

BILL ANALYSIS

S.B. 1909
By: Hinojosa
Public Safety
Committee Report (Unamended)

BACKGROUND AND PURPOSE

This proposed legislation is in response to the recent National Academy of Science report which outlined forensic science areas that need improvement across the country, such as crime lab reliability.

S.B. 1909 requires the Texas Forensic Science Commission to establish a DNA laboratory audit program to conduct periodic unannounced audits of DNA laboratories in Texas. The bill requires the program to include an on-site review by experienced forensic DNA analysts of work recently performed by the DNA laboratory being audited, including an examination of any DNA record created by the laboratory and whether the laboratory followed all applicable quality control steps in creating the record, and, in circumstances determined by the commission by rule, an off-site retrospective reexamination of one or more DNA samples analyzed by the laboratory.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Forensic Science Commission in SECTION 2 of this bill.

ANALYSIS

S.B. 1909 amends the Code of Criminal Procedure to require the Texas Forensic Science Commission to establish a DNA laboratory audit program to conduct periodic unannounced audits of DNA laboratories in Texas. The bill requires the program to include an on-site review by experienced forensic DNA analysts of work recently performed by the DNA laboratory being audited, including an examination of any DNA record created by the laboratory and whether the laboratory followed all applicable quality control steps in creating the record, and, in circumstances determined by the commission by rule, an off-site retrospective reexamination of one or more DNA samples analyzed by the laboratory.

S.B. 1909 requires the commission to prepare a written report summarizing each audit conducted and to provide the report to the audited laboratory not later than the 30th day after the date the audit is completed. The bill requires the report to include the findings of the audit and to specify whether the laboratory must take any corrective action.

S.B. 1909 requires the commission, if the report requires a DNA laboratory to take corrective action, to perform a subsequent evaluation of the laboratory to review the laboratory's implementation of any required corrective action not earlier than the 30th day after the date the report is provided to the laboratory, and to prepare a written report of the findings of the evaluation. The bill requires the commission to make all reports summarizing the audit of a DNA laboratory or the laboratory's implementation of any required corrective action available to the public. The bill prohibits the commission, if the commission requires a DNA laboratory to take corrective action, from making the report summarizing the initial audit available to the public until the commission makes the subsequent report on the corrective action available to the public.

S.B. 1909 requires the commission to promptly submit to the public safety director of the Department of Public Safety (DPS) any report summarizing the audit of a DNA laboratory that relates to a DNA laboratory that is accredited or seeking accreditation by DPS.

S.B. 1909 provides that an audit of a DNA laboratory conducted by the commission is in addition to any audit of a DNA laboratory conducted by the public safety director of DPS. The bill provides that a report summarizing the audit of a DNA laboratory, in a subsequent civil or criminal proceeding, is not prima facie evidence of the information or findings contained in the report. The bill requires the commission to adopt rules to implement the DNA laboratory audit program. The bill includes a report summarizing the audit of a DNA laboratory among the reports the commission is required to submit to the governor, the lieutenant governor, and the speaker of the house of representatives not later than December 1 of each even-numbered year.

S.B. 1909 provides that its provisions do not make an appropriation and that a provision that creates a new governmental program, creates a new entitlement, or imposes a new duty on a governmental entity is not mandatory during a fiscal period for which the legislature has not made a specific appropriation to implement the provision.

S.B. 1909 defines "DNA laboratory," "DNA record," and "DNA sample."

EFFECTIVE DATE

On passage, or, if the act does not receive the necessary vote, the act takes effect September 1, 2009.