

By: Gallego

H.B. No. 4143

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to the establishment by the Texas Forensic Science  
3 Commission of a DNA laboratory audit program.

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

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

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

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

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

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

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

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

19 (1) an on-site review by experienced forensic DNA  
20 analysts of work recently performed by the DNA laboratory being  
21 audited, including an examination of any DNA record created by the  
22 laboratory and whether the laboratory followed all applicable  
23 quality control steps in creating the record; and

24 (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.