

BILL ANALYSIS

Senate Research Center

H.B. 3594
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Criminal Justice
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Current law requires local jurisdictions to preserve biological evidence used in the conviction of a person who committed a crime. However, smaller jurisdictions do not always have the appropriate storage facilities to accomplish this goal. This potentially puts biological evidence at risk of being damaged or destroyed.

This bill requires that in counties with populations less than 100,000, evidence containing biological material be sent to and stored at the Department of Public Safety of the State of Texas (DPS) if it is used in a criminal conviction in which the offender receives a sentence of 10 or more years. It also requires DPS to maintain an appropriate storage space.

H.B. 3594 amends current law relating to the preservation of evidence that contains biological material.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Department of Public Safety of the State of Texas in SECTION 2 (Section 411.052, Government Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Article 38.43, Code of Criminal Procedure, by adding Subsection (f) to read as follows:

(f)(1) Provides that this subsection applies only to evidence described by Subsection (b) that was used to prosecute and convict a defendant of an offense under Chapter 19 (Criminal Homicide), 21 (Sexual Offenses), or 22 (Assaultive Offenses), Penal Code, if on conviction of the offense the defendant was sentenced to a term of imprisonment of 10 years or more.

(2) Requires the attorney representing the state, clerk, or other officer in possession of any evidence to which this subsection applies, in a county with a population less than 100,000, to ensure the preservation of the evidence by promptly delivering the evidence to the Department of Public Safety of the State of Texas (DPS) for storage in accordance with Section 411.052, Government Code, and DPS rules.

SECTION 2. Amends Subchapter D, Chapter 411, Government Code, by adding Section 411.052, as follows:

Sec. 411.052. PRESERVATION OF EVIDENCE CONTAINING BIOLOGICAL MATERIAL. (a) Requires DPS to maintain a storage space for the preservation of evidence containing biological material that is delivered to DPS under Article 38.43(f), Code of Criminal Procedure, and authorizes DPS to maintain a storage space for the preservation of evidence of a sexual assault or other sex offense.

(b) Requires DPS to adopt rules relating to the delivery, cataloging, and preservation of evidence stored under this section.

SECTION 3. (a) Requires DPS to adopt rules as required by Section 411.052(b), Government Code, as added by this Act, not later than November 1, 2009.

(b) Requires DPS to begin accepting evidence delivered to DPS in accordance with Article 38.43, Code of Criminal Procedure, as amended by this Act, and Section 411.052, Government Code, as added by this Act, on January 1, 2010.

SECTION 4. Makes application of this Act prospective to January 1, 2010.

SECTION 5. Effective date: September 1, 2009.