

## **BILL ANALYSIS**

Senate Research Center  
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S.B. 767  
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Criminal Justice  
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As Filed

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

Section 411.1471 of the Government Code requires that all sex offenders and convicted felons, as well as those placed on community supervision, provide a DNA sample to be entered into the Combined DNA Index System (CODIS), a program maintained by the FBI for criminal justice databases that contains DNA profiles contributed by federal, state, and local participating forensic laboratories.

S.B. 767 requires the collection of a DNA sample from all persons convicted of a Class B misdemeanor offense or higher.

Expanding the DNA database is the most effective and certain means to improve successful crime solving in Texas. It will aid in the identification of missing and unidentified persons, assist in solving serious crimes, and help exonerate persons wrongly suspected or accused of a crime. Expansion of DNA collection to include those convicted of a Class B misdemeanor or higher will rapidly and substantially increase the number of hits and criminal investigation links so that serial criminal offenders may be identified, apprehended, and convicted for crimes they committed in the past and prevent them from committing future crimes that would jeopardize public safety and devastate lives.

The state of Texas has a compelling interest in the accurate identification of criminal offenders, and DNA testing at the earliest stages of criminal proceedings will help thwart criminal perpetrators from concealing their identities and thus prevent time-consuming and expensive investigations of innocent persons.

DNA is considered the fingerprint of the 21st century, and other states have recently passed similar legislation.

The DNA database can vindicate a suspect as well as link multiple crimes. Given the recidivistic nature of many crimes, a likelihood exists that the individual who committed the crime being investigated was convicted of a similar crime and already has his or her DNA profile in a DNA database that can be searched by the CODIS. CODIS also permits the cross-comparison of DNA profiles developed from biological evidence found at crime scenes. Even if a perpetrator is not identified through the database, crimes may be linked to each other, thereby aiding multiple investigations, which may eventually lead to the identification of a suspect.

As proposed, S.B. 767 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(a), Code of Criminal Procedure, as follows:

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

(1) Makes no changes to this subdivision;

(2) \$50 on conviction of an offense described by Section 411.1471(a)(3), Government Code, other than an offense described by Subdivision (1) (relating to a cost of \$250 on conviction of a certain offense) of this subsection; or

(3) \$34 on placement of the person on community supervision, including deferred adjudication community supervision, if the person is required to submit a DNA sample under Section 11(j) (relating to a judge granting community supervision for a felony conviction), Article 42.12, or deferred adjudication community supervision for an offense described by Section 411.1471(a)(4), Government Code.

Makes nonsubstantive changes.

SECTION 2. Amends Section 102.021, Government Code, to require a person convicted of an offense to pay certain costs under the Code of Criminal Procedure, in addition to all other costs, including \$50 for the court cost for DNA testing for certain misdemeanors and felonies, rather than for the offense of public lewdness or indecent exposure (Art. 102.020(a)(2), Code of Criminal Procedure) and \$34 for the court cost for DNA testing for certain misdemeanors and felonies (Art.102.020(a)(3), Code of Criminal Procedure).

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). Requires the director, if a DNA sample was collected solely for the purpose of creating a DNA record, to destroy the sample immediately after any test results associated with the sample are entered into the DNA database and the Combined DNA Index System (CODIS) database.

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

Sec. 411.1471. DNA RECORDS OF PERSONS 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) Makes no changes to this subdivision;

(2) Makes a nonsubstantive change;

(3) convicted of an offense punishable as a Class B misdemeanor or any higher category of offense; or

(4) placed on deferred adjudication for an offense under Section 21.07 (Public Lewdness) or 21.08 (Indecent Exposure), Penal Code.

(b) Requires the court, after a defendant described by Subsection (a)(3) or (4) is convicted or placed on deferred adjudication, as applicable, 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 Section 411.148 (Mandatory DNA record) unless an attorney representing the state, rather than 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 (Costs Related to DNA Testing), 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 covered 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, 2013.