

CONFERENCE COMMITTEE REPORT FORM

Austin, Texas

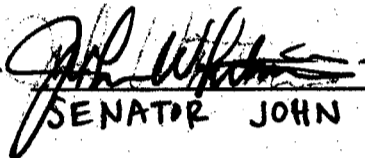
5/25/09
Date


Honorable David Dewhurst
President of the Senate

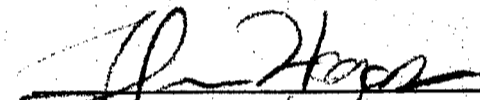
Honorable Joe Straus
Speaker of the House of Representatives

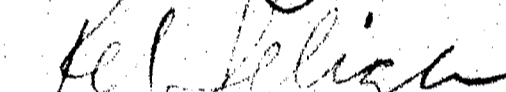
Sirs:


We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on SB 727 have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.



SENATOR JOHN WHITMIRE


SENATOR JOHN CARONA

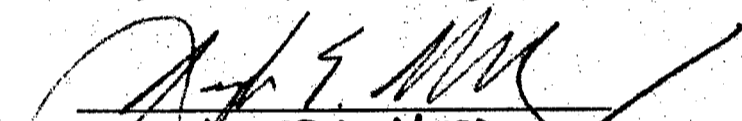

SENATOR GLENN HEGAR

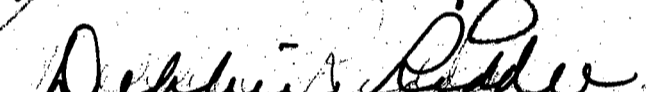

SENATOR KEL SELIGER

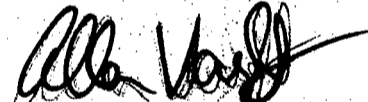

On the part of the Senate
SENATOR DAN PATRICK


REP. RAFAEL ANCHIA


REP. CHARLIE GEREN


REP. JOSEPH MOODY


REP. DEBBIE RIDDLE


On the part of the House
REP. ALLEN VAUGHT

Note to Conference Committee Clerk:

Please type the names of the members of the Conference Committee under the lines provided for signature. Those members desiring to sign the report should sign each of the six copies. Attach a copy of the Conference Committee Report and a Section by Section side by side comparison to each of the six reporting forms. The original and two copies are filed in house of origin of the bill, and three copies in the other house.

CONFERENCE COMMITTEE REPORT

3rd Printing

S.B. No. 727

A BILL TO BE ENTITLED

AN ACT

relating to the creation of DNA records for the DNA database system.

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

SECTION 1. The heading to Article 102.020, Code of Criminal Procedure, is amended to read as follows:

Art. 102.020. COSTS RELATED TO [~~ON CONVICTION FOR OFFENSES REQUIRING~~] DNA TESTING.

SECTION 2. Article 102.020, Code of Criminal Procedure, is amended by amending Subsections (a) and (h) and adding Subsections (h-1) and (j) to read as follows:

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

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

(2) [~~and~~] \$50 [~~as a court cost~~] on conviction of an offense listed in Section 411.1471(a)(3) of that code; 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), Article 42.12.

(h) Except as provided by Subsection (h-1), the [The] comptroller shall deposit 35 percent of the funds received under this article in the state treasury to the credit of the state highway fund and 65 percent of the funds received under this article to the credit of the criminal justice planning account in the

1 general revenue fund.

2 (h-1) The clerk of the court shall transfer to the
3 comptroller any funds received under Subsection (a)(3). The
4 comptroller shall credit the funds to the Department of Public
5 Safety to help defray the cost of any analyses performed on DNA
6 samples provided by defendants who are required to pay a court cost
7 under this article.

8 (j) The court may waive the imposition of a court cost under
9 this article if the court determines that the defendant is indigent
10 and unable to pay the cost.

11 SECTION 3. Chapter 54, Family Code, is amended by adding
12 Section 54.0409 to read as follows:

13 Sec. 54.0409. DNA SAMPLE REQUIRED ON CERTAIN FELONY
14 ADJUDICATIONS. (a) This section applies only to conduct
15 constituting the commission of a felony:

16 (1) that is listed in Section 3g(a)(1), Article 42.12,
17 Code of Criminal Procedure; or

18 (2) for which it is shown that a deadly weapon, as
19 defined by Section 1.07, Penal Code, was used or exhibited during
20 the commission of the conduct or during immediate flight from the
21 commission of the conduct.

