

By: Dutton

H.B. No. 353

A BILL TO BE ENTITLED

AN ACT

relating to the creation of a Forensic Science Review Committee within the Department of Public Safety.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 411, Government Code, is amended by adding Subchapter L to read as follows:

SUBCHAPTER L. FORENSIC SCIENCE REVIEW COMMITTEE

Sec. 411.351. DEFINITIONS. In this subchapter:

(1) "Committee" means the Forensic Science Review Committee.

(2) "Forensic laboratory" means a laboratory operated by the state or a political subdivision of the state to perform forensic testing, including testing of materials from a crime scene and testing of DNA or other matter derived from the human body, for use as evidence in a criminal proceeding or for purposes of identification.

Sec. 411.352. FORENSIC SCIENCE REVIEW COMMITTEE. The Forensic Science Review Committee is created in the department.

Sec. 411.353. COMPOSITION OF COMMITTEE. The committee is composed of the following members appointed by the governor with the advice and consent of the senate:

(1) two representatives of the Texas Department of Criminal Justice;

(2) two representatives of the department;

1 (3) a representative of the Texas Department of
2 Health; and

3 (4) a representative of the Texas District and County
4 Attorneys Association.

5 Sec. 411.354. PRESIDING OFFICER. The governor shall
6 designate from among the committee members a presiding officer who
7 serves in that capacity at the pleasure of the governor.

8 Sec. 411.355. COMPENSATION AND EXPENSES. A member of the
9 committee may not receive compensation for service performed for
10 the committee but is entitled to receive reimbursement for actual
11 or necessary expenses incurred in performing service for the
12 committee.

13 Sec. 411.356. TERM. Members of the committee serve for
14 staggered six-year terms with the terms of two members expiring on
15 February 1 of each odd-numbered year.

16 Sec. 411.357. MEETINGS. The committee shall meet at least
17 quarterly.

18 Sec. 411.358. SUPPORT STAFF. The department shall provide
19 to the committee administrative, professional, clerical, and other
20 personnel as may be required to perform the duties of the committee.

21 Sec. 411.359. RULES. The committee shall adopt rules
22 necessary for the administration of this subchapter.

23 Sec. 411.360. GENERAL POWERS AND DUTIES OF COMMITTEE. (a)
24 The committee shall regulate and oversee the activities of forensic
25 laboratories in this state.

26 (b) The committee shall adopt accreditation standards for
27 forensic laboratories in this state. In designing accreditation

1 standards, the committee shall evaluate other systems or standards
2 of accreditation.

3 (c) The committee shall establish qualification standards
4 for examiners, analysts, and scientists employed by a forensic
5 laboratory in this state and shall adopt a code of ethics to which
6 each examiner, analyst, or scientist is required to adhere. The
7 qualification standards and the code of ethics must be designed to:

8 (1) increase and maintain the effectiveness,
9 efficiency, reliability, and accuracy of forensic laboratories;

10 (2) ensure that forensic analyses are performed in
11 accordance with the highest scientific standards practicable; and

12 (3) ensure to both the prosecution and the defense
13 full disclosure of all laboratory notes and results whenever an
14 examination of evidence is performed.

15 (d) The committee shall establish protocols for the
16 examination of evidence in a forensic laboratory. The protocols
17 must require that, to the fullest extent practicable, the
18 examination of evidence is conducted on a blind basis so that the
19 examiner, analyst, or scientist is unaware of whether the request
20 for examination originated with the defense or the prosecution and
21 is unaware of which side would be helped by a particular finding.

22 (e) The committee shall conduct routine internal and
23 external proficiency testing of forensic laboratory personnel
24 involved in conducting forensic analyses. Proficiency testing
25 under this subsection must include the submission of test samples
26 that appear to laboratory personnel to involve only routine
27 evidence.

1 (f) As part of the accreditation process, the committee
2 shall require forensic laboratories to adhere to quality control
3 and quality assurance protocols and to maintain a method validation
4 procedure and a program for taking remedial action.

5 (g) The committee shall require that each forensic
6 laboratory, as accredited annually by the committee, certify to the
7 committee its continued compliance with the accreditation
8 standards.

9 (h) The committee shall conduct an initial laboratory
10 inspection and routine inspections as necessary of forensic
11 laboratories in this state to ensure that the laboratories comply
12 with accreditation standards.

13 (i) The committee shall revoke the accreditation of a
14 forensic laboratory on a determination that the laboratory or one
15 or more persons employed by the laboratory:

16 (1) engaged in misrepresentation to obtain a forensic
17 laboratory accreditation;

18 (2) rendered a report on laboratory work actually
19 performed in another forensic laboratory without disclosing that
20 fact;

21 (3) showed a pattern of excessive errors in the
22 performance of forensic laboratory examination procedures; or

23 (4) failed to file a report required to be submitted
24 under this subchapter.

25 SECTION 2. The governor shall appoint the initial members
26 of the Forensic Science Review Committee created by this Act so that
27 two members' terms expire February 1, 2005, two members' terms

1 expire February 1, 2007, and two members' terms expire February 1,
2 2009.

3 SECTION 3. The Forensic Science Review Committee shall
4 adopt rules required by Section 411.359, Government Code, as added
5 by this Act, not later than April 1, 2004.

6 SECTION 4. This Act takes effect January 1, 2004.