

BILL ANALYSIS

C.S.H.B. 2703
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Criminal Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

It appears that from October 1996 till present, the Houston Police Department Crime Lab has been experiencing tremendous problems with the DNA evidence testing and examination operations in the crime lab. Most recently, an independent audit of the Houston Crime Lab details a wide-range of deficiencies in the DNA analysis section - from the potential for evidence contamination to a lack of basic record keeping. The Houston Police Department Crime Lab DNA section has operated as a non-accredited laboratory. They have not conducted the mandatory in-depth internal or external audits that accredited laboratories conduct each year to assure that accurate evidence testing, examinations and procedures are being followed.

C.S.H.B. 2703 specifies that physical evidence subjected to forensic analysis and testimony is not admissible in a criminal case if, at the time of the analysis or the time the evidence is submitted to the court, the crime laboratory or other entity conducting the analysis was not accredited by the Department of Public Safety.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the public safety director of the Department of Public Safety in SECTION 4 (Section 411.0205, Government Code) and SECTION 5 of this bill.

ANALYSIS

C.S.H.B. 2703 amends the Criminal Procedure and Government codes relating to the admissibility of evidence examined and tested by a crime laboratory. The public safety director of the Department of Public Safety by rule shall, not later than the 61st day after this Act takes effect, establish an accreditation process for crime laboratories, including DNA laboratories, and other entities conducting forensic analyses of physical evidence for use in criminal proceedings. Physical evidence subjected to forensic analysis and testimony regarding the evidence is not admissible in a criminal case if, at the time of the analysis or the time the evidence is submitted to the court, the crime laboratory or other entity conducting the analysis was not accredited by DPS.

Physical evidence subjected to a forensic analysis is admissible in a criminal case regardless of the accreditation status if the laboratory or entity preserves one or more separate samples of the evidence for use by the defense attorney or use under order of the convicting court and has agreed to preserve those samples until all appeals in the case are final. This provision expires September 1, 2005.

EFFECTIVE DATE

On passage, or if the Act does not receive the necessary vote, the Act takes effect September 1, 2003.

COMPARISON OF ORIGINAL TO SUBSTITUTE

The substitute differs from the original by providing for the accreditation of crime laboratories by the

Department of Public Safety, whereas, the original bill provided for accreditation by the American Society of Crime Laboratory Directors. Furthermore, the substitute requires the public safety director of DPS to adopt rules to establish the accreditation process. In addition, the admissibility of evidence provisions in the original bill were restricted to evidence generated, developed, or examined by a crime laboratory owned or operated by a municipality, county, or other political subdivision. Whereas, the substitute refers to a crime laboratory or other entity conducting the analysis.