

By: Phelan

H.B. No. 1580

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the creation and storage of DNA records for a person
3 arrested for a 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 Jean Baker
6 Act.

7 SECTION 2. Article [42A.352](#), Code of Criminal Procedure, is
8 amended to read as follows:

9 Art. 42A.352. DNA SAMPLE. A judge granting community
10 supervision to a defendant convicted of a felony shall require as a
11 condition of community supervision that the defendant provide a DNA
12 sample under Subchapter G, Chapter [411](#), Government Code, for the
13 purpose of creating a DNA record of the defendant, unless the
14 defendant has already submitted the required sample under Section
15 [411.1471](#), 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 felony ~~[listed in Section [411.1471](#)(a)(1), Government Code]~~;

21 (2) \$50 on conviction of a misdemeanor ~~[an]~~ offense
22 described by Section [411.1471](#)(a)(2) ~~[[411.1471](#)(a)(3)]~~, Government
23 Code; or

24 (3) \$34 on placement of the person on community

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

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

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

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

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

16 (3) fees for services of peace officer:

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

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

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

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

27 (E) taking and approving a bond and, if

1 necessary, returning the bond to courthouse (Art. 102.011, Code of
2 Criminal Procedure) . . . \$10;

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

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

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

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

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

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

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

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

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

26 (8) court costs on an offense of parent contributing
27 to student nonattendance (Art. 102.014, Code of Criminal Procedure)

- 1 . . . \$20;
- 2 (9) cost for visual recording of intoxication arrest
3 before conviction (Art. 102.018, Code of Criminal Procedure) . . .
4 \$15;
- 5 (10) cost of certain evaluations (Art. 102.018, Code
6 of Criminal Procedure) . . . actual cost;
- 7 (11) additional costs attendant to certain
8 intoxication convictions under Chapter 49, Penal Code, for
9 emergency medical services, trauma facilities, and trauma care
10 systems (Art. 102.0185, Code of Criminal Procedure) . . . \$100;
- 11 (12) additional costs attendant to certain child
12 sexual assault and related convictions, for child abuse prevention
13 programs (Art. 102.0186, Code of Criminal Procedure) . . . \$100;
- 14 (13) court cost for DNA testing for a felony [~~certain~~
15 ~~felonies~~] (Art. 102.020(a)(1), Code of Criminal Procedure) . . .
16 \$250;
- 17 (14) court cost for DNA testing for certain
18 misdemeanors [~~and felonies~~] (Art. 102.020(a)(2), Code of Criminal
19 Procedure) . . . \$50;
- 20 (15) court cost for DNA testing for a felony [~~certain~~
21 ~~felonies~~] (Art. 102.020(a)(3), Code of Criminal Procedure) . . .
22 \$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. Subchapter G, Chapter 411, Government Code, is
10 amended by adding Section 411.1425 to read as follows:

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

14 SECTION 6. The heading to Section 411.1471, Government
15 Code, is amended to read as follows:

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

18 SECTION 7. Section 411.1471, Government Code, is amended by
19 amending Subsections (a), (b), and (e) and adding Subsection (b-1)
20 to read as follows:

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

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

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

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

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

- 1 ~~[(D) Section 22.021,~~
- 2 ~~[(E) Section 25.02,~~
- 3 ~~[(F) Section 30.02(d),~~
- 4 ~~[(G) Section 43.05,~~
- 5 ~~[(H) Section 43.25,~~
- 6 ~~[(I) Section 43.26,~~
- 7 ~~[(J) Section 21.02, or~~
- 8 ~~[(K) Section 20A.03,~~

9 ~~[(2)]~~ arrested for any offense punishable as a felony
10 ~~[described by Subdivision (1) after having been previously~~
11 ~~convicted of or placed on deferred adjudication for an offense~~
12 ~~described by Subdivision (1) or an offense punishable under Section~~
13 ~~30.02(c)(2), Penal Code]; or~~

14 (2) ~~[(3)]~~ convicted of an offense:

15 (A) under Title 5, Penal Code, ~~[other than an~~
16 ~~offense described by Subdivision (1),]~~ that is punishable as a
17 Class A misdemeanor ~~[or any higher category of offense],~~ except for
18 an offense punishable as a Class A misdemeanor under Section 20.02,
19 22.01, or 22.05, Penal Code; or

20 (B) under Section 21.08, 25.04, 43.02(b), 43.03,
21 or 43.24, Penal Code.

22 (b) ~~[After a defendant described by Subsection (a)(1) is~~
23 ~~indicted or waives indictment, the court in which the case is~~
24 ~~pending shall require the defendant to provide to a law enforcement~~
25 ~~agency one or more specimens for the purpose of creating a DNA~~
26 ~~record.]~~ A law enforcement agency arresting a defendant described
27 by Subsection (a)(1) ~~[(a)(2)]~~, immediately after fingerprinting

1 the defendant and at the same location as the fingerprinting
2 occurs, shall require the defendant to provide one or more
3 specimens for the purpose of creating a DNA record.

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

8 (e) Notwithstanding Subsection (d), on acquittal of a
9 defendant described by Subsection (a)(1) [~~or (2)~~] or dismissal of
10 the case against the defendant, the court shall order the law
11 enforcement agency taking the specimen to immediately destroy the
12 record of the collection of the specimen and require the department
13 to destroy the specimen and the record of its receipt.

14 SECTION 8. Section [411.1471\(c\)](#), Government Code, is
15 repealed.

16 SECTION 9. Section [411.1471](#), Government Code, as amended by
17 this Act, applies only to an offense committed on or after the
18 effective date of this Act. An offense committed before the
19 effective date of this Act is governed by the law in effect on the
20 date the offense was committed, and the former law is continued in
21 effect for that purpose. For purposes of this section, an offense
22 was committed before the effective date of this Act if any element
23 of the offense occurred before that date.

24 SECTION 10. This Act takes effect September 1, 2019.