

1-1 By: Hinojosa of Hidalgo S.B. No. 1937
1-2 (In the Senate - Filed March 5, 2025; March 17, 2025, read
1-3 first time and referred to Committee on Criminal Justice;
1-4 April 10, 2025, reported favorably by the following vote: Yeas 6,
1-5 Nays 0; April 10, 2025, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	Flores	X		
1-9	Parker	X		
1-10	Hagenbuch	X		
1-11	Hinojosa of Hidalgo	X		
1-12	Huffman	X		
1-13	King		X	
1-14	Miles	X		

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

1-17 relating to the testing of evidence containing biological materials
1-18 in capital cases.

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

1-20 SECTION 1. Articles 38.43(i), (j), and (k), Code of
1-21 Criminal Procedure, are amended to read as follows:

1-22 (i) Before a defendant is tried for a capital offense in
1-23 which the state is seeking the death penalty, subject to Subsection
1-24 (j), the state shall require either the Department of Public Safety
1-25 through one of its laboratories or a laboratory accredited under
1-26 Article 38.01 to perform nuclear DNA testing, in accordance with
1-27 the laboratory's capabilities at the time the testing is performed,
1-28 on any biological evidence that was collected as part of an
1-29 investigation of the offense and is in the possession of the state.
1-30 The laboratory that performs the nuclear DNA testing shall pay for
1-31 all nuclear DNA testing performed in accordance with this
1-32 subsection.

1-33 (j) As soon as practicable after the defendant is charged
1-34 with a capital offense, or on a motion by the state or the defendant
1-35 in a capital case, unless the state has affirmatively waived the
1-36 death penalty in writing, the court shall order the state, a subject
1-37 matter expert from the laboratory required to perform the testing
1-38 under Subsection (i), and the defendant to meet and confer about
1-39 which biological materials collected as part of an investigation of
1-40 the offense qualify as biological evidence that is required to be
1-41 tested under that subsection [Subsection (i)]. If the state, the
1-42 subject matter expert, and the defendant agree on which biological
1-43 materials constitute biological evidence, the biological evidence
1-44 shall be tested in accordance with Subsection (i). If the state,
1-45 the subject matter expert, and the defendant do not agree on which
1-46 biological materials qualify as biological evidence, the state or
1-47 the defendant may request the court to hold a hearing to determine
1-48 the issue. On receipt of a request for a hearing under this
1-49 subsection, the court shall set a date for the hearing and provide
1-50 written notice of the hearing date to the state, the laboratory
1-51 required to perform the testing, and the defendant. At the hearing,
1-52 there is a rebuttable presumption that the biological material that
1-53 the defendant requests to be tested constitutes biological evidence
1-54 that is required to be tested under Subsection (i). This subsection
1-55 does not in any way prohibit the state from testing biological
1-56 evidence in the state's possession.

1-57 (k) If an item of biological evidence is destroyed or lost
1-58 as a result of nuclear DNA testing performed under Subsection (i),
1-59 the laboratory that tested the evidence must provide to the
1-60 defendant any bench notes prepared by the laboratory that are
1-61 related to the testing of the evidence and the results of that

2-1 testing.

2-2 SECTION 2. Article [38.43](#), Code of Criminal Procedure, as
2-3 amended by this Act, applies to a capital case for which the
2-4 indictment was filed on or after the effective date of this Act. A
2-5 capital case for which the indictment was filed before the
2-6 effective date of this Act is governed by the law in effect on the
2-7 date the indictment was filed, and the former law is continued in
2-8 effect for that purpose.

2-9 SECTION 3. This Act takes effect September 1, 2025.

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