

By: Smith

H.B. No. 1399

A BILL TO BE ENTITLED

AN ACT

relating to the creation and storage of DNA records for a person arrested for a felony offense.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. This Act may be cited as the Krystal Jean Baker Act.

SECTION 2. Article 42A.352, Code of Criminal Procedure, is amended to read as follows:

Art. 42A.352. DNA SAMPLE. A judge granting community supervision to a defendant convicted of a felony shall require as a condition of community supervision that the defendant provide a DNA sample under Subchapter G, 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 ~~[state]~~ law.

SECTION 3. Article 102.020(a), Code of Criminal Procedure, is amended to read as follows:

(a) A person shall pay as a cost of court:

(1) \$250 on conviction of any ~~[an]~~ offense punishable as a felony ~~[listed in Section 411.1471(a)(1), Government Code]~~;

(2) \$50 on conviction of a misdemeanor ~~[an]~~ offense described by Section 411.1471(a)(2) ~~[411.1471(a)(3)]~~, Government Code; or

(3) \$34 on placement of the person on community

1 supervision, including deferred adjudication community  
2 supervision, if the person is required to submit a DNA sample under  
3 Article 42A.352.

4 SECTION 4. Section 102.021, Government Code, is amended to  
5 read as follows:

6 Sec. 102.021. COURT COSTS ON CONVICTION: CODE OF CRIMINAL  
7 PROCEDURE. A person convicted of an offense shall pay the following  
8 under the Code of Criminal Procedure, in addition to all other  
9 costs:

10 (1) court cost on conviction of any offense, other  
11 than a conviction of an offense relating to a pedestrian or the  
12 parking of a motor vehicle (Art. 102.0045, Code of Criminal  
13 Procedure) . . . \$4;

14 (2) a fee for services of prosecutor (Art. 102.008,  
15 Code of Criminal Procedure) . . . \$25;

16 (3) fees for services of peace officer:

17 (A) issuing a written notice to appear in court  
18 for certain violations (Art. 102.011, Code of Criminal Procedure)  
19 . . . \$5;

20 (B) executing or processing an issued arrest  
21 warrant, capias, or capias pro fine (Art. 102.011, Code of Criminal  
22 Procedure) . . . \$50;

23 (C) summoning a witness (Art. 102.011, Code of  
24 Criminal Procedure) . . . \$5;

25 (D) serving a writ not otherwise listed (Art.  
26 102.011, Code of Criminal Procedure) . . . \$35;

27 (E) taking and approving a bond and, if

1 necessary, returning the bond to courthouse (Art. 102.011, Code of  
2 Criminal Procedure) . . . \$10;

3 (F) commitment or release (Art. 102.011, Code of  
4 Criminal Procedure) . . . \$5;

5 (G) summoning a jury (Art. 102.011, Code of  
6 Criminal Procedure) . . . \$5;

7 (H) attendance of a prisoner in habeas corpus  
8 case if prisoner has been remanded to custody or held to bail (Art.  
9 102.011, Code of Criminal Procedure) . . . \$8 each day;

10 (I) mileage for certain services performed (Art.  
11 102.011, Code of Criminal Procedure) . . . \$0.29 per mile; and

12 (J) services of a sheriff or constable who serves  
13 process and attends examining trial in certain cases (Art. 102.011,  
14 Code of Criminal Procedure) . . . not to exceed \$5;

15 (4) services of a peace officer in conveying a witness  
16 outside the county (Art. 102.011, Code of Criminal Procedure) . . .  
17 \$10 per day or part of a day, plus actual necessary travel expenses;

18 (5) overtime of peace officer for time spent  
19 testifying in the trial or traveling to or from testifying in the  
20 trial (Art. 102.011, Code of Criminal Procedure) . . . actual cost;

21 (6) court costs on an offense relating to rules of the  
22 road, when offense occurs within a school crossing zone (Art.  
23 102.014, Code of Criminal Procedure) . . . \$25;

24 (7) court costs on an offense of passing a school bus  
25 (Art. 102.014, Code of Criminal Procedure) . . . \$25;

26 (8) court costs on an offense of parent contributing  
27 to student nonattendance (Art. 102.014, Code of Criminal Procedure)

1 . . . \$20;

2 (9) cost for visual recording of intoxication arrest  
3 before conviction (Art. 102.018, Code of Criminal Procedure) . . .  
4 \$15;

5 (10) cost of certain evaluations (Art. 102.018, Code  
6 of Criminal Procedure) . . . actual cost;

7 (11) additional costs attendant to certain  
8 intoxication convictions under Chapter 49, Penal Code, for  
9 emergency medical services, trauma facilities, and trauma care  
10 systems (Art. 102.0185, Code of Criminal Procedure) . . . \$100;

11 (12) additional costs attendant to certain child  
12 sexual assault and related convictions, for child abuse prevention  
13 programs (Art. 102.0186, Code of Criminal Procedure) . . . \$100;

14 (13) court cost for DNA testing for a felony [~~certain~~  
15 ~~felonies~~] (Art. 102.020(a)(1), Code of Criminal Procedure) . . .  
16 \$250;

17 (14) court cost for DNA testing for certain  
18 misdemeanors [~~and felonies~~] (Art. 102.020(a)(2), Code of Criminal  
19 Procedure) . . . \$50;

