

By: Bailey, Paxton, Dutton, Keel, Flynn

H.B. No. 2703

Substitute the following for H.B. No. 2703:

By: Hodge

C.S.H.B. No. 2703

A BILL TO BE ENTITLED

AN ACT

1 relating to admissibility of evidence examined and tested by a
2 crime laboratory.

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

4 SECTION 1. The heading to Article 38.35, Code of Criminal
5 Procedure, is amended to read as follows:

6 Art. 38.35. FORENSIC ANALYSIS OF EVIDENCE; ADMISSIBILITY.

7 SECTION 2. Article 38.35(a)(1), Code of Criminal Procedure,
8 is amended to read as follows:

9 (1) "Forensic analysis" means a medical, chemical,
10 toxicologic, ballistic, or other expert examination and test
11 performed on physical evidence, including DNA evidence, for the
12 purpose of determining the [its] connection of the evidence to a
13 criminal action.

14 SECTION 3. Article 38.35, Code of Criminal Procedure, is
15 amended by adding Subsections (d) and (e) to read as follows:

16 (d) Physical evidence subjected to a forensic analysis, and
17 testimony regarding the evidence, under this article is not
18 admissible in a criminal case if, at the time of the analysis or the
19 time the evidence is submitted to the court, the crime laboratory or
20 other entity conducting the analysis was not accredited by the
21 Department of Public Safety under Section 411.0205, Government
22 Code.

23 (e) Notwithstanding Subsection (d), physical evidence
24

1 subjected to a forensic analysis under this article is admissible
2 in a criminal case regardless of the accreditation status of the
3 crime laboratory or other entity conducting the analysis if the
4 laboratory or entity:

5 (1) has preserved one or more separate samples of the
6 physical evidence for use by the defense attorney or use under order
7 of the convicting court; and

8 (2) has agreed to preserve those samples until all
9 appeals in the case are final. This subsection expires September 1,
10 2005.

11 SECTION 4. Subchapter A, Chapter 411, Government Code, is
12 amended by adding Section 411.0205 to read as follows:

13 Sec. 411.0205. CRIME LABORATORY ACCREDITATION PROCESS. The
14 director by rule shall establish an accreditation process for crime
15 laboratories, including DNA laboratories, and other entities
16 conducting forensic analyses of physical evidence for use in
17 criminal proceedings. In this section, "forensic analysis" and
18 "physical evidence" have the meanings assigned by Article 38.35,
19 Code of Criminal Procedure, and "DNA laboratory" has the meaning
20 assigned by Section 411.141.

21 SECTION 5. The public safety director of the Department of
22 Public Safety of the State of Texas shall adopt rules under Section
23 411.0205, Government Code, as added by this Act, not later than the
24 61st day after the effective date of this Act.

25 SECTION 6. This Act takes effect immediately if it receives
26 a vote of two-thirds of all the members elected to each house, as
27 provided by Section 39, Article III, Texas Constitution, and

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1 applies to evidence tested after September 1, 2003. If this Act
2 does not receive the vote necessary for immediate effect, this Act
3 takes effect September 1, 2003, and applies to evidence tested
4 after that date.