

1-1 By: West S.B. No. 1439
1-2 (In the Senate - Filed March 7, 2013; March 18, 2013, read
1-3 first time and referred to Committee on Criminal Justice;
1-4 April 29, 2013, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 5, Nays 0; April 29, 2013,
1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	Whitmire	X		
1-10	Huffman	X		
1-11	Carona		X	
1-12	Hinojosa		X	
1-13	Patrick	X		
1-14	Rodriguez	X		
1-15	Schwertner	X		

1-16 COMMITTEE SUBSTITUTE FOR S.B. No. 1439 By: Patrick

1-17 A BILL TO BE ENTITLED
1-18 AN ACT

1-19 relating to evidence technician training and the disposition of
1-20 certain evidence in a criminal case.

1-21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-22 SECTION 1. Subsections (b), (c), and (d), Article 2.21,
1-23 Code of Criminal Procedure, are amended to read as follows:

1-24 (b) At any time during or after a criminal proceeding, the
1-25 court reporter shall release for safekeeping any biological
1-26 evidence, firearm, or contraband received as an exhibit in that
1-27 proceeding to:

1-28 (1) the sheriff; or

1-29 (2) in a county with a population of 500,000 or more,
1-30 the law enforcement agency that collected, seized, or took
1-31 possession of the biological evidence, firearm, or contraband or
1-32 produced the biological evidence, firearm, or contraband at the
1-33 proceeding.

1-34 (c) The sheriff or the law enforcement agency, as
1-35 applicable, shall receive and hold the exhibits consisting of
1-36 biological evidence, firearms, or contraband and release them only
1-37 to the person or persons authorized by the court in which such
1-38 exhibits have been received or dispose of them as provided by
1-39 Chapter 18.

1-40 (d) In this article:

1-41 (1) "Biological evidence" has the meaning assigned by
1-42 Article 38.43.

1-43 (2) "Eligible [~~,"eligible~~] exhibit" means an exhibit
1-44 filed with the clerk that:

1-45 (A) [~~(1)~~] is not biological evidence, a firearm,
1-46 or contraband;

1-47 (B) [~~(2)~~] has not been ordered by the court to be
1-48 returned to its owner; and

1-49 (C) [~~(3)~~] is not an exhibit in another pending
1-50 criminal action.

1-51 SECTION 2. Chapter 38, Code of Criminal Procedure, is
1-52 amended by adding Article 38.48 to read as follows:

1-53 Art. 38.48. DISPOSITION OF PHYSICAL EVIDENCE RELATED TO
1-54 MISDEMEANOR OFFENSE. (a) This article applies to physical
1-55 evidence, including blood, that is seized in connection with the
1-56 investigation of a misdemeanor offense.

1-57 (b) Except as otherwise provided by this chapter, a law
1-58 enforcement agency that is in possession of evidence described by
1-59 Subsection (a), not later than the 60th day after the date on which
1-60 a conviction becomes final in a misdemeanor case, shall file with

2-1 the court in which the offense was prosecuted or any magistrate a
2-2 motion requesting the authority to dispose of the evidence.

2-3 SECTION 3. Subtitle B, Title 4, Government Code, is amended
2-4 by adding Chapter 412 to read as follows:

2-5 CHAPTER 412. PROPERTY AND EVIDENCE

2-6 Sec. 412.001. DEFINITIONS. In this chapter:

2-7 (1) "Department" means the Department of Public Safety
2-8 of the State of Texas.

2-9 (2) "Evidence" means any item that tends to prove or
2-10 disprove that a criminal act occurred or that can prove or disprove
2-11 guilt or innocence.

2-12 (3) "Evidence technician" means a person employed by
2-13 or serving a law enforcement agency who receives, preserves,
2-14 stores, disposes of, and accounts for property or evidence that
2-15 comes into the agency's possession. The term includes a property
2-16 control officer, property attendant, or property specialist.

2-17 (4) "Extension service" means the Texas A&M
2-18 Engineering Extension Service.

2-19 (5) "Property" means an item that is placed in a law
2-20 enforcement agency's property room that does not have evidentiary
2-21 value or is not related to or alleged to be related to any criminal
2-22 act.

2-23 Sec. 412.002. EVIDENCE TECHNICIAN TRAINING PROGRAM.

2-24 (a) The department and the extension service shall jointly
2-25 establish minimum requirements for evidence technician training
2-26 programs. An evidence technician training program must consist of
2-27 at least eight hours of training.

2-28 (b) The department shall adopt rules for accrediting an
2-29 evidence technician training program that meets the minimum
2-30 requirements established under Subsection (a).

2-31 Sec. 412.003. TRAINING REQUIRED. (a) This state or a
2-32 political subdivision of this state may not appoint or employ a
2-33 person to act as an evidence technician unless the person has
2-34 completed an accredited evidence technician training program.

2-35 (b) The department shall issue a written acknowledgment of
2-36 satisfactory completion of an accredited evidence technician
2-37 training program to a person who submits evidence of satisfactory
2-38 completion to the department.

2-39 (c) Notwithstanding Subsection (a), a person who has not
2-40 completed an accredited evidence technician training program may
2-41 act as an evidence technician on a temporary or probationary basis
2-42 or may perform the duties of an evidence technician in an emergency.

2-43 (d) A person appointed or employed on a temporary or
2-44 probationary basis may not continue to serve as an evidence
2-45 technician after the first anniversary of the date the person is
2-46 appointed or employed unless the person has completed an accredited
2-47 evidence technician training program or the agency appointing or
2-48 employing the person has received permission from the department
2-49 for the person to continue to serve on a temporary or probationary
2-50 basis without completion of a training program.

2-51 SECTION 4. A person serving, other than on a temporary or
2-52 probationary basis, as an evidence technician as defined by Section
2-53 412.001, Government Code, as added by this Act, on August 31, 2013,
2-54 may continue to serve as an evidence technician without completing
2-55 an accredited evidence technician training program as required by
2-56 Section 412.003, Government Code, as added by this Act.

2-57 SECTION 5. (a) Except as provided by Subsection (b) of
2-58 this section, this Act takes effect September 1, 2013.

2-59 (b) Section 412.003, Government Code, as added by this Act,
2-60 takes effect January 1, 2014.

2-61 * * * * *