

Amendment No. 1 to HB2377

Lamberth
Signature of Sponsor

AMEND Senate Bill No. 2342

House Bill No. 2377*

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Title 40, Chapter 35, Part 3, is amended by adding the following as a new section:

40-35-322.

(a) For purposes of this section:

(1) "Biological evidence" is any identifiable biological material that was collected as part of a criminal investigation or that may reasonably be used to incriminate or exculpate a person charged with a criminal offense;

(2) "Biological evidence" includes the contents of a sexual assault examination kit or any item that contains blood, semen, hair, saliva, skin tissue, fingernail scrapings, bone, bodily fluids, or other identifiable biological material, and applies whether the material is catalogued separately or is present on other evidence collected; and

(3) "Biological evidence" does not include perishable liquid or tissue specimens collected for toxicological analysis.

(b) All biological evidence collected for a criminal offense or offenses in which one (1) or more of the defendants received a sentence of death based upon the same criminal acts, whether the defendants were tried separately or together, shall be preserved until all defendants receiving a death sentence based on the same conduct are executed, otherwise die, or all related charges for which the defendants were convicted are dismissed.

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(c) Biological evidence required to be preserved by this section shall be preserved as follows:

(1) By the investigating law enforcement agency or agencies for biological evidence that was collected for the case but never introduced at a trial; and

(2) By the clerk of the court in which any biological evidence was introduced at the defendant's trial.

(d) If the origin of a biological sample is well documented through photographs or case files, and the sample was taken from a larger piece of evidence, only the documented biological sample is required to be preserved.

(e) This section shall apply to:

(1) All applicable biological evidence that is collected on or after the effective date of this section; and

(2) All applicable biological evidence that was collected prior to the effective date of this section, and is in the custody of, and being preserved by, a court clerk or law enforcement agency or agencies,

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.