

BILL ANALYSIS

Senate Research Center
89R25289 LHC-D

C.S.S.B. 1660
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Criminal Justice
4/29/2025
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

BACKGROUND:

- Under current law, there is ambiguity regarding when toxicological evidence can be destroyed, especially in cases where the retention period has expired.
- Updating the statute on toxicological evidence storage to reflect modern needs and capabilities will reduce storage costs and administrative overhead, freeing up resources to better preserve critical evidence.

BILL SUMMARY:

- S.B. 1660 requires that crime laboratories annually notify the relevant prosecutor's office about their possession of toxicological evidence related to alleged offenses within that county. This notification must include the date on which the retention period for the evidence is set to expire.
- In felony cases, prosecutors may require written approval before evidence that has passed its retention period can be destroyed, whereas such approval is not required in misdemeanor cases.
 - If the prosecutor's office does not issue a written denial within 60 days of the request to destroy evidence, and the retention period has expired, the storing entity may proceed with destruction.
- These changes apply only to evidence whose retention and preservation period expires on or after the effective date of this act.

COMMITTEE SUBSTITUTE

- The committee substitute requires the entity storing the evidence to include, in its annual notification to the prosecutor's office, the date on which the evidence was received—rather than the date on which the retention period is set to expire.
- It restores the original statutory language allowing a prosecutor's office to require written approval before toxicological evidence is destroyed, removing the current limitation that this requirement only applies to felony offenses.
- It clarifies that a request to destroy evidence must be made by hand delivery, certified mail, or e-mail to an address designated by the prosecutor's office.
- It extends the response window from 60 to 90 days, giving prosecutors more time to issue a written denial before the entity may destroy the toxicological evidence.

C.S.S.B. 1660 amends current law relating to the retention and preservation of toxicological evidence of certain intoxication offenses.

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 38.50, Code of Criminal Procedure, by adding Subsection (c-1) and amending Subsections (g) and (h), as follows:

(c-1) Requires a crime laboratory to which Article 38.50 (Retention and Preservation of Toxicological Evidence of Certain Intoxication Offenses) applies that is in possession of toxicological evidence to annually notify the prosecutor's office in the county in which the alleged offense occurred that the laboratory is in possession of toxicological evidence for an alleged offense that occurred in that county and provide to the prosecutor's office the date on which the laboratory received the evidence.

(g) Makes a nonsubstantive change to this subsection.

(h) Authorizes the entity or individual charged with storing toxicological evidence, if a prosecutor's office does not provide a written denial of a request to destroy the toxicological evidence before the 90th day after the date the request is made by hand delivery, certified mail, or e-mail to an address designated by the prosecutor's office, to destroy the evidence if the retention period under Subsection (c)(2) (relating to the preservation of toxicological evidence for the duration of a defendant's sentence, term of community supervision, or commitment) or (3) (relating to the preservation of toxicological evidence until a defendant is acquitted or the indictment or information is dismissed with prejudice) for that evidence has expired. Makes a nonsubstantive change.

SECTION 2. Makes application of Article 38.50(h), Code of Criminal Procedure, as amended by this Act, prospective.

SECTION 3. Effective date: September 1, 2025.