

SUBJECT: Requiring collection of DNA samples from capital murder offenders

COMMITTEE: Law Enforcement — committee substitute recommended

VOTE: 6 ayes — Driver, Garza, Hupp, Y. Davis, Hegar, Keel

0 nays

1 absent — Burnam

WITNESSES: For — John Neff, Austin Police Department

Against — None

On — Dennis Lockerman

BACKGROUND: The Department of Public Safety (DPS) maintains the state's database of DNA records related to criminal offenders.

Government Code, sec. 411.148, requires an inmate to provide a blood sample or other specimen at the request of the institutional division of the Texas Department of Criminal Justice (TDCJ) for the purpose of creating a DNA record if ordered by a court to do so, or if the inmate is serving a sentence for certain specified offenses, including murder, aggravated assault, first-degree burglary, second-degree burglary if committed in a habitation, an offense for which the inmate must register as a sex offender, or any offense if the inmate previously was convicted of one of the above offenses or previously was convicted of a similar offense under federal law or the laws of another state.

HB 588 by Garcia, enacted by the 78th Legislature in 2001, expanded the list of inmates required to provide a blood sample or other specimen for the purpose of creating a DNA record to include those serving a sentence for any felony. However, the act only will take effect on the date when the DPS director certifies that the state has received sufficient federal or other funds to expand the list of offenses for which samples or specimens are taken, which has not occurred yet. Also, the act applies only to an inmate who begins

serving a sentence in the institutional division on or after the act's effective date.

A juvenile offender committed to the Texas Youth Commission (TYC) must provide a blood sample or other specimen to create a DNA record if ordered to do so by a juvenile court or if the juvenile was committed for one of the offenses that trigger the requirement for adult offenders to give samples.

DIGEST: CSHB 562 would require an inmate serving a sentence in TDCJ for capital murder and a juvenile committed to TYC for capital murder to provide a blood sample or other specimen for the purpose of creating a DNA record.

The bill would take effect on the date when the DPS director certifies that the state has received sufficient funds from the federal government or from other sources to pay for all costs associated with taking samples or specimens from all offenders serving sentences for capital murder.

TDCJ and TYC would have to collect blood samples from offenders serving sentences for capital murder from whom blood samples or other specimens were not required before the bill's effective date or from offenders previously convicted of or committed for capital murder. The agencies would have to collect these samples during the diagnostic process or initial examination, but only from offenders who had not completed the process or examination within 120 days of the bill's effective date. For offenders who completed the diagnostic process or examination within 120 days of the bill's effective date, TDCJ would have to collect the sample or specimen within a year of the effective date, and TYC would have to collect it within a year of the effective date or 30 days before the juvenile's scheduled release or transfer from a TYC facility, whichever was earlier.

SUPPORTERS SAY: CSHB 562 would help law enforcement officials solve crimes by requiring inmates incarcerated for capital murder to provide samples for a DNA record. The Texas DNA forensic database, CODIS (Combined DNA Index System), has collected more than 150,000 DNA samples since its inception in 1995, according to DPS. The state has closed 336 investigations that otherwise would have remained unsolved before this program began, and 118 of these were "cold hits" — that is, DNA found on the victim or at the crime scene matched the DNA of known suspects within CODIS. Texas also uses the

national DNA index system (NDIS) operated by the Federal Bureau of Investigation to identify perpetrators. These databases become more and more effective as technology advances.

Inmates who have been convicted of capital murder are likely to have committed other crimes, and CSHB 562 would help law enforcement agencies identify them as suspects. It does not make sense to obtain samples from murderers and sex offenders but not from those convicted of capital murder, the most serious of crimes. These dangerous offenders likely committed sexual assaults, murders, and other crimes before their incarceration, and obtaining their DNA samples could help solve other crimes.

CSHB 562 would provide closure for victims of unsolved crimes. Even if an offender was scheduled to be executed and posed no threat to society, the victim would benefit from knowing that the perpetrator had been identified and no longer posed a threat. Law enforcement agencies also benefit by closing cases and focusing their resources on other investigations.

While the 77th Legislature sought to expand the requirement for inmates to provide blood or other samples to establish a DNA record to include those serving time for any felony, including capital murder, that change in the law will not take effect until there is sufficient funding to implement it. In the meantime, CSHB 562 would make a small, but needed, addition of the requirement at minimal extra cost.

**OPPONENTS
SAY:**

No apparent opposition.

NOTES:

HB 562 as filed would have amended the Government Code by adding capital murder to the list of offenses for which an inmate in TDCJ or a juvenile in TYC must provide a DNA sample. It would have applied only to offenders who began their sentences on or after September 1, 2003. It also would have repealed HB 588, enacted by the 77th Legislature, expanding the sample requirement to those convicted of all felonies, contingent on certification of sufficient funds to implement the act.

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According to the fiscal note, TDCJ and TYC have determined that the cost of implementing the provisions of CSHB 562 would not be significant.