

By: Thompson of Harris

H.B. No. 2438

Substitute the following for H.B. No. 2438:

By: Herrero

C.S.H.B. No. 2438

A BILL TO BE ENTITLED

AN ACT

relating to postconviction forensic DNA analysis.

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

SECTION 1. Article 64.01(a-1), Code of Criminal Procedure, is amended to read as follows:

(a-1) A convicted person may submit to the convicting court a motion for forensic DNA testing of evidence that has a reasonable likelihood of containing biological material. The motion must be accompanied by an affidavit, sworn to by the convicted person, containing statements of fact in support of the motion.

SECTION 2. Article 64.03(a), Code of Criminal Procedure, is amended to read as follows:

(a) A convicting court may order forensic DNA testing under this chapter only if:

(1) the court finds that:

(A) the evidence:

(i) still exists and is in a condition making DNA testing possible; and

(ii) has been subjected to a chain of custody sufficient to establish that it has not been substituted, tampered with, replaced, or altered in any material respect; ~~and~~

(B) there is a reasonable likelihood that the evidence contains biological material suitable for DNA testing; and

(C) identity was or is an issue in the case; and

1 (2) the convicted person establishes by a
2 preponderance of the evidence that:

3 (A) the person would not have been convicted if
4 exculpatory results had been obtained through DNA testing; and

5 (B) the request for the proposed DNA testing is
6 not made to unreasonably delay the execution of sentence or
7 administration of justice.

8 SECTION 3. The change in law made by this Act applies to a
9 motion for forensic DNA testing filed on or after the effective date
10 of this Act. A motion for forensic DNA testing filed before the
11 effective date of this Act is governed by the law in effect on the
12 date the motion was filed, and the former law is continued in effect
13 for that purpose.

14 SECTION 4. This Act takes effect September 1, 2015.