22 (b) If a court or jury makes a disposition under Section
23 54.04 in which a child is adjudicated as having engaged in conduct
24 constituting the commission of a felony to which this section
25 applies and the child is placed on probation, the court shall
26 require as a condition of probation that the child provide a DNA
27 sample under Subchapter G, Chapter 411, Government Code, for the

1 purpose of creating a DNA record of the child, unless the child has
2 already submitted the required sample under other state law.

3 SECTION 4. Chapter 54, Family Code, is amended by adding
4 Section 54.0462 to read as follows:

5 Sec. 54.0462. PAYMENT OF FEES FOR OFFENSES REQUIRING DNA
6 TESTING. (a) If a child is adjudicated as having engaged in
7 delinquent conduct that constitutes the commission of a felony and
8 the provision of a DNA sample is required under Section 54.0409 or
9 other law, the juvenile court shall order the child, parent, or
10 other person responsible for the child's support to pay to the court
11 as a cost of court:

12 (1) a \$50 fee if the disposition of the case includes a
13 commitment to a facility operated by or under contract with the
14 Texas Youth Commission; and

15 (2) a \$34 fee if the disposition of the case does not
16 include a commitment described by Subdivision (1) and the child is
17 required to submit a DNA sample under Section 54.0409 or other law.

18 (b) The clerk of the court shall transfer to the comptroller
19 any funds received under this section. The comptroller shall
20 credit the funds to the Department of Public Safety to help defray
21 the cost of any analyses performed on DNA samples provided by
22 children with respect to whom a court cost is collected under this
23 section.

24 (c) If the court finds that a child, parent, or other person
25 responsible for the child's support is unable to pay the fee
26 required under Subsection (a), the court shall enter into the
27 child's case records a statement of that finding. The court may

1 waive a fee under this section only if the court makes the finding
2 under this subsection.

3 SECTION 5. Subsection (a), Section 61.002, Family Code, is
4 amended to read as follows:

5 (a) Except as provided by Subsection (b), this chapter
6 applies to a proceeding to enter a juvenile court order:

7 (1) for payment of probation fees under Section
8 54.061;

9 (2) for restitution under Sections 54.041(b) and
10 54.048;

11 (3) for payment of graffiti eradication fees under
12 Section 54.0461;

13 (4) for community service under Section 54.044(b);

14 (5) for payment of costs of court under Section
15 54.0411 or other provisions of law;

16 (6) requiring the person to refrain from doing any act
17 injurious to the welfare of the child under Section 54.041(a)(1);

18 (7) enjoining contact between the person and the child
19 who is the subject of a proceeding under Section 54.041(a)(2);

20 (8) ordering a person living in the same household
21 with the child to participate in counseling under Section
22 54.041(a)(3);

23 (9) requiring a parent or guardian of a child found to
24 be truant to participate in an available program addressing truancy
25 under Section 54.041(f);

26 (10) requiring a parent or other eligible person to
27 pay reasonable attorney's fees for representing the child under

1 Section 51.10(e);

2 (11) requiring the parent or other eligible person to
3 reimburse the county for payments the county has made to an attorney
4 appointed to represent the child under Section 51.10(j);

5 (12) requiring payment of deferred prosecution
6 supervision fees under Section 53.03(d);

7 (13) requiring a parent or other eligible person to
8 attend a court hearing under Section 51.115;

9 (14) requiring a parent or other eligible person to
10 act or refrain from acting to aid the child in complying with
11 conditions of release from detention under Section 54.01(r); ~~[or]~~

12 (15) requiring a parent or other eligible person to
13 act or refrain from acting under any law imposing an obligation of
14 action or omission on a parent or other eligible person because of
15 the parent's or person's relation to the child who is the subject of
16 a proceeding under this title; or

17 (16) for payment of fees under Section 54.0462.

