

BILL ANALYSIS

Senate Research Center
2001S0978/2

C.S.S.B. 1304
By: Harris
Criminal Justice
4-6-2001
Committee Report (Substituted)

DIGEST AND PURPOSE

Currently, no facility in Texas provides DNA analysis and an established DNA database for the sole purpose of assisting law enforcement agencies and families of missing persons in identifying unidentified deceased persons. C.S.S.B. 1304 creates the University of North Texas Health Science Center at Fort Worth missing persons DNA database and sets forth provisions for the preservation and analysis of tissue samples from unidentified deceased persons.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the board of regents of the University of North Texas in SECTION 1 (Section 105.114, Education Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 105, Education Code, by adding Subchapter I, as follows:

SUBCHAPTER I. UNIVERSITY OF NORTH TEXAS HEALTH SCIENCE CENTER AT FORT WORTH MISSING PERSONS DNA DATABASE.

Sec. 105.110. DEFINITIONS. Defines “board,” “center,” “DNA,” “DNA database,” “DNA laboratory,” “DNA record,” and “high-risk missing person.”

Sec. 105.111. ESTABLISHMENT OF DNA DATABASE FOR MISSING OR UNIDENTIFIED PERSONS. Requires the board of regents of the University of North Texas (board) to develop at University of North Texas Health Science Center at Fort Worth (center) a DNA database for all cases involving the report of an unidentified deceased person or a high-risk missing person.

Sec. 105.112. INFORMATION STORED IN DATABASE; PURPOSE. Requires the DNA database to comprise DNA genetic markers that are appropriate for human identification, but have no capability of predicting biological function. Requires these markers to be selected by the center. Authorizes the selection of markers by the center to be changed as the technology for DNA typing progresses. Requires the results of DNA typing to be compatible with and uploaded into the CODIS DNA database established by the Federal Bureau of Investigation (FBI). Requires the sole purpose of this database to be to identify missing persons. Requires this database to be kept separate from the database established by the Department of Public Safety under Section 411.142 (DNA Database), Government Code.

Sec. 105.113. COMPARISON OF SAMPLES. Requires the center to compare DNA samples taken from the remains of unidentified deceased persons with DNA samples taken from personal articles belonging to the high-risk missing person or from the parents or appropriate relatives of high-risk missing persons.

Sec. 105.114. PRESERVATION AND STORAGE OF SAMPLES. Requires the board, in

consultation with the center, to develop, by rule, standards and guidelines for the preservation and storage of DNA samples. Requires any law enforcement agency that is required to collect samples from unidentified remains for DNA testing to comply with all scientific methods typically used for the identification of remains, including methods with regard to DNA evidence and fingerprint evidence and methods of forensic anthropology and forensic odontology.

Sec. 105.115. **COLLECTION OF SAMPLES.** Requires a medical examiner, coroner, justice of the peace, contract pathologist, or their designees, as applicable, to collect samples for DNA testing from the remains of all unidentified persons and to send those samples to the center for DNA testing and inclusion in the DNA database. Requires the remaining evidence, after the center has taken a sample from the remains for DNA analysis and analyzed it, to be returned to the appropriate local medical examiner.

Sec. 105.116. **DUTY OF LAW ENFORCEMENT AGENCY TO NOTIFY PARENT OF MISSING PERSON.** Requires the responsible investigating law enforcement agency, after a report has been made of a person missing under high-risk circumstances, to inform the parents or other appropriate relatives that they may give a voluntary sample for DNA testing or collect a DNA sample from a personal article belonging to the missing person if available. Requires the samples to be taken by the appropriate law enforcement agency in a manner prescribed by the center. Requires the responsible investigating law enforcement agency, not later than the 30th day after a missing person report has been made, to inform the parents or other relatives of their right to give a sample.

Sec. 105.117. **RELEASE FORM.** Requires the center to develop a standard release form that authorizes a mother, father, or other relative to voluntarily provide the sample. Requires the release to explain that DNA is to be used only for the purpose of identifying the missing person. Prohibits incentives or coercion from being used to compel a parent or relative to provide a sample.

