

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 1292
By: Ellis; Schwertner
Criminal Justice
4/10/2013
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

C.S.S.B. 1292 requires the state to perform DNA testing of all biological evidence that was collected as part of an investigation of an offense prior to trial in any capital offense where the state is seeking the death penalty. It requires the Department of Public Safety of the State of Texas to pay for all the DNA testing performed in accordance with this law.

This bill helps prevent costly appeals in the future, helps prevent wrongful convictions, and ensures public safety. Testing all the relevant DNA evidence before the trial ensures that an innocent person is not on death row for a crime he or she did not commit. It also saves the state money related to incarceration and compensation costs. Finally, it keeps society safe by making sure that the guilty party is found and convicted.

C.S.S.B. 1292 amends current law relating to DNA testing of biological evidence in certain capital cases.

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 38.43, Code of Criminal Procedure, by adding Subsections (i), (j), (k), (l), and (m), as follows:

(i) Requires the Department of Public Safety of the State of Texas (DPS) to perform DNA testing, in accordance with DPS's capabilities at the time the testing is performed, or have DNA tested by a laboratory accredited under Section 411.0205 (Crime Laboratory Accreditation Process), Government Code, on all biological evidence that was collected as part of an investigation of the offense before a defendant is tried for a capital offense in which the state is seeking the death penalty. Requires DPS to pay for all DNA testing performed in accordance with this subsection.

(j) Requires the court, as soon as practicable after the defendant is charged with a capital offense, or on a motion by the state or the defendant in a capital case, to order the state and the defendant to meet and confer about which biological materials collected as part of the investigation of the offense qualify as biological evidence that is required to be tested under Subsection (i). Requires that the biological evidence, if the state and the defendant agree on which biological materials constitute biological evidence, to be tested in accordance with Subsection (i). Authorizes the state or the defendant, if the state and the defendant do not agree on which biological materials qualify as biological evidence, to request the court to hold a hearing to determine the issue. Requires the court, on receipt of a request for a hearing under this subsection, to set a date for the hearing and provide written notice of the hearing date to the state and the defendant. Provides that, at the hearing, a request by the defendant to test biological material is prima facie evidence that the biological material constitutes biological evidence that is required to be tested under Subsection (i).

(k) Requires that the laboratory that tested the evidence, if an item of biological evidence is destroyed as a result of DNA testing performed under Subsection (i), provide to the defendant any documentation related to the testing of the evidence and the results of that testing.

(l) Provides that a defendant is not entitled to a new trial or to a new sentencing proceeding based solely on a violation of Subsection (i), (j), or (k).

(m) Authorizes a defendant to have another laboratory accredited under Section 411.0205, Government Code, perform additional testing of any biological evidence required to be tested under Subsection (i). Authorizes a defendant, on an ex parte showing of good cause to the court, to have a laboratory accredited under Section 411.0205, Government Code, perform testing of any biological material that is not required to be tested under Subsection (i). Provides that the defendant is responsible for the cost of any testing performed under this subsection.

SECTION 2. Makes application of Articles 38.43(i), (j), (k), (l), and (m), Code of Criminal Procedure, as added by this Act, prospective.

SECTION 3. Effective date: September 1, 2013.