

BILL ANALYSIS

Senate Research Center

H.B. 941
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Criminal Justice
4/30/2015
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

There is concern that certain individuals convicted of enticement of a child are not required to submit a DNA sample to be entered into the FBI's CODIS (Combined DNA Index System) database. Interested parties contend that including this sexual offense among those convictions that mandate an individual to submit a DNA sample could help vindicate innocent suspects and link actual perpetrators to unsolved crimes. These parties point to the recidivistic nature of these types of crimes and the likelihood that an individual who committed a crime for which the individual is under investigation may have been convicted of a similar crime in the past for which the individual's DNA profile was placed in the DNA database. H.B. 941 seeks to address these concerns.

H.B. 941 amends current law relating to the creation of DNA records for the DNA database system.

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. Amends Article 102.020(h-1), Code of Criminal Procedure, as follows:

(h-1) Requires the clerk of the court to transfer to the comptroller of public accounts of the State of Texas (comptroller) any funds received under Subsection (a)(2) (requiring a person to pay as a cost of the court \$50 on conviction of a certain offense) or (3) (requiring a person to pay as a cost of the court \$34 on placement of the person on community supervision if the person is required to submit a DNA sample as set forth). Requires the comptroller to credit the funds to the Department of Public Safety of the State of Texas to help defray the cost of collecting or analyzing DNA samples, rather than the cost of any analyses performed on DNA samples, provided by defendants who are required to pay a court cost under this article.

SECTION 2. Amends Section 102.021, Government Code, as follows:

Sec. 102.021. COURT COSTS ON CONVICTION: CODE OF CRIMINAL PROCEDURE. Requires a person convicted of an offense to pay the following under the Code of Criminal Procedure, in addition to all other costs:

(1)-(13) Makes no change to these subdivisions;

(14) court cost for DNA testing for the offense of public lewdness, indecent exposure, or enticing a child (Art. 102.020(a)(2), Code of Criminal Procedure), in the amount of \$50;

(15)-(18) Makes no change to these subdivisions.

SECTION 3. Amends Section 411.142(c), Government Code, as follows:

(c) Authorizes the public safety director (director) to receive, analyze, store, and destroy a DNA record or DNA sample for the purposes described by Section 411.143 (Purposes). Authorizes the director, if a DNA sample was collected solely for the purpose of creating a DNA record, to destroy the sample after any test results associated with the sample are entered into the DNA database and the CODIS database.

SECTION 4. Amends the heading to Section 411.1471, Government Code, to read as follows:

Sec. 411.1471. DNA RECORDS OF PERSONS ARRESTED FOR, CHARGED WITH, OR CONVICTED OF CERTAIN OFFENSES.

SECTION 5. Amends Sections 411.1471(a), (b), and (f), Government Code, as follows:

(a) Provides that this section applies to a defendant who is:

(1) and (2) Makes no change to these subdivisions; or

(3) convicted of an offense under Section 21.07 (Public Lewdness), 21.08 (Indecent Exposure), or 25.04 (Enticing a Child), Penal Code.

(b) Requires the court, after a defendant described by Subsection (a)(3) is convicted, rather than after a defendant described by Subsection (a)(3) is convicted or placed on deferred adjudication, to require the defendant to provide to a law enforcement agency one or more specimens for the purpose of creating a DNA record.

(f) Provides that a defendant who provides a DNA sample under this section is not required to provide a DNA sample under Section 411.148 (Mandatory DNA Record) of this code or under Section 11(j) (requiring a judge granting community supervision to a defendant convicted of a felony to require that the defendant, as a condition of community supervision, provide a DNA sample for the purpose of creating a DNA record of the defendant), Article 42.12 (Community Supervision), Code of Criminal Procedure, unless the attorney representing the state in the prosecution of the felony offense that makes Section 411.148 or 11(j) applicable to the defendant establishes to the satisfaction of the public safety director (director) that the interests of justice or public safety require that the defendant provide additional samples, rather than provides that a defendant who provides a DNA sample under this section is not required to provide a DNA sample under Section 411.148 unless an attorney representing the state in the prosecution of felony offenses establishes to the satisfaction of the director that the interests of justice or public safety require that the defendant provide additional samples.

SECTION 6. Provides that the change in law made by this Act in amending Article 102.020, Code of Criminal Procedure, and Section 411.1471, Government Code, applies only to an offense committed on or after the effective date of this Act. Provides that an offense committed before the effective date of this Act is governed by the law in effect at the time the offense was committed, and the former law is continued in effect for that purpose. Provides that, for purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 7. Effective date: September 1, 2015.