

BILL ANALYSIS

Senate Research Center
83R22352 MAW-D

C.S.S.B. 1439
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Criminal Justice
4/24/2013
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Texas has numerous statutes related to evidence collection, preservation, storage, disposition, and destruction, in addition to statutes that address abandoned and unclaimed property. These statutes are not centrally located, but can be found within the chapters of the Code of Criminal Procedure, Health and Safety Code, Alcohol and Beverage Code, Occupations Code, and Texas Administrative Code. Even if familiar with state law, some of these statutes can be difficult to locate quickly. For example, state codes on the disposal of abandoned or unclaimed property and the statutory time limits involved are in Chapter 18, Code of Criminal Procedure, under the title "Search Warrants."

The goal of C.S.S.B. 1439 is to place all statutes related to evidence and abandoned and unclaimed property into one location in state code. Personnel turnover in evidence rooms is high and training is limited. Justice is best served when law enforcement and the court system have the tools and procedures at their immediate disposal to be certain that all practices relating to evidentiary and general property are followed. This will help to ensure that the integrity of every item in law enforcement custody remains intact.

Under C.S.S.B. 1439, existing evidence statutes are not amended. However, new language contained in S.B. 1439 will create a training and certification process for all law enforcement personnel assigned to receive, store, and process property held in police evidence rooms.

S.B. 1616, 82nd Legislature, Regular Session, 2011, established the first statewide standard for the collection, analysis, preservation, storage, and destruction of biological evidence. This was a major step to ensure that the integrity of biological evidence remains intact while in the custody of law enforcement or other authorized personnel. But without properly trained evidence technicians, all other evidence standards could be compromised.

C.S.S.B. 1439 amends current law relating to evidence technician training and the disposition of certain evidence in a criminal case.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Department of Public Safety of the State of Texas in SECTION 3 (Section 412.002, Government Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Articles 2.21(b), (c), and (d), Code of Criminal Procedure, as follows:

(b) Requires a court reporter, at any time during or after a criminal proceeding, to release for safekeeping any biological evidence, firearm, or contraband received as an exhibit in that proceeding to:

(1) the sheriff; or

(2) in a county with a population of 500,000 or more, the law enforcement agency that collected, seized, or took possession of the biological evidence,

firearm, or contraband or produced the biological evidence, firearm, or contraband at the proceeding.

(c) Requires the sheriff or the law enforcement agency, as applicable, to receive and hold the exhibits consisting of biological evidence, firearms, or contraband and release them only to the person or persons authorized by the court in which such exhibits have been received or dispose of them as provided by Chapter 18 (Search Warrants).

(d) Defines "biological evidence" and redefines "eligible exhibit" in this article.

SECTION 2. Amends Chapter 38, Code of Criminal Procedure, by adding Article 38.48, as follows:

Art. 38.48. DISPOSITION OF PHYSICAL EVIDENCE RELATED TO MISDEMEANOR OFFENSE. (a) Provides that this article applies to physical evidence, including blood, that is seized in connection with the investigation of a misdemeanor offense.

(b) Requires a law enforcement agency that is in possession of evidence described by Subsection (a), except as otherwise provided by this chapter, not later than the 60th day after the date on which a conviction becomes final in a misdemeanor case, to file with the court in which the offense was prosecuted or any magistrate a motion requesting the authority to dispose of the evidence.

SECTION 3. Amends Subtitle B, Title 4, Government Code, by adding Chapter 412, as follows:

CHAPTER 412. PROPERTY AND EVIDENCE

Sec. 412.001. DEFINITIONS. Defines "department," "evidence," "evidence technician," "extension service," and "property" in this chapter.

Sec. 412.002. EVIDENCE TECHNICIAN TRAINING PROGRAM. (a) Requires the Department of Public Safety of the State of Texas (DPS) and the extension service to jointly establish minimum requirements for evidence technician training programs. Requires that an evidence technician training program consist of at least eight hours of training.

(b) Requires DPS to adopt rules for accrediting an evidence technician training program that meets the minimum requirements established under Subsection (a).

Sec. 412.003. TRAINING REQUIRED. (a) Prohibits this state or a political subdivision of this state from appointing or employing a person to act as an evidence technician unless the person has completed an accredited evidence technician training program.

(b) Requires DPS to issue a written acknowledgement of satisfactory completion of an accredited evidence technician training program to a person who submits evidence of satisfactory completion to DPS.

(c) Authorizes a person who has not completed an accredited evidence technician training program, notwithstanding Subsection (a), to act as an evidence technician on a temporary or probationary basis or to perform duties of an evidence technician in an emergency.

(d) Prohibits a person appointed or employed on a temporary or probationary basis from continuing to serve as an evidence technician after the first anniversary of the date the person is appointed or employed unless the person has completed an accredited evidence technician training program or the agency appointing or employing the person has received permission from DPS for the person to continue to serve on a temporary or probationary basis without completion of a training program.

SECTION 4. Authorizes a person serving, other than on a temporary or probationary basis, as an evidence technician as defined by Section 412.001, Government Code, as added by this Act, on August 31, 2013, to continue to serve as an evidence technician without completing an accredited evidence technician training program as required by Section 412.003, Government Code, as added by this Act.

SECTION 5. (a) Effective date, except as provided by Subsection (b) of this section: September 1, 2013.

(b) Effective date, Section 412.003, Government Code, as added by this Act: January 1, 2014.