

BILL ANALYSIS

H.B. 2180
By: Cunningham
Criminal Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Law enforcement agencies are currently required to preserve evidence during a court case in which the defendant has already pled guilty and given up rights to appeal, which, as the bill author has informed the committee, has resulted in evidence rooms across Texas becoming inundated and agencies building temporary holding rooms to store evidence, expending unnecessary costs. The bill author has further informed the committee that years may pass before destruction orders for evidence in these cases are reviewed and that the Houston Forensic Science Center has suggested that the disposition of evidence in such cases may instead be expedited. H.B. 2180 seeks to provide for the expedited disposition of evidence in certain cases in which the defendant enters a guilty or nolo contendere plea by authorizing the defendant to waive their right to the preservation of evidence of certain offenses or the return of a seized weapon in connection with certain offenses and requiring the court to order the disposition of the evidence or weapon to occur on or after a prescribed date.

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. 2180 amends the Code of Criminal Procedure to authorize a defendant, acting with counsel, after entering a plea of guilty or nolo contendere in a felony or misdemeanor case, to knowingly, intelligently, and voluntarily waive the following rights:

- the defendant's right to the preservation of toxicological evidence of certain intoxication offenses; and
- the right to request the return of any seized weapon in connection with a prohibited weapons offense.

The bill requires such a waiver to be executed in a written form specified by the bill.

H.B. 2180 requires the court, if it determines the waiver was knowingly, intelligently, and voluntarily given, to enter an order stating that, as specified under statutory provisions governing the disposition of seized weapons or other state law and at any date occurring on or after the 120th day after the date of the order, all evidence collected in the case, including firearms or other weapons, shall be either:

- returned to a person claiming a right to or interest in the evidence, other than the defendant;
- used for law enforcement purposes;

- sold by law enforcement; or
- destroyed.

The bill authorizes the defendant to revoke the waiver until the 120th day after the date of the order. The bill prohibits the state's attorney from requesting that a defendant give such a waiver as part of a plea bargain agreement.

H.B. 2180 authorizes a crime laboratory, defined by reference as a public or private laboratory or other entity that conducts a forensic analysis, to preserve any evidence or work product derived from evidence that the crime laboratory considers necessary to comply with accreditation requirements, laboratory policy, or applicable scientific standards.

EFFECTIVE DATE

September 1, 2025.