

By: Hinojosa

S.B. No. 1909

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

1 (2) in circumstances determined by the commission by
2 rule, an off-site retrospective reexamination of one or more DNA
3 samples analyzed by the laboratory.

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

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

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

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

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

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

1 laboratory that is accredited or seeking accreditation by the
2 department.

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

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

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

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

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

19 SECTION 4. This Act does not make an appropriation. A
20 provision in this Act that creates a new governmental program,
21 creates a new entitlement, or imposes a new duty on a governmental
22 entity is not mandatory during a fiscal period for which the
23 legislature has not made a specific appropriation to implement the
24 provision.

25 SECTION 5. This Act takes effect immediately if it receives
26 a vote of two-thirds of all the members elected to each house, as
27 provided by Section 39, Article III, Texas Constitution. If this

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1 Act does not receive the vote necessary for immediate effect, this

2 Act takes effect September 1, 2009.