Warn Families Before Evidence Is Destroyed

Requires Texas to tell a victim or a surviving family before destroying evidence in a violent-crime case — and to pause if they object.

90TH LEGISLATURE • PROPOSAL
Adds a chapter to Code of Criminal Procedure ch. 56A; links arts. 38.43 & 2A.155
Status: draft — ready for an author

GUIDING PRINCIPLES
Give victims access to evidence when appropriate • A right must name who owes it, by when, and be enforceable

CHAMPION SOUGHT
Author / co-author / endorser / testifier / adviser — whichever role your group can take

THE ASK We ask victims' advocacy organisations to **champion, endorse, testify for, or advise on** this bill — and members of the 90th Legislature to consider authoring it. No organisation is a supporter until it commits.

1 — THE PROBLEM VICTIMS FACE TODAY

When Texas destroys the evidence of a violent crime, the law warns the defendant — not the victim. Before biological evidence may be destroyed, notice goes by mail to the defendant, his last attorney, and the convicting court, with 91 days to object. A clerk's exhibit may be sold as salvage — half the proceeds to the victims' compensation fund — without the family ever learning it existed. Victims get pre-destruction notice only in two narrow sexual-assault pockets.

2 — WHAT THIS BILL DOES

- **Covers the cases that matter most:** homicide, sexual assault, kidnapping, and any offence in which the victim dies. The living victim herself holds the rights; where she died, her surviving family does — close relatives, including stepparents.
- **Creates an opt-in notice register** held by the prosecutor's victim assistance coordinator — one registered recipient per victim, who must be the victim or a close relative. No designated representative may stand in for family. Offered at disposition and again at finality.
- **Requires direct written notice at least 91 days before** destruction — an entry in a tracking system alone is not notice. For a true perishable or hazard requiring earlier destruction, notice must be given as soon as practicable.
- **Makes an objection count:** it automatically holds destruction and extends retention 10 years, renewable once. Before destruction, the family may view the evidence and copy public-record reports; a district judge may order copying or transfer of selected items only on an express finding of no harm.
- **Reaches cases already final,** with a 12-month phase-in to build the register; for past cases, registration is the family's initiative.

3 — HOW IT HELPS VICTIMS

BEFORE	AFTER
Evidence is purged or sold on the custodian's schedule. The family learns afterwards — if it ever learns at all.	The family is told directly, 91 days ahead. It can see the evidence, ask a judge to save selected items, or object and keep it for 10 more years.

4 — BALANCE & SAFEGUARDS

The bill states it plainly: **the rights of the accused preempt the victim.** Nothing stays or delays expunction. An acquitted or never-sentenced person's own evidence — his cell phone data, for example — is never accessible, except the victim's own property. Contraband and sealed or expunged material can never be transferred. Originals are never released or privately tested, and any transfer of biological evidence requires a retained sample sufficient for future DNA testing. Enforcement is preventive only: mandamus or injunctive relief, no new offence, no damages.

5 — HOW HARD WILL THIS BE TO PASS?

●●○○○ **Low to moderate**

This bill adds a recipient to a process Texas already runs: custodians already give defendants 91 days' notice and an objection right, and biological evidence is already kept for 40 years or longer. Likely stall point: custodian workload and storage arguments in committee.

6 — RISKS & MITIGATIONS

RISK / OBJECTION	MITIGATION IN THE BILL OR MESSAGE
Property rooms are full; objections add years of storage	Notice attaches only to destructions already planned, and retention only when a registered family objects. If the system can find the defendant's lawyer, it can find the family's registered address.
Families move; notice never arrives	Registration is offered at disposition and at finality, when the family is already in contact with the system; notice by mail plus consented email or text.
Access could harm an innocence or DNA claim	Originals are never released or privately tested; a DNA-sufficient sample must be retained before any transfer.

7 — WHO IS LIKELY WITH US — AND AGAINST US

POTENTIAL ALLIES

Innocence Project / Innocence Project of Texas — notice part only: preserved evidence makes DNA testing and innocence review possible. Status: to approach.

Texas Crime Victims United — survivor-run; mission fits directly. Status: to approach.

Texas Council on Family Violence & TAASA — the narrow pockets this bill generalises are theirs. Ask: endorse, testify.

LIKELY OPPONENTS

Custodians and property-room operators — storage space and staff time.

Some prosecutors and clerks — register workload; consult their associations early as drafting partners.

Best counter: the warning already exists — send it to the victim too.

8 — POTENTIAL AUTHORS FROM BILL SCORING

CANDIDATE	SCORE*	WHY THEY FIT
Sen. Joan Huffman — Senate, SD 17	71	Carried more victims' bills than anyone in the Senate.
Rep. Greg Bonnen — House, HD 24	60	House sponsor of the 2023 family-viewing law this bill completes.
Sen. Judith Zaffirini — Senate, SD 21	53	Authored the law behind the existing sexual-assault destruction notice.

* Score = the advocates' prior bill-scoring rating (89th Legislature backtest). Re-verify in January; unofficial until the canvass.

COST
No significant fiscal note expected — one more envelope in a mailing custodians already send.

EVIDENCE IT CAN WORK
Texas already runs 91-day notice-and-objection for defendants, and victim notice for unreported sexual-assault exams.

NEXT STEP
A 20-minute briefing, then a yes or no on championing. Contact: Lawrence Baitland.