18 SECTION 6. Section 11, Article 42.12, Code of Criminal
19 Procedure, is amended by adding Subsection (j) to read as follows:

20 (j) A judge granting community supervision to a defendant
21 convicted of a felony shall require that the defendant, as a
22 condition of community supervision, provide a DNA sample under
23 Subchapter G, Chapter 411, Government Code, for the purpose of
24 creating a DNA record of the defendant, unless the defendant has
25 already submitted the required sample under other state law.

26 SECTION 7. (a) Section 102.021, Government Code, is
27 amended to conform to Chapter 1263 (H.B. 3060), Acts of the 80th

1 Legislature, Regular Session, 2007, and is further amended to read
2 as follows:

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

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

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

13 (3) fees for services of peace officer:

14 (A) issuing a written notice to appear in court
15 for certain violations (Art. 102.011, Code of Criminal Procedure)
16 . . . \$5;

17 (B) executing or processing an issued arrest
18 warrant, ~~or~~ capias, or capias pro fine (Art. 102.011, Code of
19 Criminal Procedure) . . . \$50;

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

22 (D) serving a writ not otherwise listed (Art.
23 102.011, Code of Criminal Procedure) . . . \$35;

24 (E) taking and approving a bond and, if
25 necessary, returning the bond to courthouse (Art. 102.011, Code of
26 Criminal Procedure) . . . \$10;

27 (F) commitment or release (Art. 102.011, Code of

1 Criminal Procedure) . . . \$5;

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

4 (H) attendance of a prisoner in habeas corpus
5 case if prisoner has been remanded to custody or held to bail (Art.
6 102.011, Code of Criminal Procedure) . . . \$8 each day;

7 (I) mileage for certain services performed (Art.
8 102.011, Code of Criminal Procedure) . . . \$0.29 per mile; and

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

12 (4) services of a peace officer in conveying a witness
13 outside the county (Art. 102.011, Code of Criminal Procedure) . . .
14 \$10 per day or part of a day, plus actual necessary travel expenses;

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

18 (6) court costs on an offense relating to rules of the
19 road, when offense occurs within a school crossing zone (Art.
20 102.014, Code of Criminal Procedure) . . . \$25;

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

23 (8) court costs on an offense of truancy or
24 contributing to truancy (Art. 102.014, Code of Criminal Procedure)
25 . . . \$20;

26 (9) cost for visual recording of intoxication arrest
27 before conviction (Art. 102.018, Code of Criminal Procedure) . . .

1 \$15;

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

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

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

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

14 (14) court cost for DNA testing for the [~~on an~~] offense
15 of public lewdness or indecent exposure (Art. 102.020(a)(2)
16 [~~102.020~~], Code of Criminal Procedure) . . . \$50;

17 (15) court cost for DNA testing for certain felonies
18 (Art. 102.020(a)(3), Code of Criminal Procedure) . . . \$34;

19 (16) if required by the court, a restitution fee for
20 costs incurred in collecting restitution installments and for the
21 compensation to victims of crime fund (Art. 42.037, Code of
22 Criminal Procedure) . . . \$12; [~~and~~]

23 (17) [~~(16)~~] if directed by the justice of the peace or
24 municipal court judge hearing the case, court costs on conviction
25 in a criminal action (Art. 45.041, Code of Criminal Procedure)
26 . . . part or all of the costs as directed by the judge; and

27 (18) costs attendant to convictions under Chapter 49,

1 Penal Code, and under Chapter 481, Health and Safety Code, to help
2 fund drug court programs established under Chapter 469, Health and
3 Safety Code (Art. 102.0178, Code of Criminal Procedure) . . . \$50.

4 (b) Section 102.0215, Government Code, is repealed.

5 SECTION 8. Section 103.0212, Government Code, is amended to
6 conform to Chapters 910 (H.B. 2949) and 1053 (H.B. 2151), Acts of
7 the 80th Legislature, Regular Session, 2007, and is further amended
8 to read as follows:

9 Sec. 103.0212. ADDITIONAL FEES AND COSTS IN CRIMINAL OR
10 CIVIL CASES: FAMILY CODE. An accused or defendant, or a party to a
11 civil suit, as applicable, shall pay the following fees and costs
12 under the Family Code if ordered by the court or otherwise required:

13 (1) in family matters:

14 (A) issuing writ of withholding (Sec. 8.262,
15 Family Code) . . . \$15;