Sec. 105.118. **MODEL KIT.** Requires the center to develop a model kit that law enforcement agencies are required to use when taking samples from parents and relatives.

Sec. 105.119. **SUBMISSION OF SAMPLE TO CENTER.** Requires the law enforcement agency, before submitting the sample to the center for DNA analysis, to reverify the status of the missing person. Requires the law enforcement agency, 30 days after the date a missing person report is filed or as soon thereafter as is practicable, to send to the center any sample taken for DNA testing and inclusion in the DNA database, with a copy of the crime report and any supplemental information.

Sec. 105.120. **DESTRUCTION OF SAMPLES.** Requires all samples and DNA extracted from a living person to be destroyed after a positive identification is made and a report is issued.

Sec. 105.121. **CONFIDENTIALITY.** Requires all DNA samples to be confidential and to be disclosed only to personnel of the center, law enforcement agencies, medical examiners, and district attorneys, except that an officer of a law enforcement agency is authorized to notify a victim's family in order to disclose whether a match has occurred.

Sec. 105.122. **CRIMINAL PENALTY AND CIVIL LIABILITY FOR VIOLATION OF THIS SUBCHAPTER.** Provides that a person who collects, processes, or stores DNA or samples from a living person used for DNA testing under this subchapter, who intentionally violates Section 105.120 or Section 105.121 is guilty of a Class B misdemeanor. Provides that a person who collects, processes, or stores DNA or samples from a living person under for DNA testing under this subchapter who intentionally violates Section 105.120 or Section 105.121 is liable in civil damages to the donor of the DNA in the amount of \$5,000 for each violation, plus reasonable attorney's fees and court costs.

SECTION 2. (a)(1) Requires the University of North Texas Health Science Center at Fort Worth missing persons DNA database (database) to be funded by money deposited to the credit of the compensation to victims of crime fund and the compensation to victims of crime auxiliary fund and appropriated by the legislature.

(2) Creates the University of North Texas Health Science Center at Fort Worth missing persons DNA database fund (fund) in the general revenue fund for the sole purpose of operating the database created under Chapter 105I, Education Code, as added by this Act. Requires money appropriated to the fund to be deposited to the credit of the fund. Provides that Section 403.095(b) (relating to the use of dedicated revenue), Government Code, does not apply to the amount set aside by this section.

(b)(1) Establishes the database under Chapter 105I, Education Code, as added by this Act, and requires money appropriated to the database to be administered by the center for establishing and maintaining center infrastructure, DNA sample storage, DNA analysis, and labor costs for cases of missing persons and unidentified remains.

(2) Authorizes funds to also be distributed by the center to various counties for the purposes of pathology and exhumation as the center considers necessary. Authorizes the center to also expend funds to publicize the database for the purpose of contacting parents and relatives so that they may provide a DNA sample, for training law enforcement officials about the database and DNA sampling, and for outreach.

(c) Requires the center to create an advisory committee composed of medical examiners, appropriate law enforcement officials, and other interested persons to impose priorities regarding the identification of the backlog of unidentified remains. Authorizes the center, at its discretion, to outsource the identification of the backlog.

(d)(1) Requires the funding for the first year of operation of the database to be used to develop the DNA database and center infrastructure, to establish protocols, and employ personnel.

(2) Requires the center to begin case analysis using the missing persons DNA database no later than September 1, 2001. Requires the center to retain the authority to establish priorities regarding case analysis, giving priority to those cases involving children.

(3) Requires federal funding, if it is made available, to be used to assist in the identification of the backlog of high-risk missing person cases and long-term unidentified remains.

(4) Provides that this section expires January 1, 2006.

SECTION 3. Makes the provisions of this Act severable.

SECTION 4. Makes application of the changes in law made by this Act to civil causes of action under this Act prospective.

SECTION 5. Makes application of the changes in law made by this Act to criminal offenses or violations under this Act prospective.

SECTION 6. Effective date: upon passage or September 1, 2001.

SUMMARY OF COMMITTEE CHANGES

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