

## **BILL ANALYSIS**

Senate Research Center  
89R14488 EAS-F

S.B. 1937  
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Criminal Justice  
4/3/2025  
As Filed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

In 2013, S.B. 1292 required the state to perform DNA testing of biological evidence prior to trial in any capital case where the death penalty is being sought. While this mandate ensures that testing is conducted early and at no cost to the defense, the law does not include the advice of a subject matter expert (SME) from the laboratory performing the testing who could provide valuable information regarding the viability of any biological evidence.

As a result, evidence that is unlikely to yield a usable DNA result may still be submitted for testing, leading to unnecessary use of limited forensic resources, increased costs, and delayed turnaround times. Including the laboratory SME in the pretrial process would provide valuable scientific insight and help streamline the identification of viable biological evidence.

S.B. 1937 would require the court to include a subject matter expert from the accredited laboratory which will be used to test the evidence to meet and confer with the attorneys.

As proposed, S.B. 1937 amends current law relating to the testing of evidence containing biological materials in capital cases.

### **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 Articles 38.43(i), (j), and (k), Code of Criminal Procedure, as follows:

(i) Requires the state, before a defendant is tried for a capital offense in which the state is seeking the death penalty, subject to Subsection (j), to require either the Department of Public Safety through one of its laboratories or a laboratory accredited under Article 38.01 (Texas Forensic Science Commission) to perform nuclear 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. Makes conforming changes.

(j) Requires 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, a subject matter expert from the laboratory required to perform the testing under Subsection (i), 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 under that subsection. Requires the court, on receipt of a request for a hearing under this subsection, to set a date for the hearing and provide written notice of the hearing date to the state, the laboratory required to perform the testing, and the defendant. Makes conforming and nonsubstantive changes.

(k) Makes a conforming change to this subsection.

SECTION 2. Makes application of this Article 38.43 (Evidence Containing Biological Material), Code of Criminal Procedure, as amended by this Act, prospective.

SECTION 3. Effective date: September 1, 2025.