

## **BILL ANALYSIS**

Senate Research Center  
86R34847 MAW-F

C.S.H.B. 1399  
By: Smith et al. (Creighton)  
State Affairs  
5/18/2019  
Committee Report (Substituted)

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

It has been suggested that expanding the felony offenses for which a defendant must provide a DNA sample at the time of arrest will make state DNA records more comprehensive and that the expanded evidentiary DNA pool will increase the likelihood of solving crimes. H.B. 1399 provides for this by expanding the applicability of the requirement to collect a DNA sample. (Original Author's/Sponsor's Statement of Intent)

C.S.H.B. 1399 amends current law relating to the creation and storage of DNA records for a person arrested for certain felony offenses.

### **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. Authorizes this Act to be cited as the Krystal Jean Baker Act.

SECTION 2. Amends Article 42A.352, Code of Criminal Procedure, as follows:

Art. 42A.352. DNA SAMPLE. Requires a judge granting community supervision to a defendant convicted of a felony to require as a condition of community supervision that the defendant provide a DNA sample under Subchapter G (DNA Database System), Chapter 411, Government Code, for the purpose of creating a DNA record of the defendant, unless the defendant has already submitted the required sample under Section 411.1471, Government Code, or other law, rather than under state law.

SECTION 3. Amends Article 102.020(a), Code of Criminal Procedure, as follows:

(a) Requires a person to pay as a cost of court:

(1) makes no changes to this subdivisions;

(2) \$50 on conviction of an offense described by Section 411.1471(a)(2) (relating to the application of this section to a defendant who is arrested for a certain felony after having been previously convicted of or placed on deferred adjudication for the same or similar offenses), Government Code, rather than by Section 411.1471(a)(3) (relating to the application of this section to a defendant who is convicted of certain offenses), Government Code; or

(3) makes no change to this subdivision.

SECTION 4. Amends Subchapter G, Chapter 411, Government Code, by adding Section 411.1425, as follows:

Sec. 411.1425. GRANT FUNDS. Requires the director of the Department of Public Safety of the State of Texas (DPS) to apply for any available federal grant funds

applicable to the creation and storage of DNA records of persons arrested for certain offenses.

SECTION 5. Amends the heading to Section 411.1471, Government Code, to read as follows:

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

SECTION 6. Amends Section 411.1471, Government Code, by amending Subsections (a), (b), and (e) and adding Subsection (b-1), as follows:

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

(1) arrested for a felony prohibited under, rather than indicted or waives indictment for a felony prohibited or punishable under, certain Penal Code sections and sets forth the list of the sections.

(2) Deletes existing text providing that this section applies to a defendant who is arrested for a felony described by Subdivision (1) after having been previously convicted of or placed on deferred adjudication for an offense described by Subdivision (1) or an offense punishable under Section 30.02(c)(2) (relating to a certain burglary offense), Penal Code. Redesignates existing Subdivision (3) as this subdivision and deletes Section 43.03 (Promotion of Prostitution) from a list of offenses determining applicability of the this section.

(b) Requires a law enforcement agency arresting a defendant described by Subsection (a)(1), rather than Subsection (a)(2), immediately after fingerprinting the defendant and at the same location as the fingerprinting occurs, to require the defendant to provide one or more specimens for the purpose of creating a DNA record. Deletes existing text relating to requiring a court to order the collection of DNA from certain defendants.

(b-1) Makes a conforming change to this subsection.

(e) Makes a conforming change to this subsection.

SECTION 7. Repealer: Section 411.1471(c) (relating to authorizing certain defendants to at any time voluntarily provide a specimen), Government Code.

SECTION 8. Makes application of Section 411.1471, Government Code, as amended by this Act, prospective. 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 9. Provides that DPS is required to implement a provision of this Act only if the legislature appropriates money specifically for that purpose. Provides that DPS, if the legislature does not appropriate money specifically for that purpose, is authorized, but not required, to implement a provision of this Act using other appropriations available for that purpose.

SECTION 10. Effective date: September 1, 2019.