

By: Bailey

H.B. No. 1788

A BILL TO BE ENTITLED

AN ACT

relating to the establishment of regional DNA laboratories.

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

SECTION 1. The heading to Section 411.0205, Government Code, is amended to read as follows:

Sec. 411.0205. CRIME LABORATORY ACCREDITATION;
ESTABLISHMENT OF REGIONAL DNA LABORATORIES [~~PROCESS~~].

SECTION 2. Section 411.0205, Government Code, is amended by adding Subsections (d), (e), and (f) to read as follows:

(d) The director by rule shall designate an existing accredited DNA laboratory operated by the department as a regional DNA laboratory for a particular region of this state if a DNA laboratory that is accredited by the department under Subsection (b) does not exist in the region.

(e) The director may collect a reasonable fee from a political subdivision or person for whom a regional DNA laboratory performs a forensic analysis. A fee collected under this subsection may only be used to defray the costs of maintaining a regional DNA laboratory and performing forensic analyses at a regional DNA laboratory.

(f) The director shall adopt rules, including rules defining regions in this state, as necessary for the implementation of Subsections (d) and (e).

SECTION 3. Articles 38.35(d) and (e), Code of Criminal

1 Procedure, are amended to read as follows:

2 (d) Physical evidence subjected to a forensic analysis, and
3 testimony regarding the evidence, under this article is not
4 admissible in a criminal case if, at the time of the analysis or the
5 time the evidence is submitted to the court, the crime laboratory or
6 other entity conducting the analysis was not accredited or
7 designated as a regional DNA crime laboratory by the Department of
8 Public Safety under Section 411.0205, Government Code.

9 (e) Notwithstanding Subsection (d), physical evidence
10 subjected to a forensic analysis under this article is not
11 inadmissible in a criminal case based solely on the accreditation
12 status of the crime laboratory or other entity conducting the
13 analysis if the laboratory or entity:

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

17 (2) has agreed to preserve those samples until all
18 appeals in the case are final. This subsection expires January 1,
19 2006 [~~September 1, 2005~~].

20 SECTION 4. The public safety director of the Department of
21 Public Safety shall:

22 (1) designate DNA regional laboratories as required by
23 Section 411.0205(d), Government Code, as added by this Act, for any
24 region that, on or after September 1, 2005, does not have a DNA
25 laboratory accredited by the department under Section 411.0205(b),
26 Government Code; and

27 (2) adopt rules under Section 411.0205(f), Government

1 Code, as added by this Act, not later than the 61st day after the
2 effective date of this Act.

3 SECTION 5. Article 38.35, Code of Criminal Procedure, as
4 amended by this Act, applies only to the admissibility of physical
5 evidence in a criminal proceeding that commences on or after the
6 effective date of this Act. The admissibility of physical evidence
7 in a criminal proceeding that commenced before the effective date
8 of this Act is governed by the law in effect at the time the
9 proceeding commenced, and that law is continued in effect for that
10 purpose.

11 SECTION 6. This Act takes effect immediately if it receives
12 a vote of two-thirds of all the members elected to each house, as
13 provided by Section 39, Article III, Texas Constitution. If this
14 Act does not receive the vote necessary for immediate effect, this
15 Act takes effect September 1, 2005.