16 (B) filing copy of writ of withholding to
17 subsequent employer (Sec. 8.267, Family Code) . . . \$15;

18 (C) issuing and delivering modified writ of
19 withholding or notice of termination (Sec. 8.302, Family Code)
20 . . . \$15;

21 (D) issuing and delivering notice of termination
22 of withholding (Sec. 8.303, Family Code) . . . \$15;

23 (E) issuance of change of name certificate (Sec.
24 45.106, Family Code) . . . \$10;

25 (F) protective order fee (Sec. 81.003, Family
26 Code) . . . \$16;

27 (G) filing suit requesting adoption of child

1 (Sec. 108.006, Family Code) . . . \$15;
2 (H) filing fees for suits affecting parent-child
3 relationship (Sec. 110.002, Family Code):
4 (i) suit or motion for modification (Sec.
5 110.002, Family Code) . . . \$15;
6 (ii) motion for enforcement (Sec. 110.002,
7 Family Code) . . . \$15;
8 (iii) notice of application for judicial
9 writ of withholding (Sec. 110.002, Family Code) . . . \$15;
10 (iv) motion to transfer (Sec. 110.002,
11 Family Code) . . . \$15;
12 (v) petition for license suspension (Sec.
13 110.002, Family Code) . . . \$15;
14 (vi) motion to revoke a stay of license
15 suspension (Sec. 110.002, Family Code) . . . \$15; and
16 (vii) motion for contempt (Sec. 110.002,
17 Family Code) . . . \$15;
18 (I) order or writ of income withholding to be
19 delivered to employer (Sec. 110.004, Family Code) . . . not to
20 exceed \$15;
21 (J) filing fee for transferred case (Sec.
22 110.005, Family Code) . . . \$45;
23 (K) filing a writ of withholding (Sec. 158.319,
24 Family Code) . . . \$15;
25 (L) filing a request for modified writ of
26 withholding or notice of termination (Sec. 158.403, Family Code)
27 . . . not to exceed \$15;

1 (M) filing an administrative writ to employer
2 (Sec. 158.503, Family Code) . . . not to exceed \$15; and

3 (N) genetic testing fees in relation to a child
4 born to a gestational mother (Sec. 160.762, Family Code) . . . as
5 assessed by the court; and

6 (2) in juvenile court:

7 (A) fee schedule for deferred prosecution
8 services (Sec. 53.03, Family Code) . . . maximum fee of \$15 a month;

9 (B) a request fee for a teen court program
10 [administration fee] (Sec. 54.032, Family Code) . . . \$20, if the
11 court ordering the fee is located in the Texas-Louisiana border
12 region, but otherwise not to exceed \$10;

13 (C) court costs for juvenile probation diversion
14 fund (Sec. 54.0411, Family Code) . . . \$20;

15 (D) a juvenile delinquency prevention fee (Sec.
16 54.0461, Family Code) . . . \$50 [~~\$5~~]; [~~and~~]

17 (E) a court fee for child's probationary period
18 (Sec. 54.061, Family Code) . . . not to exceed \$15 a month;

19 (F) a fee to cover costs of required duties of
20 teen court (Sec. 54.032, Family Code) . . . \$20, if the court
21 ordering the fee is located in the Texas-Louisiana border region,
22 but otherwise not to exceed \$10;

23 (G) a fee for DNA testing on commitment to
24 certain facilities (Sec. 54.0462, Family Code) . . . \$50; and

25 (H) a fee for DNA testing after placement on
26 probation or as otherwise required by law (Sec. 54.0462, Family
27 Code) . . . \$34.

1 SECTION 9. Subdivision (3), Section 411.141, Government
2 Code, is amended to read as follows:

3 (3) "Criminal justice agency" means:

4 (A) a federal or state agency that is engaged in
5 the administration of criminal justice under a statute or executive
6 order and that allocates a substantial part of its annual budget to
7 the administration of criminal justice;

8 (B) a secure correctional facility as defined by
9 Section 1.07, Penal Code; or

10 (C) a community supervision and corrections
11 department, a parole office, or a local juvenile probation
12 department or parole office [~~has the meaning assigned by Article~~
13 ~~60.01, Code of Criminal Procedure~~].

