

By: Gallego

H.B. No. 4143

A BILL TO BE ENTITLED

AN ACT

relating to the establishment by the Texas Forensic Science Commission of a DNA laboratory audit program.

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

SECTION 1. Section 2, Article 38.01, Code of Criminal Procedure, is amended to read as follows:

Sec. 2. DEFINITIONS [~~DEFINITION~~]. In this article:

(1) "DNA laboratory," "DNA record," and "DNA sample" have the meanings assigned by Section 411.141, Government Code.

(2) "Forensic [~~,"forensic~~] analysis" has the meaning assigned by Article 38.35(a).

SECTION 2. Article 38.01, Code of Criminal Procedure, is amended by adding Section 4A to read as follows:

Sec. 4A. DNA LABORATORY AUDIT PROGRAM. (a) The commission shall establish a DNA laboratory audit program to conduct periodic unannounced audits of DNA laboratories in this state.

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

(1) 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

(2) in circumstances determined by the commission by

1 rule, an off-site retrospective reexamination of one or more DNA
2 samples analyzed by the laboratory.

3 (c) The commission shall prepare a written report
4 summarizing each audit conducted under this section and provide the
5 report to the audited laboratory not later than the 30th day after
6 the date the audit is completed. The report must include the
7 findings of the audit and must specify whether the laboratory must
8 take any corrective action.

9 (d) If the report described by Subsection (c) requires a DNA
10 laboratory to take corrective action, the commission shall:

11 (1) not earlier than the 30th day after the date the
12 report is provided to the laboratory under Subsection (c), perform
13 a subsequent evaluation of the laboratory to review the
14 laboratory's implementation of any required corrective action; and

15 (2) prepare a written report of the findings of the
16 evaluation.

17 (e) The commission shall make all reports completed under
18 Subsections (c) and (d) available to the public. If the commission
19 requires a DNA laboratory to take corrective action under
20 Subsection (c), the commission may not make the report summarizing
21 the initial audit available to the public until the commission
22 makes available to the public the subsequent report completed under
23 Subsection (d).

24 (f) The commission promptly shall submit to the public
25 safety director of the Department of Public Safety any report
26 completed under Subsection (c) or (d) that relates to a DNA
27 laboratory that is accredited or seeking accreditation by the

1 department.

2 (g) 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 (h) A report completed under Subsection (c) or (d), in a
6 subsequent civil or criminal proceeding, is not prima facie
7 evidence of the information or findings contained in the report.

8 (i) The commission shall adopt rules to implement this
9 section.

10 SECTION 3. Section 7, Article 38.01, Code of Criminal
11 Procedure, is amended to read as follows:

12 Sec. 7. SUBMISSION. The commission shall submit any report
13 received under Section 4(a)(2) and any report prepared under
14 Section 4(b)(1) or Section 4A(c) or (d) to the governor, the
15 lieutenant governor, and the speaker of the house of
16 representatives not later than December 1 of each even-numbered
17 year.

18 SECTION 4. This Act takes effect immediately if it receives
19 a vote of two-thirds of all the members elected to each house, as
20 provided by Section 39, Article III, Texas Constitution. If this
21 Act does not receive the vote necessary for immediate effect, this
22 Act takes effect September 1, 2009.