

BILL ANALYSIS

C.S.H.B. 256
By: Leo Wilson
State Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The bill author has informed the committee that, in May 2019, U.S. Immigration and Customs Enforcement began piloting the use of DNA tests at select Texas-Mexico border checkpoints to verify the family relationships of groups arriving at the border and that constituents have expressed support for continuing the use of DNA testing at the Texas-Mexico border. The bill author has also informed the committee that there is a growing number of migrants crossing the border with children who are not their own, often for the purposes of human trafficking. C.S.H.B. 256 seeks to address this issue by providing for a DNA testing program for the purpose of establishing whether a parent-child relationship exists between certain migrants.

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

C.S.H.B. 256 amends the Government Code to require the Department of Public Safety (DPS) to enter into an agreement with the U.S. Department of Homeland Security (DHS) on request to establish a program for the following:

- performing DNA tests, including rapid DNA tests, of individuals who enter into Texas by crossing the Texas-Mexico border, are detained or arrested by DHS, and DHS has reason to believe are misrepresenting the existence of a parent-child relationship between the individual and one or more other individuals detained or arrested by DHS; and
- promptly providing the results of those DNA tests to DHS for use in the enforcement of federal immigration laws.

The bill requires DPS to destroy the biological samples used to perform DNA tests, including rapid DNA tests, under the agreement after performing the tests and providing the results. The bill prohibits DPS from doing the following using the results of DNA tests, including rapid DNA tests, performed under the agreement:

- maintaining a DNA database;
- entering the results of the DNA tests into CODIS; or
- searching CODIS.

The bill requires the agreement to contain provisions that are substantially similar to the bill's provisions relating to the duty to destroy biological samples and the prohibitions against maintaining a DNA database, entering the results of DNA tests into CODIS, and searching CODIS.

C.S.H.B. 256 prohibits DPS from establishing or operating the DNA testing program under the bill's provisions unless DPS receives funding from DHS sufficient to cover the costs of establishing and operating the program, as determined by DPS.

C.S.H.B. 256 defines the following terms:

- "CODIS" by reference to Government Code provisions relating to DNA database systems as the FBI's Combined DNA Index System, including the national DNA index system sponsored by the FBI;
- "DNA" as deoxyribonucleic acid;
- "DNA database" by reference to applicable Government Code provisions as one or more databases that contain forensic DNA records maintained by the public safety director of DPS; and
- "rapid DNA test" as a process for developing a DNA profile of an individual based on a biological sample consisting of a buccal swab of the individual and without the need for human intervention in the process or the use of facilities dedicated to performing DNA analyses and testing.

EFFECTIVE DATE

September 1, 2025.

COMPARISON OF INTRODUCED AND SUBSTITUTE

While C.S.H.B. 256 may differ from the introduced in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

Both the introduced and the substitute require DPS to enter into an agreement with DHS on request to establish a DNA program for certain purposes. However, the versions differ in the following ways:

- while both the introduced and the substitute establish that the program is for performing DNA tests of certain individuals, the introduced established that the program is for performing rapid DNA tests of those individuals, whereas the substitute does not specify the type of DNA tests performed under the program but includes rapid DNA tests; and
- whereas the introduced established that the program is for performing DNA tests of otherwise eligible individuals who DHS has reason to believe are misrepresenting the existence of a family relationship between the individual and another individual detained or arrested by DHS, the substitute establishes that the program is for performing DNA tests of otherwise eligible individuals who DHS has reason to believe are misrepresenting the existence of a parent-child relationship between the individual and one or more other individuals detained or arrested by DHS.

Whereas the introduced prohibited DPS from maintaining a database of DNA profiles developed through rapid DNA tests performed under the applicable agreement, the substitute prohibits DPS from doing the following using the results of DNA tests, including rapid DNA tests, performed under the applicable agreement:

- maintaining a DNA database;
- entering the results of the DNA tests into CODIS; or
- searching CODIS.

The substitute prohibits DPS from establishing or operating the DNA testing program unless DPS receives funding from DHS sufficient to cover the costs of establishing and operating the program, as determined by DPS, whereas the introduced did not.

The substitute includes definitions absent from the introduced for the terms "CODIS" and "DNA database."