

Amend SB 1723 (house committee report) by adding the following appropriately numbered SECTIONS to the bill and renumbering the SECTIONS of the bill accordingly:

SECTION _____. Section 411.141, Government Code, is amended by amending Subdivisions (1) and (7) and adding Subdivisions (1-a), (11-a), and (13) to read as follows:

(1) "Authorized law enforcement agency" means a law enforcement agency that is authorized by the director to perform rapid DNA analyses under Section 411.146(c-1).

(1-a) "CODIS" means the FBI's Combined DNA Index System. The term includes the national DNA index system sponsored by the FBI.

(7) "DNA record" means the results of a forensic DNA analysis performed by a DNA laboratory or the results of a rapid DNA analysis performed by an authorized law enforcement agency under this subchapter. The term includes a DNA profile and related records, which may include a code or other identifying number referenced to a separate database to locate:

(A) the originating entity; and

(B) if known, the name and other personally identifying information concerning the individual who is the subject of the analysis.

(11-a) "Law enforcement agency" means an agency of the state or an agency of a political subdivision of the state that is authorized by law to employ peace officers.

(13) "Rapid DNA analysis" means the fully automated processing of a known reference or forensic sample to provide a DNA record that is eligible for comparison in the CODIS database in not more than 24 hours.

SECTION _____. Section 411.142(h), Government Code, is amended to read as follows:

(h) The director shall establish standards for DNA analysis by a ~~the~~ DNA laboratory and standards for rapid DNA analysis by an authorized law enforcement agency that meet or exceed the current standards for quality assurance and proficiency testing for forensic DNA analysis issued by the FBI. The DNA database may contain only DNA records of DNA analyses performed according to the

standards adopted by the director.

SECTION _____. Sections 411.143(c), (e), and (f), Government Code, are amended to read as follows:

(c) Other purposes of the database include:

(1) assisting in the recovery or identification of human remains from a disaster or for humanitarian purposes;

(2) assisting in the identification of living or deceased missing persons;

(3) if personal identifying information is removed:

(A) establishing a population statistics database; and

(B) assisting in identification research, forensic validation studies, or forensic protocol development; and

(4) retesting to validate or update the original analysis or assisting in quality control with respect to the database or with respect to the laboratories or agencies performing forensic DNA analyses [~~or DNA laboratory quality control~~].

(e) The director may not store a name or other personal identifying information in the CODIS database unless approved by the FBI. A file or reference number to another information system may be included in the CODIS database only if the director determines the information is necessary to:

(1) generate an investigative lead or exclusion;

(2) support the statistical interpretation of a test result; or

(3) allow for the successful implementation of the DNA database.

(f) Except as provided by this subchapter, the DNA database may only [~~not~~] include criminal history record information approved by the FBI.

SECTION _____. Section 411.144, Government Code, is amended to read as follows:

Sec. 411.144. REGULATION OF DNA LABORATORIES; PENALTIES.

(a) The director by rule shall establish procedures for a DNA laboratory or criminal justice agency, including an authorized law enforcement agency, in the collection, preservation, shipment, analysis, and use of a DNA sample for forensic DNA analysis,

including rapid DNA analysis, in a manner that permits the exchange of DNA evidence between DNA laboratories and criminal justice agencies and the use of the evidence in a criminal case.

(b) A DNA laboratory or criminal justice agency, including an authorized law enforcement agency, shall follow the procedures:

(1) established by the director under this section;
and

(2) specified by the FBI, including use of comparable test procedures, laboratory equipment, supplies, and computer software.

(c) The director may at any reasonable time enter and inspect the premises or audit the records, reports, procedures, or other quality assurance matters of:

(1) any DNA laboratory that:

(A) [~~(1)~~] provides DNA records to the director under this subchapter; or

(B) [~~(2)~~] conducts forensic analysis; and

(2) any authorized law enforcement agency.

(d) A DNA laboratory conducting a forensic DNA analysis under this subchapter or an authorized law enforcement agency performing a rapid DNA analysis under this subchapter shall:

(1) forward the DNA record of the analysis to the director at the department's crime laboratory or another location as required by the director; and

(2) comply with this subchapter and rules adopted under this subchapter.

(e) The director is the Texas liaison for DNA data, records, evidence, and other related matters between:

(1) the FBI; and

(2) a DNA laboratory or a criminal justice agency, including an authorized law enforcement agency.

(f) The director may:

(1) conduct DNA analyses; [~~or~~]

(2) contract with a laboratory, state agency, private entity, or institution of higher education for services to perform DNA analyses for the director; or

(3) authorize a law enforcement agency to perform

rapid DNA analyses under Section 411.146(c-1).

SECTION _____. Section 411.146, Government Code, is amended by amending Subsections (c) and (e) and adding Subsection (c-1) to read as follows:

(c)(1) The director shall adopt rules regarding the collection, preservation, shipment, and analysis of a DNA database sample under this subchapter, including the type of sample or specimen taken.

(2) A criminal justice agency permitted or required to collect a DNA sample for forensic DNA analysis, including rapid DNA analysis, under this subchapter:

(A) may collect the sample or contract with a phlebotomist, laboratory, state agency, private entity, or institution of higher education for services to collect the sample at the time determined by the agency; and

(B) shall:

(i) preserve each sample collected until it is forwarded to the director under Subsection (d); and

(ii) maintain a record of the collection of the sample.

(c-1) Subject to the other requirements prescribed by this subchapter and rules adopted under this subchapter, a law enforcement agency may perform a rapid DNA analysis under this subchapter if:

(1) the agency requests the director's approval to use a system capable of performing a rapid DNA analysis; and

(2) the director authorizes the agency to use the system described by Subdivision (1) to perform rapid DNA analyses.

(e) A DNA laboratory or an authorized law enforcement agency may analyze a DNA sample collected under this section only:

(1) to type the genetic markers contained in the sample;

(2) for criminal justice or law enforcement purposes;
or

(3) for other purposes described by this subchapter.

SECTION _____. Sections 411.147(b) and (e), Government Code, are amended to read as follows:

(b) The director may adopt rules relating to the internal disclosure, access, or use of a sample or DNA record in a DNA laboratory or authorized law enforcement agency.

(e) A criminal justice agency may have access to a DNA sample for a law enforcement purpose through:

- (1) the agency's laboratory; ~~[or]~~
- (2) a laboratory used by the agency; or
- (3) an authorized law enforcement agency.

SECTION _____. Section 411.1471(d), Government Code, is amended to read as follows:

(d) The director by rule shall require law enforcement agencies taking a specimen under this section to preserve the specimen and maintain a record of the collection of the specimen. A law enforcement agency taking a specimen under this section may use any method to take the specimen approved by the director in the rule adopted under this subsection. The rule adopted by the director must prohibit a law enforcement agency from taking a blood sample for the purpose of creating a DNA record under this section. The agency may:

- (1) [either] send the specimen to the director; i
- (2) [or] send to the director an analysis of the sample performed at a laboratory chosen by the agency and approved by the director; or
- (3) send to the director a rapid DNA analysis of the sample if the director has authorized the agency to perform the analysis.

SECTION _____. Section 411.1473(c), Government Code, is amended to read as follows:

(c) A law enforcement agency taking a specimen under this section may:

- (1) [either] send the specimen to the director; i
- (2) [or] send to the director an analysis of the specimen performed by a laboratory chosen by the agency and approved by the director; or
- (3) send to the director a rapid DNA analysis of the specimen if the director has authorized the agency to perform the analysis.