14 SECTION 10. Subsections (a), (d), (f-1), (j), and (k),
15 Section 411.148, Government Code, are amended to read as follows:

16 (a) This section applies to:

17 (1) an individual, other than a juvenile, who is:

18 (A) ordered by a magistrate or court to provide a
19 DNA sample under Section 411.154 or other law, including as part of
20 an order granting community supervision to the individual; or

21 (B) confined in a penal institution operated by
22 or under contract with the Texas Department of Criminal Justice; or

23 (2) a juvenile who [~~is~~], following [~~after~~] an
24 adjudication for conduct constituting a felony, is:

25 (A) confined in a facility operated by or under
26 contract with the Texas Youth Commission; or

27 (B) placed on probation, if the conduct

1 constitutes a felony described by Section 54.0409, Family Code.

2 (d) If an individual described by Subsection (a)(1)(B) is
3 received into custody by the Texas Department of Criminal Justice,
4 that department shall collect the sample from the individual during
5 the diagnostic process or at another time determined by the Texas
6 Department of Criminal Justice. If an individual described by
7 Subsection (a)(2)(A) is received into custody by the Texas Youth
8 Commission, the youth commission shall collect the sample from the
9 individual during the initial examination or at another time
10 determined by the youth commission. If an individual who is
11 required under this section or other law to provide a DNA sample is
12 in the custody or under the supervision of another criminal justice
13 agency, such as a community supervision and corrections department,
14 a parole office, or a local juvenile probation department or parole
15 office, that agency shall collect the sample from the individual at
16 a time determined by the agency.

17 (f-1) The Texas Youth Commission shall notify the director
18 that an individual described by Subsection (a)(2)(A) [~~(a)(2)~~] is to
19 be released from custody not earlier than the 120th day before the
20 individual's release date.

21 (j)(1) The Texas Youth Commission as soon as practicable
22 shall cause a sample to be collected from an individual described by
23 Subsection (a)(2)(A) [~~(a)(2)~~] if:

24 (A) the individual is detained in another
25 juvenile detention facility after adjudication and before
26 admission to the youth commission; and

27 (B) the youth commission determines the

1 individual is likely to be released before being admitted to the
2 youth commission.

3 (2) The administrator of the other juvenile detention
4 facility shall cooperate with the Texas Youth Commission as
5 necessary to allow the youth commission to perform its duties under
6 this subsection.

7 (k) When a criminal justice agency of this state agrees to
8 accept custody or supervision of an individual from another state
9 or jurisdiction under an interstate compact or a reciprocal
10 agreement with a local, county, state, or federal agency, the
11 criminal justice agency that agrees to accept custody or
12 supervision of the individual shall collect [~~acceptance is~~
13 ~~conditional on the individual providing~~] a DNA sample under this
14 subchapter if the individual was convicted of or adjudicated as
15 having engaged in conduct constituting a felony and is otherwise
16 required to provide a DNA sample under this section.

17 SECTION 11. Subsection (e), Section 411.148, Government
18 Code, is repealed.

19 SECTION 12. (a) The changes in law made by this Act in
20 adding Subsection (j), Section 11, Article 42.12, Code of Criminal
21 Procedure, and Section 54.0409, Family Code, apply only to a person
22 who is granted community supervision or placed on juvenile
23 probation on or after the effective date of this Act.

24 (b) The changes in law made by this Act in amending Article
25 102.020, Code of Criminal Procedure, and adding Section 54.0462,
26 Family Code, apply only to an offense committed or conduct engaged
27 in on or after the effective date of this Act. An offense committed

1 or conduct engaged in before the effective date of this Act is
2 covered by the law in effect at the time the offense was committed
3 or the conduct was engaged in, and the former law is continued in
4 effect for that purpose. For purposes of this section, an offense
5 was committed or conduct was engaged in before the effective date of
6 this Act if any element of the offense or conduct occurred before
7 that date.

8 SECTION 13. To the extent of any conflict, this Act prevails
9 over another Act of the 81st Legislature, Regular Session, 2009,
10 relating to nonsubstantive additions to and corrections in enacted
11 codes.

