

- SUBJECT:** Requiring DNA samples of persons convicted of murder or assault
- COMMITTEE:** Public Safety — favorable, without amendment
- VOTE:** 9 ayes — B. Turner, Keel, Berman, Carter, Driver, Gutierrez, Hupp, P. King, Najera
0 nays
- WITNESSES:** For — Ray Ybarbo, Texas Police Chiefs Association
Against — None
- BACKGROUND:** Inmates currently may be required to provide a blood or other specimen for the purpose of creating a DNA record if the inmate is ordered by a court to submit a sample or if the inmate is serving a sentence for indecency with a child, sexual assault, aggravated sexual assault, aggravated kidnaping, or burglary if committed with the intent to commit one of the other four crimes listed. Similar requirements are placed on juveniles committed to the Texas Youth Commission.
- DNA, or deoxyribonucleic acid, forms the molecular basis for heredity and can be used to identify an individual from fluids such as blood, saliva, or semen.
- DIGEST:** HB 1188 would expand the list of crimes that require the collection of a DNA sample to include murder and aggravated assault. The bill would apply to adult and juvenile offenders.
- HB 1188 also would require the Texas Department of Criminal Justice (TDCJ) to collect DNA specimens from current inmates serving a sentence for murder or aggravated assault. For inmates who have not completed the diagnostic (intake) process before February 1, 2000, those specimens would be taken during that process. Specimens from inmates who have completed that process before February 1, 2000, would be collected at least 90 days before the inmate's earliest parole eligibility date. If that date was May 1, 2000, or earlier, specimens may be taken as soon as possible after February 1, 2000.

HB 1188 would take effect September 1, 1999.

SUPPORTERS
SAY:

A DNA sample is a highly individualized means of establishing identification, an invaluable investigative tool in solving crimes. Any expansion of the number of people who submit DNA samples would increase the possibility of future crimes being solved by the use of such samples. Such samples would allow development of a list of suspects to consider during an investigation, to be used along with other factors and evidence.

A DNA database also can help innocent suspects by proving they did not commit an offense. The U.S. Department of Justice reports that 62 inmates have been freed as a result of DNA evidence proving they could not have committed the crimes for which they were convicted. The *New York Times* reports that some defense attorneys are pushing for federal legislation guaranteeing inmates the right to ask for DNA testing.

DNA databases allow crime laboratories to compare a crime scene DNA profile to DNA profiles in the database and to describe statistically how often the match occurs in the population.

Violent offenders often repeat their crimes. Establishing a database would let law enforcement officers compare database DNA from across the state, and even in the federal system, against DNA from physical evidence gathered after a crime. This could be extremely important in solving crimes quickly and protecting citizens from violent criminals.

DNA databases pose no more threat to rights to privacy than the statewide fingerprint database. Only adults and juveniles who commit specific crimes would be required to submit samples. It is necessary to include juveniles because they are increasingly committing violent crimes and, like adults, are often repeat offenders.

Texas lags behind many other states that require DNA samples of people convicted of various crimes including murder. Those samples are often included in national databases that can be used to solve crimes throughout the country.

The cost of expanding the database would be completely offset by its value in speeding the solving of crimes and would represent only a fraction of the

economic damage that violent crime costs to victims and society. It is necessary to include those convicted of aggravated assault because such convictions often result from plea bargains from more serious offenses.

OPPONENTS
SAY:

The expansion of the DNA database would vastly increase the amount of information the government has on file about too many individuals. Law officers might unreasonably focus only on those in the database when searching for suspects, neglecting other important evidence that needs to be investigated. They also might give too much weight to DNA evidence in the investigative process. DNA technology is not foolproof. DNA profiles are not unique to individuals and mistakes and mixups can be happen in labs.

NOTES:

According to the fiscal note, it would cost over \$700,000 for the first year and \$450,000 each year after that to collect the samples from persons convicted in these two additional categories.

A related bill, HB 356 by Wise, which would require the collection of DNA samples from people confined in county or municipal jails, is currently pending in the House Public Safety Committee. HB 1899 by McCall, which would make persons convicted of burglary subject to DNA collection, has been referred to the House Public Safety Committee. HB 3215 by McCall, reported favorably by the House Public Safety Committee on April 6, would establish procedures for obtaining DNA samples.