

By: Phillips

H.B. No. 3874

A BILL TO BE ENTITLED

AN ACT

relating to the analysis of physical evidence in a criminal case, to the accreditation of crime laboratories in this state, and to audits of and standards for the analyses performed by those laboratories.

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

SECTION 1. Article 38.01, Code of Criminal Procedure, is amended by adding Section 4a to read as follows:

Sec. 4a. STANDARDS FOR POSTCONVICTION DNA TESTING. The commission shall adopt standards for all postconviction forensic DNA testing performed under Chapter 64.

SECTION 2. Article 64.03, Code of Criminal Procedure, is amended by adding Subsection (c-1) to read as follows:

(c-1) All forensic DNA testing under Subsection (c) shall be conducted according to standards adopted by the Texas Forensic Science Commission under Section 4a, Article 38.01.

SECTION 3. Subchapter D, Chapter 1001, Health and Safety Code, is amended by adding Sections 1001.076 and 1001.077 to read as follows:

Sec. 1001.076. CRIME LABORATORY ACCREDITATION PROCESS. The department by rule shall establish an accreditation process for crime laboratories and other entities conducting forensic analyses of physical evidence for use in criminal proceedings. In adopting rules under this section, the department shall consult with the

1 Texas Forensic Science Commission established under Article 38.01,  
2 Code of Criminal Procedure.

3 Sec. 1001.077. DNA LABORATORY AUDIT PROGRAM. (a) In  
4 consultation with the Texas Forensic Science Commission  
5 established under Article 38.01, Code of Criminal Procedure, the  
6 department shall establish a DNA laboratory audit program to  
7 conduct periodic unannounced audits of DNA laboratories in this  
8 state that conduct forensic analyses of physical evidence for use  
9 in criminal proceedings.

10 (b) The program established under Subsection (a) must  
11 include:

12 (1) an on-site review by experienced forensic DNA  
13 analysts of forensic work recently performed by the DNA laboratory  
14 being audited, including an examination of any DNA record created  
15 by the laboratory and whether the laboratory followed all  
16 applicable quality control steps in creating the record;

17 (2) in circumstances determined by the department by  
18 rule, an off-site retrospective reexamination of one or more DNA  
19 samples analyzed by the laboratory; and

20 (3) the imposition of sanctions on laboratories that  
21 fail to take appropriate corrective action as required by the  
22 department.

23 (c) The department shall prepare a written report  
24 summarizing each audit conducted under this section and provide the  
25 report to the audited laboratory not later than the 30th day after  
26 the date the audit is completed. The report must include the  
27 findings of the audit and must specify whether the laboratory must

1 take any corrective action.

2 (d) An audit conducted under this section is in addition to  
3 any audit conducted by the public safety director of the Department  
4 of Public Safety under Section 411.144, Government Code.

5 (e) The department shall adopt rules to implement this  
6 section.

7 SECTION 4. Section 411.0205, Government Code, is repealed.

8 SECTION 5. (a) Not later than December 1, 2009, the Texas  
9 Forensic Science Commission shall adopt the standards required by  
10 Section 4a, Article 38.01, Code of Criminal Procedure, as added by  
11 this Act.

12 (b) Not later than December 1, 2009, the Department of State  
13 Health Services shall adopt the rules required by Sections 1001.076  
14 and 1001.077, Health and Safety Code, as added by this Act.

15 SECTION 6. This Act takes effect September 1, 2009.