

SUBJECT: Evidence technician training program, disposition of certain evidence

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

VOTE: 6 ayes — Herrero, Burnam, Canales, Leach, Moody, Toth
1 nays — Schaefer
2 absent — Carter, Hughes

SENATE VOTE: On final passage, May 3 — 30-0

WITNESSES: For — John Vasquez, Texas Association of Property and Evidence Inventory Technicians; (*Registered, but did not testify*: Yannis Banks, Texas NAACP; Paul Szendrey, Texas Association of Property Evidence and Inventory Technicians)

Against — None

On — Shannon Edmonds, Texas District and County Attorneys Association; Pat Johnson, Texas Department of Public Safety

BACKGROUND: Code of Criminal Procedure, art. 2.21 governs requirements for exhibits in a criminal case that consist of firearms or contraband. Court reporters are required to release these items to law enforcement agencies, and these law enforcement agencies are authorized to release them only to persons authorized by the court or to dispose of them. Firearms and contraband are not considered “eligible exhibits” for certain disposition purposes.

Code of Criminal Procedure, art. 38.43 defines biological evidence as:

- the contents of a sexual assault examination kit; or
- any item that contained blood, semen, hair, saliva, skin tissue, fingernail scrapings, bone, bodily fluids, or any other identifiable biological material that was collected as part of an investigation of an alleged felony offense or conduct constituting a felony offense that might reasonably be used in identifying the offender or excluding a person from the group of persons who could be the

offender.

DIGEST:

Biological evidence. SB 1439 would subject “biological evidence” that was an exhibit in a criminal case as defined in the Code of Criminal Procedure to the same requirements for firearms and contraband under Code of Criminal Procedure, art. 2.21.

Disposition of evidence. SB 1439 would provide for disposition of physical evidence, including blood, seized in connection with the investigation of a misdemeanor offense. The bill would require a law enforcement agency in possession of such evidence to file a motion requesting the authority to dispose of the evidence with the court in which the offense was prosecuted or any magistrate, no later than 30 days after the date on which a conviction became final in that case.

Evidence technician training. The bill would create requirements for training of evidence technicians.

“Evidence technician” would mean a person employed by or serving a law enforcement agency who received, preserved, stored, disposed of, and accounted for property or evidence that came into the agency’s possession. The term would include a property control officer, property attendant, or property specialist.

The Texas Department of Public Safety (DPS) and the Texas A&M Engineering Extension Service would be required to jointly establish minimum requirements for evidence technician training programs. An evidence technician training program would need to consist of at least eight hours of training. DPS would be required to adopt rules for accrediting an evidence technician training program that met these minimum requirements.

The state or a political subdivision of the state would not be able to appoint or employ a person to act as an evidence technician unless the person had completed an accredited evidence technician training program, except that a person who had not completed such a program could act as an evidence technician on a temporary or probationary basis or in an emergency. DPS would be required to issue a written acknowledgement of satisfactory completion of an accredited evidence technician training program to a person who submitted evidence of satisfactory completion.

A person appointed or employed on a temporary or probationary basis could not continue to serve as an evidence technician after the first anniversary of the date they were appointed or employed unless they had completed an accredited evidence technician training program or the agency appointing or employing them had received permission from DPS for the person to continue to serve on a temporary or probationary basis without completing the program.

The training requirements would take effect January 1, 2014. A person serving as an evidence technician on August 31, 2013 could continue to serve without completing an accredited evidence technician training program.

The bill, except as otherwise provided, would take effect September 1, 2013.