

BILL ANALYSIS

Senate Research Center

H.B. 4628
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Criminal Justice
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The 86th Texas Legislature enacted H.B. 3106, otherwise known as Molly Jane's Law, which changed the process of data collection in sexual assault investigations across law enforcement agencies in Texas. This law was a step forward, but the timeline for sexual assault evidence kit processing remains an issue. Lack of established deadlines in law have led to circumstances in which CODIS hits are returned to the lab, but not issued to an investigator or in which hits are issued to investigators, but are left pending with the need for follow-up sample collection. H.B. 4628 seeks to address these issues by establishing a timeline for handling CODIS database matches that could potentially aid an investigation by a law enforcement agency.

H.B. 4628 amends current law relating to the duties of law enforcement agencies, crime laboratories, and the Department of Public Safety following the performance of certain DNA profile comparisons.

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 Section 420.043, Government Code, by adding Subsection (a-1), as follows:

(a-1) Requires the Department of Public Safety of the State of Texas (DPS), not later than the seventh day after the date DPS performs a comparison of DNA profiles required under Subsection (a) (relating to requiring DPS to compare the DNA profile obtained from the biological evidence with DNA profiles maintained in certain law enforcement databases), to notify the accredited crime laboratory that analyzed the evidence collection kit containing biological evidence whether the comparison of the DNA profile obtained from the biological evidence to DNA profiles contained in the databases described by Subsections (a)(1) (relating to certain DNA databases maintained by the state) and (2) (relating to the CODIS DNA database established by the Federal Bureau of Investigation) resulted in any matches.

SECTION 2. Amends Subchapter B-1, Chapter 420, Government Code, by adding Sections 420.0431 and 420.0432, as follows:

Sec. 420.0431. DUTIES FOLLOWING DATABASE DNA MATCH. (a) Provides that if a match that may assist in the investigation of a criminal case is identified under Section 420.043 (Database Comparison Required) between biological evidence contained in an evidence collection kit and a DNA profile contained in a database described by Subsection (a)(1) or (2) of that section, on request of the accredited crime laboratory that performed the analysis of the evidence collection kit, a law enforcement agency that submitted the evidence collection kit to the crime laboratory is required, not later than the fifth business day after the date the request is made, to provide any additional information requested by the crime laboratory concerning the match.

(b) Provides that not later than the 60th business day after the crime laboratory receives written notification that a match that may aid in the investigation of a criminal case has been identified under Section 402.043 between biological evidence contained in an evidence collection kit and a DNA profile contained in a database described by Subsection (a)(1) or (2) of that section, written notification is required to be provided to the law enforcement agency that submitted the evidence collection kit of:

(1) any case-to-case match that may assist in the investigation of a criminal case; and

(2) any verified match that identifies a suspect or offender.

(c) Provides that verification of a match identifying an offender under Subsection (b)(2) is authorized to be expedited in cases involving a significant public safety concern.

(d) Requires the law enforcement agency, not later than the fifth business day after receiving a notification under Subsection (b)(1), to acknowledge receipt of the notification.

(e) Requires the law enforcement agency, not later than the 30th business day after the date a law enforcement agency receives a notification of a verified match under Subsection (b)(2), to attempt to collect a DNA sample from an identified suspect or offender and submit the sample to an accredited crime laboratory for analysis.

Sec. 420.0432. SURVIVOR NOTIFICATION CONCERNING DATABASE DNA MATCH. (a) Requires the law enforcement agency with jurisdiction over the offense, if, with respect to a sexual assault or other sex offense, a match is identified under Section 420.043 between biological evidence contained in an evidence collection kit and a DNA profile contained in a database described by Subsection (a)(1) or (2) of that section, to, not later than the fifth business day after the law enforcement agency receives notification of the match, notify the survivor, as applicable, of:

(1) the match, if disclosing the match would not interfere with the investigation or prosecution of the offense; or

(2) the estimated date on which the match is expected to be disclosed, if disclosing the match would interfere with the investigation or prosecution of the offense.

(b) Requires the agency, if a law enforcement agency is unable to notify a survivor under Subsection (a) within the period required by that subsection, to continue to make reasonable efforts to notify the survivor.

SECTION 3. Makes application of Sections 420.043, Government Code, as amended by this Act, and 420.0431, Government Code, as added by this Act, prospective.

SECTION 4. Effective date: September 1, 2023.