

BILL ANALYSIS

S.B. 1439
By: West
Criminal Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Interested parties report high turnover among personnel who handle evidence in criminal proceedings and note that training for these personnel is limited. The parties contend that a previous Texas Legislature established the first statewide standards for the collection, analysis, preservation, storage, and destruction of biological evidence, which was a major step toward ensuring the integrity of biological evidence while in the custody of law enforcement or other authorized personnel, but further legislative action is needed to provide for proper, standardized training for evidence technicians and to address the proper storage and disposition of biological evidence in criminal proceedings that is held by courts and released to sheriffs or law enforcement agencies for safekeeping. S.B. 1439 seeks to provide for evidence technician training and the disposition of biological evidence in a criminal case.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Department of Public Safety in SECTION 3 of this bill.

ANALYSIS

S.B. 1439 amends the Code of Criminal Procedure to include biological evidence among the evidentiary items received as an exhibit in a criminal proceeding that are required to be released at any time during or after the proceeding by the court reporter for safekeeping to the sheriff, or in a county with a population of 500,000 or more, the law enforcement agency that collected, seized, or took possession of the item or produced the item at the proceeding. The bill requires the sheriff or law enforcement agency, as applicable, to receive and hold the exhibits consisting of biological evidence and release them only to the person or persons authorized by the court in which such exhibits have been received or dispose of them as provided by search warrant provisions. The bill specifies that biological evidence is not considered an "eligible exhibit" for purposes of statutory provisions regarding the disposal or disposition of certain eligible exhibits in criminal proceedings.

S.B. 1439 requires a law enforcement agency that is in possession of physical evidence, including blood, that is seized in connection with the investigation of a misdemeanor offense, not later than the 30th day after the date on which a conviction becomes final in the misdemeanor case, to file with the court in which the offense was prosecuted or any magistrate a motion requesting the authority to dispose of the evidence, except as otherwise provided by statutory provisions relating to evidence in criminal actions.

S.B. 1439 amends the Government Code to require the Department of Public Safety (DPS) and the Texas A&M Engineering Extension Service to jointly establish minimum requirements for evidence technician training programs. The bill requires such a program to consist of at least eight hours of training and requires DPS to adopt rules for accrediting such a program that meets those minimum requirements. The bill prohibits the state or a political subdivision of the state from appointing or employing a person to act as an evidence technician, defined by the bill as a

person employed by or serving a law enforcement agency who receives, preserves, stores, disposes of, and accounts for property or evidence that comes into the agency's possession and includes a property control officer, property attendant, or property specialist, unless the person has completed an accredited evidence technician training program. The bill requires DPS to issue a written acknowledgement of satisfactory completion of an accredited evidence technician training program to a person who submits evidence of satisfactory completion to DPS.

S.B. 1439 authorizes a person who has not completed an accredited evidence technician training program to act as an evidence technician on a temporary or probationary basis or to perform the duties of an evidence technician in an emergency. The bill prohibits a person appointed or employed on a temporary or probationary basis from continuing to serve as an evidence technician after the first anniversary of the date the person is appointed or employed unless the person has completed an accredited evidence technician training program or the agency appointing or employing the person has received permission from DPS for the person to continue to serve on a temporary or probationary basis without completion of a training program. The bill's provisions regarding the prohibition against appointing or employing a person to act as an evidence technician unless the person has completed an accredited training program and regarding temporary or probationary service as an evidence technician take effect January 1, 2014. The bill authorizes a person serving, other than on a temporary or probationary basis, as an evidence technician on August 31, 2013, to continue to serve as an evidence technician without completing an accredited evidence technician training program.

EFFECTIVE DATE

Except as otherwise provided, September 1, 2013.