DIGEST

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Stiaes HB No. 116

Abstract: Prohibits the destruction of biological evidence in cases involving homicide, rape, or armed robbery in the possession of a criminal justice agency or clerk of court on or after July 1, 2011, until Dec. 31, 2012.

Present law provides for the collection and use of DNA evidence in criminal investigations.

Proposed law retains present law and further provides that no criminal justice agency or clerk of court shall destroy any biological evidence in its possession on or after July 1, 2011, and collected in relation to the investigation, prosecution, or adjudication of any homicide, rape, or armed robbery prior to Dec. 31, 2012.

Proposed law defines "biological evidence" as the contents of a sexual assault examination kit or any item that contains blood, semen, hair, saliva, skin tissue, fingerprints, or other identifiable human biological material that may reasonably be used to incriminate or exculpate any person in the criminal investigation, whether that material is catalogued separately on a slide or swab, in a test tube, or some other similar method, or is present on clothing, ligatures, bedding, other household materials, drinking cups, cigarettes, or any other item of evidence, including those that are alleged to have been touched or worn by the perpetrator of the offense.

Present law provides for a limitation of liability for clerks of court or law enforcement agencies with respect to the unavailability or deterioration of evidence. Provides an exception for willful or wanton misconduct or gross negligence.

Proposed law applies present law limitation of liability and exceptions to provisions of proposed law.

Effective July 1, 2011.

(Amends C.Cr.P. Art. 926.1(H)(6); Adds R.S. 15:621)