12 SECTION 14. This Act does not make an appropriation. A
13 provision in this Act that creates a new governmental program,
14 creates a new entitlement, or imposes a new duty on a governmental
15 entity is not mandatory during a fiscal period for which the
16 legislature has not made a specific appropriation to implement the
17 provision.

18 SECTION 15. This Act takes effect September 1, 2009.

Senate Bill 727
Conference Committee Report
Section-by-Section Analysis

SENATE VERSION

SECTION 1. Amends the heading to Article 102.020, Code of Criminal Procedure, COSTS RELATED TO [ON CONVICTION FOR OFFENSES REQUIRING] DNA TESTING.

SECTION 2. Amends Subsection (a) and (h) and adds Subsection (h-1), Article 102.020, Code of Criminal Procedure, relating to costs on conviction for offenses requiring DNA testing. Among other provisions, Subsection (h-1) requires the clerk of the court to transfer to the comptroller any *fees* received from a person placed on community supervision if the person is required to submit a DNA sample. Requires the comptroller, as appropriate, to apportion the *fees* among the funds of each entity required by law to take a DNA sample of the person.

SECTION 3. Adds Section 54.0409, Chapter 54, Family Code, DNA SAMPLE REQUIRED ON CERTAIN FELONY ADJUDICATIONS.

SECTION 4. Adds Section 54.0462, Family Code, PAYMENT OF FEES FOR OFFENSES REQUIRING DNA TESTING. Among other provisions, Subsection (b) requires the clerk of the court to transfer to the comptroller certain *fees*. Requires the comptroller, as

HOUSE VERSION

Same as Senate version.

Same as Senate version except Subsection (h-1) refers to *funds* received and requires the comptroller to credit the *funds* to the Department of Public Safety to help defray the cost of analyses performed on DNA samples provided by defendants who are required to pay a court cost. Also adds Subsection (j) to provide that the court may waive the imposition of a court cost under this article if the court determines that the defendant is indigent and unable to pay the cost.

Same as Senate version.

Same as Senate version except Subsection (b) refers to *funds* received and requires the comptroller to credit the *funds* to the Department of Public Safety to help defray the cost of analyses performed on DNA samples provided by children with respect to whom a court cost is

CONFERENCE

Same as Senate version.

Same as House version.

Same as Senate version.

Same as House version.

Senate Bill 727
Conference Committee Report
Section-by-Section Analysis

SENATE VERSION	HOUSE VERSION	CONFERENCE
appropriate, to apportion the <i>fees</i> among the funds of each entity required by law to take a DNA sample of the child.	collected.	
SECTION 5. Amends Section 61.002(a), Family Code, relating to a proceeding to enter a juvenile court order.	Same as Senate version.	Same as Senate version.
SECTION 6. Adds Section 11(j), Article 42.12, Code of Criminal Procedure, relating to a judge granting community supervision to a defendant convicted of a felony.	Same as Senate version.	Same as Senate version.
SECTION 7. (a) Section 102.021, Government Code, COURT COSTS ON CONVICTION: CODE OF CRIMINAL PROCEDURE, is amended to conform to Chapter 1263 (H.B. 3060), Acts of the 80th Legislature, Regular Session, 2007, and is further amended. (b) Section 102.0215, Government Code, is repealed.	Same as Senate version.	Same as Senate version.
SECTION 8. Section 103.0212, Government Code, is amended to conform to Chapters 910 (H.B. 2949) and 1053 (H.B. 2151), Acts of the 80th Legislature, Regular Session, 2007, and is further amended.	Same as Senate version.	Same as Senate version.

