

## **BILL ANALYSIS**

H.B. 270  
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Criminal Jurisprudence  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

Current law allows for post-conviction DNA testing in criminal cases if certain requirements are met, including that the convicted person has established by a preponderance of the evidence that they would not have been convicted if exculpatory results had been obtained through DNA testing. A Texas Court of Criminal Appeals ruling limited the meaning of the term "exculpatory results" in such a way as to preclude a trial court judge from considering the possibility that DNA test results could yield a match to another individual's profile in a law enforcement DNA database. This interpretation of statute is problematic because it conflicts with the requirement that all eligible profiles must be compared to DNA databases. Moreover, the mere exclusion of the petitioner as the source of DNA is often insufficient to prove innocence. H.B. 270 seeks to address this problem by making clear that judges are allowed to consider the possibility of a third-party match in a law enforcement DNA database 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. 270 amends the Code of Criminal Procedure to include as an "exculpatory result" 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 Department of Public Safety (DPS) DNA database or otherwise in the possession of a law enforcement agency. The bill clarifies that the DNA testing may be conducted by a laboratory of DPS.

### **EFFECTIVE DATE**

September 1, 2023.