

By: Neave

H.B. No. 615

A BILL TO BE ENTITLED

AN ACT

relating to the destruction of certain biological evidence.

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

SECTION 1. Article 38.43, Code of Criminal Procedure, is amended by amending Subsection (d) and adding Subsection (d-1) to read as follows:

(d) Subject to Subsection (d-1), the ~~The~~ attorney representing the state, clerk, or other officer in possession of biological evidence described by Subsection (a) may destroy the evidence, but only if the attorney, clerk, or officer by mail notifies the defendant, the last attorney of record for the defendant, and the convicting court of the decision to destroy the evidence and a written objection is not received by the attorney, clerk, or officer from the defendant, attorney of record, or court before the 91st day after the later of the following dates:

(1) the date on which the attorney representing the state, clerk, or other officer receives proof that the defendant received notice of the planned destruction of evidence; or

(2) the date on which notice of the planned destruction of evidence is mailed to the last attorney of record for the defendant.

(d-1) In addition to the notification required by Subsection (d), the attorney representing the state, clerk, or other officer in possession of a sexual assault examination kit may

1 destroy the contents of the sexual assault examination kit, but
2 only if the attorney, clerk, or officer by mail notifies the victim
3 of the offense of the decision to destroy the contents of the kit
4 and a written objection is not received by the attorney, clerk, or
5 officer from the victim before the 91st day after the date on which
6 the attorney, clerk, or officer receives proof that the victim
7 received notice of the planned destruction of the contents of the
8 kit.

9 SECTION 2. The change in law made by this Act to Article
10 [38.43](#), Code of Criminal Procedure, applies only to biological
11 evidence destroyed on or after the effective date of this Act.
12 Biological evidence destroyed before the effective date of this Act
13 is governed by the law that was in effect immediately before the
14 effective date of this Act, and the former law is continued in
15 effect for that purpose.

16 SECTION 3. This Act takes effect September 1, 2019.