

BILL ANALYSIS

Senate Research Center
79R10273 KEL-D

C.S.S.B. 651
By: Harris
Criminal Justice
3/30/2005
Committee Report (Substituted)

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

S.B. 1304, 77th Legislature, Regular Session, 2001, established the Texas Missing Persons DNA Database (TMPDD) at the University of North Texas Health Science Center at Fort Worth (UNTHSC), which offers services necessary to process and analyze all unidentified remains samples and any samples associated with "high risk" missing persons cases throughout the state. The UNTHSC DNA Identity Laboratory is one of three facilities in the country capable of uploading DNA data into the Federal Bureau of Investigation's (FBI) Combined DNA Index System (CODIS). The identification of these skeletal remains provides law enforcement with the critical first step to capturing the perpetrator of a violent crime.

A federal requirement for a lab to participate in the FBI's CODIS system is that the lab be considered a law enforcement entity. As a result, the FBI has indicated that UNTHSC's DNA Identity Laboratory cannot link up with CODIS in cases involving murder, sexual assault, or burglary because it is established under the Education Code.

C.S.S.B. 651 moves the existing statutory language establishing UNTHSC to the Code of Criminal Procedure so that UNTHSC can directly upload forensic cases into the FBI's CODIS system. C.S.S.B. 651 also requires a justice of the peace, county coroner, medical examiner, or other law enforcement entity to retain a sample from unidentified remains prior to burial or cremation and forward the sample to the TMPDD.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Designates Articles 63.001-63.022, Code of Criminal Procedure, as Subchapter A, Chapter 63, Code of Criminal Procedure, and adds a subchapter heading to read as follows:

SUBCHAPTER A. GENERAL PROVISIONS

SECTION 2. Transfers and redesignates Subchapter I, Chapter 105, Education Code, as Subchapter B, Chapter 63, Code of Criminal Procedure, and amends, as follows:

SUBCHAPTER B. UNIVERSITY OF NORTH TEXAS HEALTH SCIENCE CENTER AT FORTH WORTH MISSING PERSONS DNA DATABASE

Art. 63.051. DEFINITIONS. Redesignates text from existing Section 105.451.

Art. 63.052. ESTABLISHMENT OF DNA DATABASE FOR MISSING OR UNIDENTIFIED PERSONS. Redesignates text from existing Section 105.452.

Art. 63.053. INFORMATION STORED IN DATABASE. Redesignates text from existing Section 105.453. Makes a conforming change.

Art. 63.054. COMPARISON OF SAMPLES. Redesignates text from existing Section 105.454.

Art. 63.055. STANDARDS COLLECTION; STORAGE. Redesignates text from existing Section 105.455.

Art. 63.056. New heading: COLLECTION OF SAMPLES FROM UNIDENTIFIED HUMAN REMAINS. Redesignates text from existing Section 105.456. (a) Requires a physician acting on the request of a justice of the peace under Subchapter A (Duties Performed by Justices of the Peace), Chapter 49, a county coroner, a county medical examiner, or other law enforcement entity, as appropriate, to collect samples from unidentified human remains. Requires the justice of the peace, coroner, medical examiner, or other law enforcement entity to submit those samples to the center for forensic DNA analysis and inclusion of the results in the DNA database. Deletes existing text relating to an unspecified entity charged with collecting DNA samples.

(b) Requires the center, after the center has performed the forensic DNA analysis, to return the remaining sample to the entity that submitted the sample under Subsection (a), rather than the entity submitting the sample to the center.

Art. 63.057. DUTY OF LAW ENFORCEMENT AGENCY TO NOTIFY APPROPRIATE PERSONS REGARDING PROVISION OF VOLUNTARY SAMPLE. Redesignates text from existing Section 105.457.

Art. 63.058. RELEASE FORM. Redesignates text from existing Section 105.458. Makes a conforming change.

Art. 63.059. PROTOCOL FOR OBTAINING SAMPLES RELATING TO HIGH-RISK MISSING PERSONS. Redesignates text from existing Section 105.459. Makes a conforming change.

Art. 63.060. SUBMISSION OF SAMPLE TO CENTER. Redesignates text from existing Section 105.460. Makes a conforming change.

Art. 63.061. DESTRUCTION OF SAMPLES. Redesignates text from existing Section 105.462.

Art. 63.062. CONFIDENTIALITY. Redesignates text from existing Section 105.462. Makes a conforming change.

Art. 63.063. CRIMINAL PENALTY. Redesignates text from existing Section 105.463. Makes conforming changes.

Art. 63.064. CIVIL PENALTY. Redesignates text from existing Section 105.064. Makes conforming changes.

Art. 63.065. MISSING PERSONS DNA DATABASE. Redesignates text from existing Section 105.465. Makes a conforming change.

Art. 63.066. BACKLOG OF UNIDENTIFIED HUMAN REMAINS: ADVISORY COMMITTEE AND OUTSOURCING. Redesignates text from existing Section 105.466.

Art. 63.067. INITIAL OPERATIONS. Redesignates text from existing Section 105.467. Makes a conforming change.

SECTION 3. Effective date: upon passage or September 1, 2005.