

By: Leo Wilson

H.B. No. 106

A BILL TO BE ENTITLED

AN ACT

relating to the Department of Public Safety performing DNA testing of certain individuals crossing the Texas-Mexico border and restrictions on the use of the results of those tests.

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

SECTION 1. Chapter 421, Government Code, is amended by adding Subchapter G to read as follows:

SUBCHAPTER G. DNA TESTING OF CERTAIN INDIVIDUALS CROSSING
TEXAS-MEXICO BORDER

Sec. 421.121. DEFINITIONS. In this subchapter:

(1) "CODIS" has the meaning assigned by Section 411.141.

(2) "DNA" means deoxyribonucleic acid.

(3) "DNA database" has the meaning assigned by Section 411.141.

(4) "Rapid DNA test" means a process for developing a DNA profile of an individual:

(A) based on a biological sample consisting of a buccal swab of the individual; and

(B) without the need for human intervention in the process or the use of facilities dedicated to performing DNA analyses and testing.

Sec. 421.122. DNA TESTING PROGRAM; AGREEMENT. The Department of Public Safety shall enter into an agreement with the

United States Department of Homeland Security on request to
establish a program for:

(1) performing DNA tests, including rapid DNA tests,
of individuals who:

(A) enter into this state by crossing between
ports of entry along the Texas-Mexico border;

(B) are detained or arrested by the Department of
Homeland Security; and

(C) the Department of Homeland Security has
probable cause to believe engaged in conduct constituting an
offense under Chapter 20A, Penal Code, evidence of which may
include the coercion, confinement, or transportation of persons for
labor or sexual exploitation; and

(2) promptly providing the results of the DNA tests
described by Subdivision (1) to the Department of Homeland Security
for use in the enforcement of federal immigration laws.

Sec. 421.123. BIOLOGICAL SAMPLES TO BE DESTROYED. The
Department of Public Safety shall destroy the biological sample
used to perform a DNA test, including a rapid DNA test, under the
agreement described by Section 421.122 after performing the test
and providing the results.

Sec. 421.124. DNA DATABASE AND USE OF CODIS PROHIBITED. The
Department of Public Safety, using the results of DNA tests,
including rapid DNA tests, performed under the agreement described
by Section 421.122, may not:

(1) maintain a DNA database;

(2) enter the results of the DNA tests into CODIS; or

1 (3) search CODIS.

2 Sec. 421.125. REQUIRED PROVISIONS. The agreement described
3 by Section 421.122 must contain provisions that are substantially
4 similar to the duty under Section 421.123 and the prohibitions
5 under Section 421.124.

6 Sec. 421.126. FUNDING. Notwithstanding any other provision
7 of this subchapter, the Department of Public Safety may not
8 establish or operate the program under Section 421.122, unless the
9 department receives funding from the United States Department of
10 Homeland Security sufficient to cover the costs of establishing and
11 operating the program, as determined by the Department of Public
12 Safety.

13 SECTION 2. This Act takes effect on the 91st day after the
14 last day of the legislative session.