

BILL ANALYSIS

H.B. 3956
By: Smith
Criminal Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

The 86th Legislature passed H.B. 1399, which required a defendant arrested for certain felony offenses to provide one or more specimens for the purpose of creating a DNA record with the Department of Public Safety. Expanding DNA collections practices to include all felony arrests would build on the success of past legislation, broaden the collection of samples, and, thereby, connect more open cases to offenders. While that legislation has been successful overall, law enforcement agencies and prosecutors across the state, as well as members from the DNA Justice Project, believe that the procedure for the expunction of an individual's records after the court provides notice of an acquittal, dismissal, or grant of relief needs clarification. H.B. 3956 seeks to resolve these issues by clarifying the process for an individual's expunction of records upon notice from the court of an acquittal, dismissal, or grant of relief and providing for all felony arrests to warrant DNA sample collection.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

H.B. 3956 amends the Code of Criminal Procedure to change the requirement for a law enforcement agency arresting a defendant convicted of certain felonies to require the defendant to provide one or more specimens for the purpose of creating a DNA record as follows:

- expands the requirement's applicability to include all defendants arrested for offenses punishable as felonies; and
- changes the entity responsible for collecting the specimen from the law enforcement agency arresting the defendant to the law enforcement agency booking the defendant.

The bill requires the following after a notice regarding such a defendant's acquittal, dismissal, or grant of relief has been provided to the law enforcement agency that took the defendant's DNA:

- the Department of Public Safety (DPS) to request the public safety director of DPS to expunge the defendant's DNA record from the DPS DNA database; and
- the court to promptly notify the defendant and the defendant's attorney that the notice was provided.

H.B. 3956 changes the conditions that trigger the requirement for the director to expunge a person's DNA record from the database. Instead of being required to expunge after the person notifies the director in writing that the DNA record has been ordered to be expunged or the

person successfully petitions for the expunction, the director must expunge after the director receives an order of expunction or an applicable request from a court on acquittal of a defendant or dismissal of the case against the defendant. These provisions apply only to an offense committed on or after the bill's effective date. The bill provides for the continuation of the law in effect before the bill's effective date for purposes of an offense, or any element thereof, that occurred before that date.

H.B. 3956 amends the Government Code to include the director among the entities to which the clerk of the court must send a certified copy of the order of expunction when the order is final. The bill establishes that records and files relating to an arrest for the purposes of the right to expunction include a DNA record in the DPS DNA database, any record of the collection of the specimen from which the DNA record was created, and any record of the transfer of the specimen to DPS. These provisions apply only to an order of expunction of arrest records and files issued on or after the bill's effective date.

H.B. 3956 repeals Section 411.151(b), Government Code.

EFFECTIVE DATE

September 1, 2023.