

BILL ANALYSIS

Senate Research Center
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S.B. 638
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Jurisprudence
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DIGEST AND PURPOSE

Recent advances in forensic science have achieved a high success rate in identifying perpetrators and eliminating suspects using DNA, the fundamental building block of an individual's genetic makeup. As proposed, S.B. 638 requires the collection of a DNA specimen from a person arrested for certain felonies, including kidnapping and sexual assault, in order to help fight and prevent crime.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the director of the Department of Public Safety in SECTIONS 1 and 4 (Sections 411.1471 and 411.1472, Government Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 411G, Government Code, by adding Sections 411.1471 and 411.1472, as follows:

Sec. 411.1471. DNA RECORDS OF PERSONS CHARGED WITH CERTAIN FELONIES. (a) Makes this section applicable to a defendant arrested for a felony prohibited or punishable under certain Penal Code sections.

(b) Requires a law enforcement agency arresting a defendant for an offense described by Subsection (a), immediately after fingerprinting the defendant and at the same location as the fingerprinting occurs, to require the defendant to provide one or more blood samples or other specimen for the purpose of creating a DNA record.

(c) Requires the director of the Department of Public Safety (director), by rule, to require law enforcement agencies taking a sample or specimen under this section to preserve the sample or specimen, maintain a record of the collection of the sample or specimen, and send the sample or specimen to the director for scientific analysis under this subchapter in the same manner as is required of the Texas Department of Criminal Justice under Section 411.148.

(d) Provides that a defendant who provides a sample or specimen under this section is not required to provide a specimen under Section 411.1472, 411.148, or 411.150 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 or specimens.

Sec. 411.1472. DNA RECORDS OF PERSONS PLACED ON COMMUNITY SUPERVISION FOR CERTAIN OFFENSES. Makes this section applicable to a defendant placed on community supervision, including deferred adjudication community supervision, for an offense listed in Section 411.148(a)(1). Requires a court that grants deferred adjudication or places a defendant on community supervision, at the time of entering the order or making the placement, to require the defendant to report to a law enforcement agency to provide one or

more blood samples or other specimens for the purpose of creating a DNA record. Makes conforming changes.

SECTION 2. Amends Chapter 102A, Code of Criminal Procedure, by adding Article 102.020, as follows:

Art. 102.020. COSTS ON CONVICTION FOR OFFENSES REQUIRING DNA TESTING. (a) Requires a person to pay \$250 as a court cost on conviction of an offense listed in Section 411.148(a)(1), Government Code.

(b) Requires the court to assess and make a reasonable effort to collect the cost due under this article whether or not any other court cost is assessed or collected.

(c) Provides conditions for a person to be considered to have been convicted for the purposes of this article.

(d) Provides that court costs under this article are collected in the same manner as other fines or costs. Requires an officer collecting the costs to keep separate records of the funds collected as costs under this article and to deposit the funds in the county treasury.

(e) Requires the custodian of a county treasury to keep certain records and send funds collected under this article to the comptroller by a certain date.

(f) Authorizes a county to retain 10 percent of the funds collected under this article by an officer of the county as a collection fee if the custodian of the county treasury complies with Subsection (e).

(g) Requires the custodian of a county treasury, if no funds due as costs under this article are deposited in the treasury in a calendar quarter, to file the report required for the quarter in the regular manner and to state that no funds were collected.

(h) Requires the comptroller to deposit the funds received under this article to the credit of the criminal justice planning account in the general revenue fund.

(i) Provides that funds collected under this article are subject to audit by the comptroller.

SECTION 3. Amends Article 102.056, Code of Criminal Procedure, to require the legislature to determine and appropriate the necessary amount from the criminal justice planning account to the criminal justice division of the governor's office for grants to local law enforcement agencies performing duties imposed on those agencies under Sections 411.1471 and 411.1472, Government Code.

SECTION 4. Requires the director, not later than January 1, 2002, to adopt rules relating to duties imposed on law enforcement agencies under Sections 411.1471 and 411.1472, Government Code, as added by this Act.

SECTION 5. Makes application of Sections 411.1471 and 411.1472, Government Code, as added by this Act, prospective to February 1, 2002.

SECTION 6. Makes Article 102.020, Code of Criminal Procedure, as added by this Act, prospective.

SECTION 7. Effective date: September 1, 2001.