

BILL ANALYSIS

S.B. 1125
By: Perry
Criminal Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

It has been noted that there is an insufficient source of high-quality reference materials for forensic crime laboratories to use in the development and validation of testing, as these laboratories often wait months to obtain these samples from the federal government. While it has been noted that adjudicated casework is routinely used in many states for analyst training, the development of new methods, and the validation of new procedures, the use of adjudicated casework in Texas for these purposes has been challenging for the Department of Public Safety in particular. Typically, any samples that could be used by these laboratories are destroyed, which severely hampers the ability of the laboratory to stay abreast of new methods and to develop technologies that serve the criminal justice system. S.B. 1125 seeks to address this issue by permitting certain transfers of seized or forfeited controlled substance property and plants to a crime laboratory.

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 rulemaking authority is expressly granted to the public safety director of the Department of Public Safety in SECTION 9 of this bill.

ANALYSIS

S.B. 1125 amends the Health and Safety Code to authorize a law enforcement agency or criminal justice agency to transfer controlled substance property or plants to a crime laboratory to be used for the purposes of laboratory research, validation of test results, and training of analysts. The bill requires the crime laboratory to which the controlled substance property or plants are transferred to destroy or otherwise properly dispose of any unused quantities of the controlled substance property or plants. The bill authorizes controlled substance property or plants subject to summary destruction or ordered destroyed by a court to be disposed of in accordance with these provisions. The bill's provisions relating to the disposition of controlled substance property or plants do not apply to forfeited hazardous waste, residuals, contaminated glassware, associated equipment, or by-products from illicit chemical laboratories or similar operations that create a health or environmental hazard or are not capable of being safely stored. The bill authorizes the public safety director of the Department of Public Safety (DPS) to adopt rules to implement these provisions.

S.B. 1125 authorizes a criminal justice agency, defined by the bill by reference, to summarily destroy under DPS rules a controlled substance plant or an item of controlled substance property that is seized and forfeited under the Texas Controlled Substances Act. The bill authorizes DPS,

a criminal justice agency, or a peace officer to dispose of such property by transfer to a crime laboratory in lieu of destruction.

S.B. 1125 requires a district court that orders the forfeiture of a controlled substance property or plant under the Code of Criminal Procedure or the Health and Safety Code to order a criminal justice agency that has received the property or plant from a law enforcement agency for analysis and storage to retain, deliver, transfer to a crime laboratory, or destroy the property or plant as applicable. The bill authorizes a criminal justice agency, without a court order and before the disposition of an applicable court case, to summarily destroy or transfer to a crime laboratory any excess quantities of a forfeited or seized controlled substance property or plant transferred to the criminal justice agency by a law enforcement agency for analysis and storage, provided that required samples, photographs, and measurements have been taken for purposes of the case arising out of the forfeiture. The bill extends that authority to the destruction of forfeited hazardous waste, residuals, contaminated glassware, associated equipment, or by-products from illicit chemical laboratories or similar operations before the disposition of a court case arising from an applicable forfeiture, subject to certain conditions.

The bill's provisions apply to the disposition of evidence on or after the bill's effective date, regardless of when the evidence was seized or forfeited.

EFFECTIVE DATE

September 1, 2021.