Senate Bill 727
Conference Committee Report
Section-by-Section Analysis

SENATE VERSION	HOUSE VERSION	CONFERENCE
SECTION 9. Amends Section 411.141(3), Government Code, relating to the definition of "criminal justice agency."	Same as Senate version.	Same as Senate version.
No equivalent provision.	SECTION __. Adds Section 411.146(g), Government Code, relating to destruction of DNA samples collected under certain provisions of law.	Same as Senate version.
SECTION 10. Amends Section 411.148(a), (d), (f-1), (j), and (k), Government Code, relating to mandatory DNA records. Among other provisions, Subsection (k) provides that when a criminal justice agency of this state agrees to accept custody or supervision of an individual from another state or jurisdiction under an interstate compact or a reciprocal agreement with a local, county, state, or federal agency, <i>the acceptance is conditional on the individual providing</i> a DNA sample if the individual was convicted of or adjudicated as having engaged in conduct constituting a felony and is otherwise required to provide a DNA sample under this section.	Same as Senate version except provides that when a criminal justice agency of this state agrees to accept such custody or supervision, <i>the criminal justice agency that agrees to accept custody or supervision of the individual shall collect</i> a DNA sample from such an individual.	Same as House version.
SECTION 11. Repeals Section 411.148(e), Government Code.	Same as Senate version.	Same as Senate version.
SECTION 12. Saving provision.	Same as Senate version.	Same as Senate version.

Senate Bill 727
Conference Committee Report
Section-by-Section Analysis

SENATE VERSION	HOUSE VERSION	CONFERENCE
SECTION 13. Transition provision.	Same as Senate version.	Same as Senate version.
SECTION 14. Procedural provision.	Same as Senate version.	Same as Senate version.
SECTION 15. Effective date.	Same as Senate version.	Same as Senate version.

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 27, 2009

TO: Honorable David Dewhurst, Lieutenant Governor, Senate
Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: SB727 by Patrick, Dan (Relating to the creation of DNA records for the DNA database system.), **Conference Committee Report**

Estimated Two-year Net Impact to General Revenue Related Funds for SB727, Conference Committee Report: a positive impact of \$1,728,000 through the biennium ending August 31, 2011.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

The bill would require a defendant convicted of certain offenses who is placed on community supervision, including deferred adjudication community supervision, to submit a DNA sample and to pay a court cost of \$34.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2010	\$502,000
2011	\$1,226,000
2012	\$1,249,000
2013	\$1,273,000
2014	\$1,298,000

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain/ (Loss) from <i>General Revenue Fund</i> 1	Probable (Cost) from <i>State Highway Fund</i> 6	Change in Number of State Employees from FY 2009
2010	\$502,000	(\$2,197,948)	6.0
2011	\$1,226,000	(\$1,850,886)	6.0
2012	\$1,249,000	(\$1,850,886)	6.0
2013	\$1,273,000	(\$1,858,512)	6.0
2014	\$1,298,000	(\$1,850,886)	6.0

Fiscal Analysis

The bill would amend the Code of Criminal Procedure, Article 102.020 (a) by adding a required \$34 court cost for persons placed on community supervision, including deferred adjudication community supervision, if the person is required to submit a DNA sample under Article 42.12, Section 11(j). The court may waive the court cost if it determines that the defendant is indigent and unable to pay.

The bill would amend the Family Code, Chapter 54 to require DNA samples for certain felony adjudications by juveniles and require the youth or parent to pay a \$50 disposition fee if committed to the Youth Commission (TYC) or a \$34 fee if the child is not committed to TYC. The changes made by the bill to the Code of Criminal Procedure, Article 102.020(a) and to the Family Code, Chapter 54 would apply only to offenses committed on or after the effective date of the bill. The bill would require courts to order DNA testing as a condition of probation for adults convicted of a felony and placed on community supervision, and juveniles adjudicated as having engaged in conduct constituting a felony and placed on juvenile probation. The bill would require the agency that has custody or supervision of the person to collect the sample.

The bill would require that funds collected from the \$34 and \$50 court costs are to be remitted to the Comptroller of Public Accounts, and that agency would credit these funds to the Department of Public Safety to defray the cost of DNA samples from the defendants required to pay these court costs.

The bill would amend the Code of Criminal Procedure, Article 42.12 by adding subsection 11(j) to require a defendant convicted of a felony to submit a DNA sample as a condition of community supervision unless the defendant has already submitted a DNA sample required by other state law. These changes would be applicable to a person placed on community supervision on or after the effective date of the bill.

The bill would amend the Government Code, Section 411.141(3) to revise the definition of criminal justice agency to include federal and state agencies engaged in the administration of criminal justice; secure correctional facilities; community supervision and corrections departments; parole officers; and local juvenile probation departments.

The bill would repeal Government Code, Section 411.148 (e) regarding TYC's notification responsibility of a juvenile's release. The bill would require TYC to notify the director of the Department of Public Safety (DPS) of the release of a juvenile described above not earlier than the 120th day before the release date and not later than the 90th day before the juvenile's release. The bill would take effect September 1, 2009.

