

1-1 By: Hinojosa S.B. No. 991
 1-2 (In the Senate - Filed February 16, 2023; March 3, 2023,
 1-3 read first time and referred to Committee on Criminal Justice;
 1-4 March 31, 2023, reported adversely, with favorable Committee
 1-5 Substitute by the following vote: Yeas 7, Nays 0; March 31, 2023,
 1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			

1-16 COMMITTEE SUBSTITUTE FOR S.B. No. 991 By: Whitmire

1-17 A BILL TO BE ENTITLED
 1-18 AN ACT

1-19 relating to the establishment of a crime laboratory portal by the
 1-20 Department of Public Safety of the State of Texas and to
 1-21 disciplinary proceedings applicable to a crime laboratory or
 1-22 license holder investigated by the Texas Forensic Science
 1-23 Commission.

1-24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-25 SECTION 1. Sections 4-c(a), (c), (d), and (e), Article
 1-26 38.01, Code of Criminal Procedure, are amended to read as follows:

1-27 (a) On a determination by the commission that a license
 1-28 holder or crime laboratory has committed professional negligence or
 1-29 professional misconduct under this article, violated the code of
 1-30 professional responsibility under this article, or otherwise
 1-31 violated this article or a rule or order of the commission under
 1-32 this article, the commission may, as applicable:

1-33 (1) revoke or suspend the person's license or crime
 1-34 laboratory's accreditation;

1-35 (2) refuse to renew the person's license or crime
 1-36 laboratory's accreditation; or

1-37 (3) reprimand the license holder or crime laboratory.

1-38 (c) The commission shall give written notice by certified
 1-39 mail of a determination described by Subsection (a) to the
 1-40 applicable [a] license holder or crime laboratory [~~who is the~~
 1-41 ~~subject of the determination~~]. The notice must:

1-42 (1) include a brief summary of the alleged negligence,
 1-43 misconduct, or violation;

1-44 (2) state the disciplinary action taken by the
 1-45 commission; and

1-46 (3) inform the license holder or crime laboratory of
 1-47 the license holder's or crime laboratory's right to a hearing before
 1-48 the Judicial Branch Certification Commission on the occurrence of
 1-49 the negligence, misconduct, or violation, the imposition of a
 1-50 disciplinary action, or both.

1-51 (d) Not later than the 20th day after the date the license
 1-52 holder or crime laboratory receives the notice under Subsection
 1-53 (c), the license holder or crime laboratory may accept the
 1-54 disciplinary action or request a hearing by submitting a written
 1-55 request to the Judicial Branch Certification Commission to contest
 1-56 the findings of fact or conclusions of law, the occurrence of the
 1-57 negligence, misconduct, or violation, or the imposition of a
 1-58 disciplinary action, as applicable. If the license holder or crime
 1-59 laboratory fails to timely submit a request, the commission's
 1-60 disciplinary action becomes final and is not subject to review by

2-1 the Judicial Branch Certification Commission.
 2-2 (e) If the license holder or crime laboratory requests a
 2-3 hearing, the Judicial Branch Certification Commission shall
 2-4 conduct a hearing to determine whether there is substantial
 2-5 evidence to support the determination under Subsection (a) that the
 2-6 negligence, misconduct, or violation occurred [~~license holder~~
 2-7 ~~committed professional misconduct or violated this article or a~~
 2-8 ~~commission rule or order under this article~~]. If the Judicial
 2-9 Branch Certification Commission upholds the determination, the
 2-10 Judicial Branch Certification Commission shall determine the type
 2-11 of disciplinary action to be taken. The Judicial Branch
 2-12 Certification Commission shall conduct the hearing, and any appeal
 2-13 of that commission's decision, in accordance with the procedures
 2-14 provided by Subchapter B, Chapter 153, Government Code, as
 2-15 applicable, and the rules of the Judicial Branch Certification
 2-16 Commission.

2-17 SECTION 2. Chapter 411, Government Code, is amended by
 2-18 adding Subchapter G-1 to read as follows:

2-19 SUBCHAPTER G-1. CRIME LABORATORY PORTAL

2-20 Sec. 411.161. DEFINITIONS. In this subchapter, "crime
 2-21 laboratory," "criminal action," and "forensic analysis" have the
 2-22 meanings assigned by Article 38.35, Code of Criminal Procedure.

2-23 Sec. 411.162. CRIME LABORATORY PORTAL. The department by
 2-24 rule shall establish and maintain a central computerized portal
 2-25 that facilitates the process for requesting crime laboratory
 2-26 records and for transferring those records among crime
 2-27 laboratories, attorneys representing the state, and parties
 2-28 authorized to access the records as a part of discovery under
 2-29 Article 39.14, Code of Criminal Procedure. The portal may not be
 2-30 used as a central repository for crime laboratory records.

2-31 Sec. 411.163. MANDATORY CRIME LABORATORY PARTICIPATION;
 2-32 DISCIPLINARY ACTION. (a) A crime laboratory that performs a
 2-33 forensic analysis for use in a criminal action shall participate,
 2-34 in accordance with department rule, in the transfer of crime
 2-35 laboratory records using the crime laboratory portal established
 2-36 under Section 411.162.

2-37 (b) A crime laboratory that violates Subsection (a) is
 2-38 subject to disciplinary action by the Texas Forensic Science
 2-39 Commission in the same manner as if the laboratory had otherwise
 2-40 violated accreditation standards under Article 38.01, Code of
 2-41 Criminal Procedure.

2-42 Sec. 411.164. DEFENSE COUNSEL ACCESS TO CRIME LABORATORY
 2-43 PORTAL. The attorney representing the state in a criminal action
 2-44 shall ensure that the defendant or the defendant's attorney, as
 2-45 appropriate, is able to access and use the crime laboratory portal
 2-46 under Section 411.162 to request any crime laboratory records that
 2-47 are subject to discovery under Article 39.14, Code of Criminal
 2-48 Procedure.

2-49 SECTION 3. This Act takes effect September 1, 2023.

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