

## **BILL ANALYSIS**

Senate Research Center

C.S.S.B. 1263  
By: Whitmire  
Criminal Justice  
4/7/2005  
Committee Report (Substituted)

### **AUTHOR'S/SPONSOR'S STATEMENT OF INTENT**

C.S.S.B. 1263 creates a Texas Forensic Science Commission that will qualify the state for funding provided through Congress' passage of the Justice for All Act and the Paul Coverdell Forensic Sciences Improvement Grant Program.

The federal Act states that to qualify for these funds, there must exist within state government an entity which has a process in place to conduct independent external investigation into allegations of serious negligence or misconduct substantially affecting the integrity of any forensic laboratory system, medical examiner's office, coroner's office, law enforcement storage facility, or medical facility in the state that processes criminal forensic science used in criminal proceedings.

These grants will provide funding to crime laboratories and medical examiners' offices to improve the quality, timeliness, and credibility of forensic science or medical examiner services. The current status of the Department of Public Safety oversight of the accreditation system or reliance on the federal accreditation system is insufficient to qualify for these forensic improvement grant funds.

The governor's office recently announced that the awarding of \$448,887 under the preexisting Coverdell grant program will not be renewable under the new guidelines. Texas must qualify by creating a government entity which will meet the new guidelines and allow Texas to apply for substantial amounts of funding.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Chapter 38, Code of Criminal Procedure, by adding Article 38.01, as follows:

Art. 38.01. TEXAS FORENSIC SCIENCE COMMISSION

Sec. 1. CREATION. Creates the Texas Forensic Science Commission (commission).

Sec. 2. DEFINITION. Defines "forensic analysis."

Sec. 3. COMPOSITION. (a) Provides that the commission is made up of 11 members, and sets forth which officials appoint which members, and the required professions or expertise of the members.

(b) Provides that each member of the commission serves a two-year term and sets forth the respective expiration dates for the members' terms.

(c) Requires the governor to designate a member of the commission to serve as the presiding officer.

Sec. 4. DUTIES. (a) Requires the commission to develop and implement an accreditation process for all laboratories, facilities, or entities that conduct forensic analyses, and a reporting system through which accredited entities report professional negligence and misconduct. Requires the commission to require all laboratories, facilities, or entities that conduct forensic analyses to become accredited by the commission and report professional negligence and misconduct to the commission. Requires the commission to investigate in a timely manner any allegation of professional negligence or misconduct that would substantially affect the integrity of the results of a forensic analysis conducted by an accredited laboratory, facility, or entity.

(b) Sets forth the information and reports that are required and the examinations and evaluations that are authorized for an investigation of an allegation of professional negligence or misconduct.

(c) Authorizes the commission by contract to delegate certain duties to any person the commission determines to be qualified to assume those duties.

(d) Authorizes the commission, as part of the accreditation process, to establish certain standards, procedures, and training requirements relating to entities that conduct forensic analyses and to validate or approve certain forensic methods or methodologies.

(e) Authorizes the commission to require that a laboratory, facility, or entity required to be accredited under this section pay any costs incurred to ensure compliance with the requirement that an investigation into professional negligence or misconduct must include preparation of a written report including certain information.

(f) Requires the commission to make all accreditation reviews and investigation reports under Subsections (a)(2) and (b)(1) available to the public. Provides that an investigation report compiled under Subsection (b)(1), in a subsequent civil or criminal proceeding, is not prima facie evidence of the information or findings contained in the report.

Sec. 5. REIMBURSEMENT. Prohibits a member of the commission from receiving compensation. Entitles a member to reimbursement for certain travel expenses.

Sec. 6. ASSISTANCE. Requires the Texas Legislative Council, the Legislative Budget Board, and The University of Texas at Austin to assist the commission in performing its duties.

Sec. 7. SUBMISSION. Requires the commission to submit any reports received regarding professional negligence or misconduct and any report prepared in the course of an investigation for professional negligence or misconduct to the governor, the lieutenant governor, and the speaker of the house of representatives not later than December 1 of each even-numbered year.

SECTION 2. Amends Articles 38.35(a), (d), and (e), Code of Criminal Procedure, as follows:

(a) Redefines "forensic analysis."

(d) Provides that physical evidence subjected to a forensic analysis, and related testimony, is not admissible in a criminal case unless at the time of analysis or the time of submission of the evidence to the court, the entity conducting the analysis was not accredited by the Texas Forensic Science Commission under Article 38.01, rather than the Department of Public Safety under Section 411.0205, Government Code.

(e) Provides that this subsection, relating to preservation of samples by an unaccredited laboratory, expires September 1, 2007, rather than 2005.

SECTION 3. Repealer Sections 411.0205 (Crime Laboratory Accreditation Process) and 411.0206 (Regulation of DNA Testing), Government Code.

SECTION 4. Makes Article 38.35, Code of Criminal Procedure, as amended by this Act, prospective to the admissibility of physical evidence in a criminal proceeding that commences on or after the effective date of this Act.

SECTION 5. (a) Requires initial appointments to the commission to be made not later than the 60th day after the effective date of this Act.

(b) Sets forth the expiration dates for the terms of certain initial members.

(c) Provides that a member whose term expires on September 1, 2006, is eligible to be reappointed for a two-year term.

SECTION 6. Effective date: September 1, 2005.