

BILL ANALYSIS

Senate Research Center
87R954 KJE-F

H.B. 217
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Criminal Justice
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Current law allows for post-conviction forensic DNA testing in criminal cases to help provide for a more reliable criminal justice system. Several criteria must be met for this testing to be ordered, including the establishment by the convicted person by a preponderance of the evidence that the person would not have been convicted if exculpatory results had been obtained through DNA testing. Furthermore, the law provides for eligible unidentified DNA profiles obtained to be compared with DNA profiles in the state and federal law enforcement DNA databases.

However, a Texas Court of Criminal Appeals ruling limited the meaning of "exculpatory results" to prohibit a trial court judge from considering the possibility that DNA test results could yield a match to a convicted offender's profile in these databases. This not only conflicts with the aforementioned requirement but is problematic because the mere exclusion of the convicted person as the source of DNA is often insufficient to prove innocence. In fact, roughly half of all DNA exonerations nationwide involve identification of the actual perpetrator in addition to the exclusion of the convicted person.

H.B. 217 seeks to clarify that judges may consider the possibility of a third-party match in law enforcement DNA databases as an "exculpatory result" when determining whether the petitioner meets the requirements to obtain post-conviction DNA testing

H.B. 217 amends current law relating to postconviction forensic DNA testing.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Article 64.03, Code of Criminal Procedure, by adding Subsection (a-1) and amending Subsection (c), as follows:

(a-1) Defines "exculpatory results" for purposes of Article 64.03 (Requirements; Testing).

(c) Authorizes a convicting court to order a forensic DNA test to be conducted by a laboratory of the Department of Public Safety of the State of Texas.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 2021.