

Amend CSHB 7 (Senate committee printing) by adding the following appropriately numbered ARTICLE to the bill and renumbering existing ARTICLES of the bill accordingly:

ARTICLE _____. CRIME LABORATORIES

SECTION __.01. Article 38.35, Code of Criminal Procedure, as amended by Chapter 698, Acts of the 78th Legislature, Regular Session, 2003, is amended by adding Subsection (f) to read as follows:

(f) Subsections (d) and (e) do not apply to:

(1) physical evidence subjected to a forensic analysis by a medical examiner organized and operating under Subchapter B, Chapter 49; or

(2) testimony regarding evidence described by Subdivision (1).

SECTION __.02. Section 411.0205, Government Code, as added by Chapter 698, Acts of the 78th Legislature, Regular Session, 2003, is amended by adding Subsection (b-1) and amending Subsection (c) to read as follows:

(b-1) The director by rule shall exempt a medical examiner organized and operating under Subchapter B, Chapter 49, Code of Criminal Procedure, from the accreditation process established under Subsection (b).

(c) The director by rule may exempt from the accreditation process established under Subsection (b) a crime laboratory or other entity conducting a forensic analysis of physical evidence for use in criminal proceedings if the director determines that:

(1) independent accreditation is unavailable or inappropriate for the laboratory or entity or the type of examination or test performed by the laboratory or entity;

(2) the type of examination or test performed by the laboratory or entity is admissible under a well-established rule of evidence or a statute other than Article 38.35, Code of Criminal Procedure; ~~and~~

(3) the type of examination or test performed by the laboratory or entity is routinely conducted outside of a crime laboratory or other applicable entity by a person other than an employee of the crime laboratory or other applicable entity;

(4) the laboratory or entity is independently accredited or certified by a national organization that regularly accredits or certifies competency to practice in the science or discipline associated with the type of examination or test performed by the laboratory or entity; or

(5) the laboratory or entity has a historical record of accuracy with respect to the type of examination or test performed by the laboratory or entity.

SECTION __.03. The public safety director of the Department of Public Safety of the State of Texas shall adopt rules under Section 411.0205, Government Code, as amended by this article, not later than the 61st day after the effective date of this article.

SECTION __.04. This article takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution, and applies to evidence tested after December 15, 2003. If this Act does not receive the vote necessary for immediate effect, this Act takes effect January 15, 2004, and applies to evidence tested after that date.