

## **BILL ANALYSIS**

S.B. 1937  
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Criminal Jurisprudence  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

The bill sponsor has informed the committee that, while DNA testing of biological evidence is conducted before a capital trial at no cost to the defense, there is currently no explicit requirement for a subject matter expert from the laboratory performing the DNA testing to provide information regarding which biological materials collected as part of the investigation should qualify as biological evidence that is required to be tested and that, as a result, evidence that is unlikely to yield a usable DNA result can often be submitted for testing, which can lead to the unnecessary use of limited forensic resources, increased costs, and delayed turnaround times. S.B. 1937 seeks to ensure that a subject matter expert from an accredited laboratory participates in such 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**

S.B. 1937 amends the Code of Criminal Procedure to revise the requirement for the state, before a defendant is tried for a capital offense in which the state is seeking the death penalty, to require either the Department of Public Safety through one of its laboratories or a laboratory accredited by the Texas Forensic Science Commission to perform DNA testing, in accordance with the laboratory's capabilities at the time the testing is performed, on any biological evidence that was collected as part of an investigation of the offense and is in the possession of the state by clarifying that the required DNA testing is nuclear DNA testing. Accordingly, the bill also revises the requirement for the laboratory that performs the DNA testing to pay for all DNA testing performed in accordance with these requirements by clarifying that the DNA testing performed by the laboratory is nuclear DNA testing.

S.B. 1937 revises the requirement for the court, as soon as practicable after the defendant is charged with a capital offense, or on a motion by the state or the defendant in a capital case, unless the state has affirmatively waived the death penalty in writing, to order the state and the defendant to meet and confer about which biological materials collected as part of an investigation of the offense qualify as biological evidence that is required to be tested by including a subject matter expert from the laboratory required to perform the nuclear DNA testing under the bill's provisions among the persons that the court must order to meet and confer about such matters. Accordingly, the bill also does the following:

- revises the provision establishing that, if the state and the defendant agree on which biological materials constitute biological evidence, the biological evidence must be tested by including the applicable subject matter expert among the persons that must agree on which biological materials constitute biological evidence for the evidence to be tested; and
- revises the provision establishing that, if the state and the defendant do not agree on which biological materials qualify as biological evidence, the state or the defendant may request the court to hold a hearing to determine the issue by including the applicable subject matter expert among the persons that must disagree on which biological materials qualify as biological evidence for the state or the defendant to be authorized to make such a request.

The bill revises the requirement for the court, on receipt of a request for such a hearing, to set a date for the hearing and provide written notice of the hearing date to the state and the defendant by including the laboratory required to perform the nuclear DNA testing under the bill's provisions among the entities to whom the court must provide such written notice.

S.B. 1937 revises the requirement for the laboratory that tested the applicable evidence, if an item of biological evidence is destroyed or lost as a result of DNA testing, to provide to the defendant any bench notes prepared by the laboratory that are related to the testing of the evidence and the results of that testing by clarifying that the DNA testing performed is nuclear DNA testing performed under the bill's provisions.

S.B. 1937 applies to a capital case for which the indictment was filed on or after the bill's effective date. A capital case for which the indictment was filed before the bill's effective date is governed by the law in effect on the date the indictment was filed, and the former law is continued in effect for that purpose.

#### **EFFECTIVE DATE**

September 1, 2025.