

BILL ANALYSIS

H.B. 217
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Criminal Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

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.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

H.B. 217 amends the Code of Criminal Procedure to include in the term "exculpatory results," for purposes of forensic DNA testing ordered by a convicting court, DNA test results that indicate a match between an unidentified DNA profile on the evidence tested and another individual's DNA profile contained in the FBI or Texas Department of Public Safety DNA database or otherwise in the possession of a law enforcement agency. The bill clarifies that the testing may be conducted by a laboratory of the Department of Public Safety.

EFFECTIVE DATE

September 1, 2021.

