

By: West
(Herrero)

S.B. No. 1439

A BILL TO BE ENTITLED

AN ACT

relating to evidence technician training and the disposition of certain evidence in a criminal case.

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

SECTION 1. Subsections (b), (c), and (d), Article 2.21, Code of Criminal Procedure, are amended to read as follows:

(b) At any time during or after a criminal proceeding, the court reporter shall release for safekeeping any biological evidence, firearm, or contraband received as an exhibit in that proceeding to:

(1) the sheriff; or

(2) in a county with a population of 500,000 or more, the law enforcement agency that collected, seized, or took possession of the biological evidence, firearm, or contraband or produced the biological evidence, firearm, or contraband at the proceeding.

(c) The sheriff or the law enforcement agency, as applicable, shall receive and hold the exhibits consisting of biological evidence, firearms, or contraband 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 Chapter 18.

(d) In this article:

(1) "Biological evidence" has the meaning assigned by

1 Article 38.43.

2 (2) "Eligible~~[, "eligible]~~ exhibit" means an exhibit
3 filed with the clerk that:

4 (A) [~~(1)~~] is not biological evidence, a firearm,
5 or contraband;

6 (B) [~~(2)~~] has not been ordered by the court to be
7 returned to its owner; and

8 (C) [~~(3)~~] is not an exhibit in another pending
9 criminal action.

10 SECTION 2. Chapter 38, Code of Criminal Procedure, is
11 amended by adding Article 38.48 to read as follows:

12 Art. 38.48. DISPOSITION OF PHYSICAL EVIDENCE RELATED TO
13 MISDEMEANOR OFFENSE. (a) This article applies to physical
14 evidence, including blood, that is seized in connection with the
15 investigation of a misdemeanor offense.

16 (b) Except as otherwise provided by this chapter, a law
17 enforcement agency that is in possession of evidence described by
18 Subsection (a), not later than the 30th day after the date on which
19 a conviction becomes final in a misdemeanor case, shall file with
20 the court in which the offense was prosecuted or any magistrate a
21 motion requesting the authority to dispose of the evidence.

22 SECTION 3. Subtitle B, Title 4, Government Code, is amended
23 by adding Chapter 412 to read as follows:

24 CHAPTER 412. PROPERTY AND EVIDENCE

25 Sec. 412.001. DEFINITIONS. In this chapter:

26 (1) "Department" means the Department of Public Safety
27 of the State of Texas.

1 (2) "Evidence" means any item that tends to prove or
2 disprove that a criminal act occurred or that can prove or disprove
3 guilt or innocence.

4 (3) "Evidence technician" means a person employed by
5 or serving a law enforcement agency who receives, preserves,
6 stores, disposes of, and accounts for property or evidence that
7 comes into the agency's possession. The term includes a property
8 control officer, property attendant, or property specialist.

9 (4) "Extension service" means the Texas A&M
10 Engineering Extension Service.

11 (5) "Property" means an item that is placed in a law
12 enforcement agency's property room that does not have evidentiary
13 value or is not related to or alleged to be related to any criminal
14 act.

15 Sec. 412.002. EVIDENCE TECHNICIAN TRAINING PROGRAM.

16 (a) The department and the extension service shall jointly
17 establish minimum requirements for evidence technician training
18 programs. An evidence technician training program must consist of
19 at least eight hours of training.

20 (b) The department shall adopt rules for accrediting an
21 evidence technician training program that meets the minimum
22 requirements established under Subsection (a).

23 Sec. 412.003. TRAINING REQUIRED. (a) This state or a
24 political subdivision of this state may not appoint or employ a
25 person to act as an evidence technician unless the person has
26 completed an accredited evidence technician training program.

27 (b) The department shall issue a written acknowledgment of

1 satisfactory completion of an accredited evidence technician
2 training program to a person who submits evidence of satisfactory
3 completion to the department.

4 (c) Notwithstanding Subsection (a), a person who has not
5 completed an accredited evidence technician training program may
6 act as an evidence technician on a temporary or probationary basis
7 or may perform the duties of an evidence technician in an emergency.

8 (d) A person appointed or employed on a temporary or
9 probationary basis may not continue to serve as an evidence
10 technician after the first anniversary of the date the person is
11 appointed or employed unless the person has completed an accredited
12 evidence technician training program or the agency appointing or
13 employing the person has received permission from the department
14 for the person to continue to serve on a temporary or probationary
15 basis without completion of a training program.

16 SECTION 4. A person serving, other than on a temporary or
17 probationary basis, as an evidence technician as defined by Section
18 412.001, Government Code, as added by this Act, on August 31, 2013,
19 may continue to serve as an evidence technician without completing
20 an accredited evidence technician training program as required by
21 Section 412.003, Government Code, as added by this Act.

22 SECTION 5. (a) Except as provided by Subsection (b) of
23 this section, this Act takes effect September 1, 2013.

24 (b) Section 412.003, Government Code, as added by this Act,
25 takes effect January 1, 2014.