

BILL ANALYSIS

S.B. 1864
By: Ellis
Criminal Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

S.B. 1864 would clarify Texas' post-conviction DNA statute to address issues that have arisen in the Ricardo Rachell exoneration in Houston and the *Routier v. State* decision by the Court of Criminal Appeals.

As proposed, S.B. 1864 requires a motion for post-conviction DNA testing to be granted if the biological evidence was not previously tested; or the biological evidence was previously tested, but can be subjected to newer testing techniques that provide a reasonable likelihood that the results will be more accurate and probative than the previous test results. The bill also requires the court to order any unidentified DNA profile discovery during post-conviction DNA testing to be compared with the DNA profiles in the Federal Bureau of Investigation's CODIS DNA database.

RULEMAKING AUTHORITY

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

ANALYSIS

SECTION 1. Amends Article 64.01(b), Code of Criminal Procedure, to delete existing text authorizing the motion to request forensic DNA testing only of evidence described by Subsection (a) (relating to a motion for the forensic DNA testing of evidence containing biological material submitted to the court by a convicted person) that was secured in relation to the offense that is the basis of the challenged conviction and was in the possession of the state during the trial of the offense but was not previously subjected to DNA testing because DNA testing was not available; or available, but not technologically capable of providing probative results; or through no fault of the convicted person for reasons that are of a nature such that the interests of justice require DNA testing.

SECTION 2. Amends Chapter 64, Code of Criminal Procedure, by adding Article 64.035, as follows:

Art. 64.035. UNIDENTIFIED DNA PROFILES. Requires the convicting court, on completion of the testing under Article 64.03 (Requirements; Testing), to order any unidentified DNA profile to be compared with the DNA profiles in the CODIS DNA database established by the Federal Bureau of Investigation.

SECTION 3. Amends Article 64.04, Code of Criminal Procedure, as follows:

Art. 64.04. FINDING. Requires the convicting court, after examining the results of testing under Article 64.03 and any comparison of a DNA profile under Article 64.035, to hold a hearing and make a finding as to whether, had the results been available during the trial of the offense, it is reasonably probable that the person would not have been convicted.

SECTION 4. Makes application of this Act prospective.

SECTION 5. Effective date: September 1, 2009.

EFFECTIVE DATE

September 1, 2009.