

BILL ANALYSIS

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C.S.H.B. 2932
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Criminal Justice
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Methods of collecting and preserving deoxyribonucleic acid (DNA) evidence were in place long before the technology existed to analyze it to identify a suspect. New technology has paved the way for a significant number of reexaminations into cold case files for offenses that date back to the 1980s because of the availability of DNA evidence. However, once the statute of limitations has run out for a particular crime, the offender cannot be prosecuted for the crime, even when later evidence, such as preserved DNA evidence, can scientifically link the offender to the crime. The result is a circumstance where the victim and law enforcement may know of an offender's identity without any legal means to hold him or her accountable.

C.S.H.B. 2932 amends current law relating to including in the law enforcement information system information indicating that criminal defendants have committed certain additional offenses.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the public safety director of the Department of Public Safety of the State of Texas in SECTION 1 (Section 411.0604, Government Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 411, Government Code, by adding Subchapter D-1, as follows:

SUBCHAPTER D-1. CENTRAL INDEX OF CERTAIN ADDITIONAL OFFENSES SUSPECTED TO HAVE BEEN COMMITTED BY CRIMINAL DEFENDANTS

Sec. 411.0601. DEFINITIONS. Defines "criminal justice agency."

Sec. 411.0602. ESTABLISHMENT OF CENTRAL INDEX; ENTRY OF INFORMATION. (a) Requires the bureau of identification and records (bureau), in the law enforcement information system maintained by the Department of Public Safety of the State of Texas (DPS), to establish and maintain a central index to collect and disseminate information regarding additional offenses that forensic deoxyribonucleic acid (DNA) test results indicate may have been committed by a defendant who has been arrested for or charged with any felony or misdemeanor offense, other than a misdemeanor offense punishable by fine only.

(b) Authorizes information relating to a defendant described by Subsection (a) to be entered in the central index only if the information is based on forensic DNA test results indicating that the DNA profile of the defendant cannot be excluded as a donor to the DNA profile of a person suspected to have committed an offense, regardless of whether the defendant has been or will be arrested for or charged with that offense. Requires that the information be submitted in the form of an affidavit signed by a representative of an investigating criminal justice agency and approved by a district judge, and accompanied by a set of the defendant's fingerprints.

Sec. 411.0603. CONFIDENTIALITY AND DISSEMINATION OF INFORMATION IN CENTRAL INDEX. (a) Provides that information maintained by DPS in the central

index established under this subchapter is confidential. Prohibits DPS from disseminating the information except as otherwise provided by this section.

(b) Requires DPS, on proper inquiry, to disseminate to a criminal justice agency the information collected under Section 411.0602. Authorizes the criminal justice agency to disseminate the information to any other criminal justice agency if the dissemination of that information is for a criminal justice purpose.

(c) Provides that a criminal justice agency or an employee of a criminal justice agency is not liable for an act or omission relating to the collection, use, or dissemination of information collected under Section 411.0602 if that collection, use, or dissemination is performed in accordance with rules adopted by the public safety director of DPS (director).

Sec. 411.0604. RULES. Requires the director to adopt rules to implement and enforce this subchapter.

Sec. 411.0605. RIGHT TO REQUEST NOTICE OF ENTRY IN CENTRAL INDEX.

(a) Authorizes a defendant described by Section 411.0602(a) to submit to the bureau a request to determine whether the bureau has entered information relating to the defendant in the central index established under Section 411.0602. Requires the bureau to respond to the request not later than the 10th business day after the date bureau receives the request.

(b) Authorizes the bureau, before responding to a request under Subsection (a), to require reasonably written verification of the identity of the defendant submitting the request, including written verification of an address, date of birth, driver's license number, state identification care number, or social security number.

Sec. 411.0606. RIGHT TO REQUEST REVIEW OF ENTRY IN CENTRAL INDEX.

(a) Requires the head of the bureau or that person's designee and the head of DPS's crime laboratory in Austin, on receipt by the bureau of a written request that is submitted by a defendant described by Section 411.0602(a), that is accompanied by a set of the defendant's fingerprints, and that alleges that the bureau may have entered inaccurate information relating to the defendant in the central index established under Section 411.0602, to review the information to determine whether there is a high likelihood that the information is accurate.

(b) Requires the bureau, if after review the head of the bureau or that person's designee or the head of DPS's crime laboratory in Austin determines there is not a high likelihood that the information is accurate, to promptly remove that information from the central index and notify other appropriate divisions of DPS, the investigating criminal justice agency, and the defendant of the bureau's determination and the removal of the information.

(c) Requires the bureau, if after review the head of the bureau or that person's designee and the head of DPS's crime laboratory in Austin jointly determine there is a high likelihood that the information relating to the defendant is accurate, to notify the defendant of that determination.

SECTION 2. (a) Requires the director to adopt rules required by Section 411.0604, Government Code, as added by this Act, not later than December 1, 2009.

(b) Provides that the change in law made by this Act in adding Subchapter D-1, Chapter 411 (Department of Public Safety of the State of Texas), Government Code, applies to the inclusion of forensic DNA test results in the central index required to be established under that subchapter, regardless of whether the test results were obtained before, on, or after the effective date of this Act.

SECTION 3. Effective date: September 1, 2009.