

By: Turner

H.B. No. 1144

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to jury instructions regarding evidence in a criminal case  
3 that is lost or destroyed while in the possession of the state.

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

5 SECTION 1. Chapter 38, Code of Criminal Procedure, is  
6 amended by adding Article 38.45 to read as follows:

7 Art. 38.45. JURY INSTRUCTIONS REGARDING CERTAIN LOST OR  
8 DESTROYED EVIDENCE. If evidence is unavailable in a criminal case  
9 because the evidence was lost or destroyed while in the possession  
10 of the state, the court shall instruct the jury to presume that the  
11 evidence would have been favorable to the defendant and unfavorable  
12 to the state.

13 SECTION 2. The change in law made by this Act applies only  
14 to a criminal trial that commences on or after the effective date of  
15 this Act. A criminal trial that commenced before the effective date  
16 of this Act is governed by the law in effect when the trial  
17 commenced, and the former law is continued in effect for that  
18 purpose.

19 SECTION 3. This Act takes effect September 1, 2007.