [~~(a)(3)] is convicted, the court shall require the defendant to~~

2-51 ~~provide to a law enforcement agency one or more specimens for the~~

2-52 ~~purpose of creating a DNA record.~~

2-53 (e) Notwithstanding Subsection (d), on acquittal of a

2-54 defendant described by Subsection (a)(1) [~~or (2)] or dismissal of~~

2-55 ~~the case against the defendant, the court shall order the law~~

2-56 ~~enforcement agency taking the specimen to immediately destroy the~~

2-57 ~~record of the collection of the specimen and require the department~~

2-58 ~~to destroy the specimen and the record of its receipt.~~

2-59 SECTION 7. Section 411.1471(c), Government Code, is

2-60 repealed.

2-61 SECTION 8. Section 411.1471, Government Code, as amended by

2-62 this Act, applies only to an offense committed on or after the

2-63 effective date of this Act. An offense committed before the

2-64 effective date of this Act is governed by the law in effect on the

2-65 date the offense was committed, and the former law is continued in

2-66 effect for that purpose. For purposes of this section, an offense

2-67 was committed before the effective date of this Act if any element

2-68 of the offense occurred before that date.

2-69 SECTION 9. The Department of Public Safety of the State of

3-1 Texas is required to implement a provision of this Act only if the
3-2 legislature appropriates money specifically for that purpose. If
3-3 the legislature does not appropriate money specifically for that
3-4 purpose, the Department of Public Safety of the State of Texas may,
3-5 but is not required to, implement a provision of this Act using
3-6 other appropriations available for that purpose.
3-7 SECTION 10. This Act takes effect September 1, 2019.

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