

## **BILL ANALYSIS**

Senate Research Center

S.B. 1607  
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### **DIGEST AND PURPOSE**

Currently, Texas has numerous unregulated crime labs. The Houston Police Department (HPD) crime laboratory was recently closed after an independent audit revealed contamination and incompetent lab supervisors. As proposed, S.B. 1607 creates quality control and oversight for the state's various crime labs.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the commission on forensic science in SECTION 1 (Section 534.002, Government Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends the Government Code by adding Chapter 534, as follows:

#### Chapter 534. OVERSIGHT OF CRIME LAB FACILITIES

##### SUBCHAPTER A. GENERAL PROVISIONS

Sec. 534.001. Definitions. Defines "forensic laboratory," "forensic DNA laboratory," "forensic DNA testing," "DNA testing methodology," "blind external proficiency testing," "DNA," "designated offender," "DNA record," "DNA subcommittee," and "commission."

Sec. 534.002. Commission on Forensic Science. Creates a commission on forensic science (commission) consisting of certain individuals. Requires each member appointed by the governor to serve a two-year term. Authorizes any member appointed by the governor to be reappointed for additional two-year terms. Requires any member chosen to fill a vacancy created by the expiration of the term to be appointed by the governor for the unexpired term of the member he or she is to succeed. Requires any vacancy caused by expiration term to be filled in the same manner as the original appointment. Requires the commission to meet at least four times each year and may establish its rule and procedures concerning the conduct of its meetings and other affairs not inconsistent with the law. Set forth that members of the commission are not disqualified from holding public office or employment and not required to take and file oaths of office before serving on the commission. Prohibits members of the commission from receiving compensation for their services but authorizes reimbursement for expenses.

Sec. 534.003. Powers and Duties of Commissions. (1) Requires the commission to develop certain standards and a program of accreditation for all forensic laboratories in Texas, including establishing qualifications for forensic laboratory directors and other personnel as the commission determines to be necessary and appropriate, and approval of forensic laboratory for the performance of specified methodologies. Requires nothing in this article to be deemed to preclude forensic laboratories from performing research and validations studies on new methodologies and technologies which may not yet be approved by the commission at that

time. Requires the commission, while designing a system of accreditation pursuant to this article, to evaluate other systems of accreditation.

(2) Requires the standards and program of accreditation to be designed to accomplish certain objectives.

(2-a) Requires any program of forensic laboratory accreditation with respect to a DNA laboratory pursuant to this section to be under the direction of the DNA subcommittee established pursuant to this section. Requires the subcommittee to have the sole authority to grant, deny, review or modify a DNA forensic laboratory accreditation pursuant to this article, provided that the authority be effectuated through binding recommendations made by the DNA subcommittee to the commission. Authorizes the commission, in the event it disagrees with any of the binding recommendations of the DNA subcommittee made pursuant to this article, to notify the subcommittee and request the subcommittee to reasonably review such binding recommendations. Requires the DNA subcommittee to conduct review and either forward revised binding recommendations to the commission or indicate, with probable reason, that following the review such subcommittee has determined that such binding recommendations shall not be revised.

(3) Requires the program of forensic laboratory to meet certain requirements.

(4) Requires a laboratory director who knowingly operates a laboratory without obtaining the accreditation required by this article, or who, with the intent to mislead or deceive, misrepresents a material fact to the commission or DNA subcommittee, to be subject to a civil penalty not to exceed seventy-five hundred dollars and such other penalties as are prescribed by the law.

(5) Authorizes the commission and the DNA subcommittee established pursuant to this section to require and receive from any agency of the state or any political subdivision assistance and data that enable the commission or DNA subcommittee to administer the provisions of this article. Authorizes the commission or DNA subcommittee to enter into cooperative arrangements with the Department of Public Safety (DPS), the Department of Health (TDH), and any other state agency, each of which is authorized to enter into such cooperative arrangements as shall be necessary or appropriate. Authorizes any state agency, upon the request of the commission or DNA subcommittee to transfer to the commission officers or employees in order that the commission or DNA subcommittee can carry its functions and duties.

(6) Require all of the commission's records, reports, assessments, and evaluations in regards to accreditation, implementation of quality assurance and monitoring, to be archived by the commission.

(7) Authorizes the commission and the DNA subcommittee to establish, appoint, and set terms of members to advisory councils to provide specialized expertise to the commission in regards to new forensic technologies including DNA testing methodology.

(8) Requires the commission or the DNA subcommittee to designate one or more entities for the performance of proficiency tests required pursuant to the provisions of this article.

(9) Requires the commission, upon recommendation of the DNA subcommittee established pursuant to this section, to designate one or more approved methodologies for the performance of forensic DNA testing, and to review and act upon applications

by forensic DNA laboratories for approval to perform DNA testing.

(10) Sets forth the purpose of the DNA subcommittee.

Sec. 534.004. Confidentiality. (1) Requires all records, findings, reports, and results of DNA testing performed on any person to be confidential and prohibits them from being disclosed or redisclosed without the consent of the subject of DNA testing. Prohibits records, findings, reports and results from being released to insurance companies, employers or potential employers, health providers, employment screening or personnel companies, agencies, or services, private investigation services, and prohibits them from being disclosed in response to a subpoena or other compulsory legal process or warrant, or upon request or order of any agency, authority, division, office, corporation, partnership, or any other private or public entity or person, except that nothing contained shall prohibit disclosure in response to a subpoena issued on behalf of the subject of such DNA record or on behalf of a party in a civil proceeding where the subject of such DNA record has put such record in issue.

(2) Authorizes the reports, findings, records, and results of DNA testing to be disclosed to the prosecution and to the defense upon written request to the commissioner of the division of criminal justice services, notwithstanding the provisions of subdivision one of this section.

Sec. 534.005. Applicability. Provides that this article shall not apply to a forensic DNA laboratory operated by any agency of the federal government, or to any forensic DNA test performed by any federal laboratory.

Sec. 534.006. Penalties. Provides that any person who (a) intentionally discloses a DNA record, or the results of a forensic DNA test or analysis, to an individual or agency other than one authorized to have access to such records pursuant to this article or (b) intentionally uses or receives DNA records, or the results of a forensic DNA test or analysis, for purposes other than those authorized pursuant to this article or (c) any person who knowingly tampers or attempts to tamper with any DNA sample or the collection container without lawful authority is guilty of a state jail felony.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 2003.