Methodology

The Juvenile Probation Commission (JPC), the Department of Criminal Justice (TDCJ), and TYC anticipate no fiscal implication to the State. DPS anticipates a cost of \$2,197,948 in State Highway Fund 6 in fiscal year 2010 and \$1,850,886 in fiscal year 2011, with total costs of \$9,609,118 for all five years of this analysis.

DPS estimates 60,000 additional samples per year as a result of the bill. The agency reports that additional equipment, including an automated swab punching system, four DNA extraction robots, and one liquid handling robot totaling \$344,397 would be needed in the first year with continuing equipment costs of \$7,626 in future years. DPS anticipates the need for six additional full-time-equivalents (FTEs) with \$506,344 in salaries and wages, \$144,662 in benefits, and \$5,000 in travel in fiscal years 2010-11 with continuing FTE related costs of \$984,009 in future years.

The Comptroller of Public Accounts (CPA) bases its revenue estimate on the fiscal impact from the various new court costs on historical data from the Annual Statistical Report for the Texas Judiciary (for multiple years) and TDCJ, adjusted for growth, indigency, implementation, and retention by local governments. The court costs for adult placements on community supervision, juvenile placements in TYC facilities, juvenile placements on community supervision and other juvenile felony adjudications were reduced to reflect historical non-collection rates, and adjusted for an implementation lag. The bill directs the CPA to make deposits to funds of affected entities. For purposes of this fiscal impact estimate, the CPA assumed that these deposits would be made to General Revenue Fund 0001 since TDCJ, TYC and JPC are primarily funded with General Revenue. The CPA estimated approximately 40,000 adult placements for 2010 with an annual growth of 2.5 percent and a collection rate of 70 percent, with an assessment start date of January 1, 2010. The CPA estimated approximately 10,000 juvenile placements for 2010 with an annual growth of 0 percent and a collection rate of 70 percent, with an assessment start date of January 1, 2010.

According to the Office of Court Administration, the option for a judge to waive the \$34 court costs if a defendant is found indigent is not expected to have a substantial impact on estimated revenues.

Technology

The fiscal impact of technology for DPS is estimated at \$12,552 in fiscal years 2010-11, with continuing costs of \$10,308 in future years.

Local Government Impact

Local governmental entities could experience costs which would vary by county depending on the number of defendants placed on community supervision who are required to provide a DNA sample. The costs incurred may include purchasing additional DNA kits (Harris County stated a DNA testing kit costs \$3) and processing additional defendants required to create a DNA record. None of the \$34 and \$50 court costs added by the bill would be retained locally.

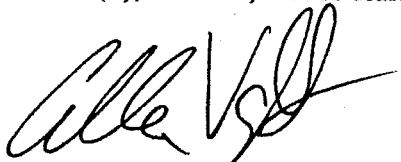
Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 304 Comptroller of Public Accounts, 405 Department of Public Safety, 665 Juvenile Probation Commission, 694 Youth Commission, 696 Department of Criminal Justice

LBB Staff: JOB, ESi, SD, GG, JJO, LM, AI, TP

Certification of Compliance with Rule 13, Section 6(b), House Rules of Procedure

Rule 13, Section 6(b), House Rules of Procedure, requires that a copy of a conference committee report signed by a majority of each committee of the conference must be furnished to each member of the committee in person or if unable to deliver in person by placing a copy in the member's newspaper mailbox at least one hour before the report is furnished to each member of the house under Section 10(a) of this rule. The paper copies of the report submitted to the chief clerk under Section 10(b) of this rule must contain a certificate that the requirement of this subsection has been satisfied, and that certificate must be attached to the printed copy of the report furnished to each member under Section 10(d) of this rule. Failure to comply with this subsection is not a sustainable point of order under this rule.

I certify that a copy of the conference committee report on S B. 727 was furnished to each member of the conference committee in compliance with Rule 13, Section 6(b), House Rules of Procedure, before submission of the paper copies of the report to the chief clerk under Section 10(b), Rule 13, House Rules of Procedure.



(name)

27 MAY 2009

(date)