20 (15) court cost for DNA testing for a felony [~~certain~~  
21 ~~felonies~~] (Art. 102.020(a)(3), Code of Criminal Procedure) . . .  
22 \$34;

23 (16) if required by the court, a restitution fee for  
24 costs incurred in collecting restitution installments and for the  
25 compensation to victims of crime fund (Art. 42.037, Code of  
26 Criminal Procedure) . . . \$12;

27 (17) if directed by the justice of the peace or

1 municipal court judge hearing the case, court costs on conviction  
2 in a criminal action (Art. 45.041, Code of Criminal Procedure)  
3 . . . part or all of the costs as directed by the judge; and

4 (18) costs attendant to convictions under Chapter 49,  
5 Penal Code, and under Chapter 481, Health and Safety Code, to help  
6 fund drug court programs established under Chapter 122, 123, 124,  
7 or 125, Government Code, or former law (Art. 102.0178, Code of  
8 Criminal Procedure) . . . \$60.

9 SECTION 5. Subchapter G, Chapter 411, Government Code, is  
10 amended by adding Section 411.1425 to read as follows:

11 Sec. 411.1425. GRANT FUNDS. The director shall apply for  
12 any available federal grant funds applicable to the creation and  
13 storage of DNA records of persons arrested for certain offenses.

14 SECTION 6. The heading to Section 411.1471, Government  
15 Code, is amended to read as follows:

16 Sec. 411.1471. DNA RECORDS OF PERSONS ARRESTED FOR [~~7~~  
17 ~~CHARGED WITH,~~] OR CONVICTED OF CERTAIN OFFENSES.

18 SECTION 7. Section 411.1471, Government Code, is amended by  
19 amending Subsections (a), (b), and (e) and adding Subsection (b-1)  
20 to read as follows:

21 (a) This section applies to a defendant who is:

22 (1) [~~indicted or waives indictment for a felony~~  
23 ~~prohibited or punishable under any of the following Penal Code~~  
24 ~~sections:~~

25 [~~(A) Section 20.04(a)(4),~~

26 [~~(B) Section 21.11,~~

27 [~~(C) Section 22.011,~~

- 1                    [~~(D)~~ Section ~~22.021~~;
- 2                    [~~(E)~~ Section ~~25.02~~;
- 3                    [~~(F)~~ Section ~~30.02(d)~~;
- 4                    [~~(C)~~ Section ~~43.05~~;
- 5                    [~~(H)~~ Section ~~43.25~~;
- 6                    [~~(I)~~ Section ~~43.26~~;
- 7                    [~~(J)~~ Section ~~21.02~~; or
- 8                    [~~(K)~~ Section ~~20A.03~~;

9                    [~~(2)~~] arrested for any offense punishable as a felony  
10 [~~described by Subdivision (1) after having been previously~~  
11 ~~convicted of or placed on deferred adjudication for an offense~~  
12 ~~described by Subdivision (1) or an offense punishable under Section~~  
13 ~~30.02(c)(2), Penal Code~~]; or

14                    (2) [~~(3)~~] convicted of an offense:

15                    (A) under Title 5, Penal Code, [~~other than an~~  
16 ~~offense described by Subdivision (1)~~], that is punishable as a  
17 Class A misdemeanor [~~or any higher category of offense~~], except for  
18 an offense punishable as a Class A misdemeanor under Section ~~20.02~~,  
19 ~~22.01~~, or ~~22.05~~, Penal Code; or

20                    (B) under Section ~~21.08~~, ~~25.04~~, ~~43.02(b)~~, ~~43.03~~,  
21 or ~~43.24~~, Penal Code.

22                    (b) [~~After a defendant described by Subsection (a)(1) is~~  
23 ~~indicted or waives indictment, the court in which the case is~~  
24 ~~pending shall require the defendant to provide to a law enforcement~~  
25 ~~agency one or more specimens for the purpose of creating a DNA~~  
26 ~~record.~~] A law enforcement agency arresting a defendant described  
27 by Subsection (a)(1) [~~(a)(2)~~], immediately after fingerprinting

1 the defendant and at the same location as the fingerprinting  
2 occurs, shall require the defendant to provide one or more  
3 specimens for the purpose of creating a DNA record.

4 (b-1) After a defendant described by Subsection (a)(2)  
5 [~~(a)(3)~~] is convicted, the court shall require the defendant to  
6 provide to a law enforcement agency one or more specimens for the  
7 purpose of creating a DNA record.

8 (e) Notwithstanding Subsection (d), on acquittal of a  
9 defendant described by Subsection (a)(1) [~~or (2)~~] or dismissal of  
10 the case against the defendant, the court shall order the law  
11 enforcement agency taking the specimen to immediately destroy the  
12 record of the collection of the specimen and require the department  
13 to destroy the specimen and the record of its receipt.

14 SECTION 8. Section [411.1471\(c\)](#), Government Code, is  
15 repealed.

16 SECTION 9. Section [411.1471](#), Government Code, as amended by  
17 this Act, applies only to an offense committed on or after the  
18 effective date of this Act. An offense committed before the  
19 effective date of this Act is governed by the law in effect on the  
20 date the offense was committed, and the former law is continued in  
21 effect for that purpose. For purposes of this section, an offense  
22 was committed before the effective date of this Act if any element  
23 of the offense occurred before that date.

24 SECTION 10. This Act takes effect September 1, 2019.