

## **BILL ANALYSIS**

Senate Research Center

S.B. 487  
By: Ellis et al.  
Criminal Justice  
6/4/2015  
Enrolled

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Chapter 64 of the Code of Criminal Procedure allows for post-conviction DNA testing in criminal cases to ensure a more reliable and accurate justice system. Unfortunately, recent Texas Court of Criminal Appeals decisions have strictly interpreted the language of Chapter 64 to require proof that biological evidence exists before a judge can allow testing to see if exculpatory biological evidence exists. This new interpretation severely restricts a judge's ability to order DNA testing, even when the defendant has shown that the evidence in question is likely to contain biological material, which in turn prevents the discovery of exonerations in cases where exculpatory evidence is often microscopic.

S.B. 487 clarifies that a judge has the authority to grant testing in situations where the judge believes there is a "reasonable likelihood" that credible exculpatory biological evidence exists and meets the other standards for access to testing under Chapter 64 of the Code of Criminal Procedure.

S.B. 487 also clarifies that a judge is not barred from considering the possibility of a combined DNA index system (CODIS) database match in its determination of whether evidence might be exculpatory, and may consider the possibility of a CODIS database match when determining whether such evidence could provide an "exculpatory result."

Ensuring Texas judges can properly allow post-conviction DNA testing in cases they feel will advance justice will help to increase public safety and ensure a more accurate, reliable, and transparent justice system that allows crucial evidence to light. (Original Author's/Sponsor's Statement of Intent)

S.B. 487 amends current law relating to postconviction forensic DNA analysis.

### **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 64.01(a-1), Code of Criminal Procedure, as follows:

(a-1) Authorizes a convicted person to submit to the convicting court a motion for forensic DNA testing of evidence that has a reasonable likelihood of containing biological material. Requires that the motion be accompanied by an affidavit, sworn to by the convicted person, containing statements of fact in support of the motion.

SECTION 2. Amends Article 64.03(a), Code of Criminal Procedure, as follows:

(a) Authorizes a convicting court to order forensic DNA testing under this chapter only if:

(1) the court finds that:

(A) the evidence:

- (i) still exists and is in a condition making DNA testing possible;  
and
- (ii) has been subjected to a chain of custody sufficient to establish that it has not been substituted, tampered with, replace, or altered in any material respect;

(B) there is a reasonable likelihood that the evidence contains biological material suitable for DNA testing; and

(C) makes no change to this paragraph; and

(2) Makes no change to this subdivision.

SECTION 3. Makes application of this Act prospective regarding a motion for forensic DNA testing.

SECTION 4. Effective date: September 1, 2015.