

1-1 By: Wu (Senate Sponsor - Huffman) H.B. No. 1264  
 1-2 (In the Senate - Received from the House May 11, 2015;  
 1-3 May 11, 2015, read first time and referred to Committee on  
 1-4 Administration; May 13, 2015, reported favorably by the following  
 1-5 vote: Yeas 5, Nays 0; May 13, 2015, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7 Hancock	X			
1-8 Uresti	X			
1-9 Campbell	X			
1-10 Eltife			X	
1-11 Huffines	X			
1-12 Schwertner			X	
1-13 West	X			

1-15 A BILL TO BE ENTITLED  
 1-16 AN ACT

1-17 relating to the preservation of toxicological evidence collected in  
 1-18 connection with certain intoxication offenses.

1-19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-20 SECTION 1. Chapter 38, Code of Criminal Procedure, is  
 1-21 amended by adding Article 38.50 to read as follows:

1-22 Art. 38.50. RETENTION AND PRESERVATION OF TOXICOLOGICAL  
 1-23 EVIDENCE OF CERTAIN INTOXICATION OFFENSES. (a) In this article,  
 1-24 "toxicological evidence" means a blood or urine specimen that was  
 1-25 collected as part of an investigation of an alleged offense under  
 1-26 Chapter 49, Penal Code.

1-27 (b) This article applies to a governmental or public entity  
 1-28 or an individual, including a law enforcement agency, prosecutor's  
 1-29 office, or crime laboratory, that is charged with the collection,  
 1-30 storage, preservation, analysis, or retrieval of toxicological  
 1-31 evidence.

1-32 (c) An entity or individual described by Subsection (b)  
 1-33 shall ensure that toxicological evidence collected pursuant to an  
 1-34 investigation or prosecution of an offense under Chapter 49, Penal  
 1-35 Code, is retained and preserved, as applicable:

1-36 (1) for the greater of two years or the period of the  
 1-37 statute of limitations for the offense, if the indictment or  
 1-38 information charging the defendant, or the petition in a juvenile  
 1-39 proceeding, has not been presented;

1-40 (2) for the duration of a defendant's sentence or term  
 1-41 of community supervision, as applicable, if the defendant is  
 1-42 convicted or placed on community supervision, or for the duration  
 1-43 of the commitment or supervision period applicable to the  
 1-44 disposition of a juvenile adjudicated as having engaged in  
 1-45 delinquent conduct or conduct indicating a need for supervision; or

1-46 (3) until the defendant is acquitted or the indictment  
 1-47 or information is dismissed with prejudice, or, in a juvenile  
 1-48 proceeding, until a hearing is held and the court does not find the  
 1-49 child engaged in delinquent conduct or conduct indicating a need  
 1-50 for supervision.

1-51 (d) For each offense subject to this article, the court  
 1-52 shall determine as soon as practicable the appropriate retention  
 1-53 and preservation period for the toxicological evidence under  
 1-54 Subsection (c) and notify the defendant or the child or child's  
 1-55 guardian and the entity or individual charged with storage of the  
 1-56 toxicological evidence of the period for which the evidence is to be  
 1-57 retained and preserved. If an action of the prosecutor or the court  
 1-58 changes the applicable period under Subsection (c), the court shall  
 1-59 notify the persons described by this subsection about the change.

1-60 (e) The entity or individual charged with storing  
 1-61 toxicological evidence may destroy the evidence on expiration of

2-1 the period provided by the notice most recently issued by the court  
2-2 under Subsection (d).

2-3 (f) To the extent of any conflict between this article and  
2-4 Article 2.21 or 38.43, this article controls.

2-5 SECTION 2. Article 38.50, Code of Criminal Procedure, as  
2-6 added by this Act, applies to all toxicological evidence stored by  
2-7 an entity or individual on or after the effective date of this Act,  
2-8 regardless of whether the evidence was collected before, on, or  
2-9 after the effective date of this Act.

2-10 SECTION 3. This Act takes effect September 1, 2015.

2-11

\* \* \* \* \*