

BILL ANALYSIS

Senate Research Center
80R4781 KEL-D

S.B. 499
By: Duncan
Criminal Justice
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The existing post conviction DNA statute, Chapter 64 (Motion for Forensic DNA Testing), Code of Criminal Procedure, requires clarification.

As proposed, S.B. 499 clarifies that a defendant's confession does not automatically preclude a defendant from getting a DNA test under Chapter 64 for the simple reason that "identity is not an issue." The bill authorizes a defendant to have the test administered in a laboratory that is not a Department of Public Safety (DPS) laboratory, or a laboratory under contract with DPS, and requires a counsel to be appointed and an attorney to respond to a motion for forensic DNA testing within certain time periods.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to any state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Article 64.01(c), Code of Criminal Procedure, to require counsel to be appointed under this section not later than the 45th day after the date the court finds reasonable grounds or the date the court determines that the person is indigent, whichever is later.

SECTION 2. Amends Article 64.02, Code of Criminal Procedure, as follows:

Art. 64.02. NOTICE TO STATE; RESPONSE. (a) Creates this subsection from existing text. Requires the convicting court, on receipt of a motion, to require the attorney representing the state to take one of certain actions in response to the motion not later than the 30th day after the date the motion is filed.

(b) Authorizes the convicting court to proceed under Article 64.03 after the response period described under Subsection (a) has expired, regardless of whether the attorney representing the state submitted a response under that subsection.

SECTION 3. Amends Articles 64.03(b) and (c), Code of Criminal Procedure, as follows:

(b) Authorizes a convicted person who pleaded guilty or nolo contendere or, whether before or after conviction, made a confession or similar admission in the case to submit a motion under this chapter. Prohibits the convicting court from finding that identity was not an issue in the case solely on the basis of that plea, confession, or admission, as applicable.

(c) Authorizes the court to order the DNA test to be conducted by the Department of Public Safety (DPS), a laboratory operating under a contract with DPS, or on the request of the convicted person, rather than agreement of the parties, another laboratory if it is accredited under Section 411.0205 (Crime Laboratory Accreditation Process), Government Code, if the court makes certain affirmative findings and the convicted person meets certain requirements.

SECTION 4. Makes application of this Act prospective.

SECTION 5. Effective date: upon passage or September 1, 2007.