

1-1 By: Hinojosa S.B. No. 1909  
1-2 (In the Senate - Filed March 12, 2009; March 24, 2009, read  
1-3 first time and referred to Committee on Criminal Justice;  
1-4 April 28, 2009, reported favorably by the following vote: Yeas 7,  
1-5 Nays 0; April 28, 2009, sent to printer.)

1-6 A BILL TO BE ENTITLED  
1-7 AN ACT

1-8 relating to the establishment by the Texas Forensic Science  
1-9 Commission of a DNA laboratory audit program.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Section 2, Article 38.01, Code of Criminal  
1-12 Procedure, is amended to read as follows:

1-13 Sec. 2. DEFINITIONS [DEFINITION]. In this article:

1-14 (1) "DNA laboratory," "DNA record," and "DNA sample"  
1-15 have the meanings assigned by Section 411.141, Government Code.

1-16 (2) "Forensic[~~,~~ "forensic] analysis" has the meaning  
1-17 assigned by Article 38.35(a).

1-18 SECTION 2. Article 38.01, Code of Criminal Procedure, is  
1-19 amended by adding Section 4A to read as follows:

1-20 Sec. 4A. DNA LABORATORY AUDIT PROGRAM. (a) The  
1-21 commission shall establish a DNA laboratory audit program to  
1-22 conduct periodic unannounced audits of DNA laboratories in this  
1-23 state.

1-24 (b) The program established under Subsection (a) must  
1-25 include:

1-26 (1) an on-site review by experienced forensic DNA  
1-27 analysts of work recently performed by the DNA laboratory being  
1-28 audited, including an examination of any DNA record created by the  
1-29 laboratory and whether the laboratory followed all applicable  
1-30 quality control steps in creating the record; and

1-31 (2) in circumstances determined by the commission by  
1-32 rule, an off-site retrospective reexamination of one or more DNA  
1-33 samples analyzed by the laboratory.

1-34 (c) The commission shall prepare a written report  
1-35 summarizing each audit conducted under this section and provide the  
1-36 report to the audited laboratory not later than the 30th day after  
1-37 the date the audit is completed. The report must include the  
1-38 findings of the audit and must specify whether the laboratory must  
1-39 take any corrective action.

1-40 (d) If the report described by Subsection (c) requires a DNA  
1-41 laboratory to take corrective action, the commission shall:

1-42 (1) not earlier than the 30th day after the date the  
1-43 report is provided to the laboratory under Subsection (c), perform  
1-44 a subsequent evaluation of the laboratory to review the  
1-45 laboratory's implementation of any required corrective action; and

1-46 (2) prepare a written report of the findings of the  
1-47 evaluation.

1-48 (e) The commission shall make all reports completed under  
1-49 Subsections (c) and (d) available to the public. If the commission  
1-50 requires a DNA laboratory to take corrective action under  
1-51 Subsection (c), the commission may not make the report summarizing  
1-52 the initial audit available to the public until the commission  
1-53 makes available to the public the subsequent report completed under  
1-54 Subsection (d).

1-55 (f) The commission promptly shall submit to the public  
1-56 safety director of the Department of Public Safety any report  
1-57 completed under Subsection (c) or (d) that relates to a DNA  
1-58 laboratory that is accredited or seeking accreditation by the  
1-59 department.

1-60 (g) An audit conducted under this section is in addition to  
1-61 any audit conducted by the public safety director of the Department  
1-62 of Public Safety under Section 411.144, Government Code.

1-63 (h) A report completed under Subsection (c) or (d), in a  
1-64 subsequent civil or criminal proceeding, is not prima facie

2-1 evidence of the information or findings contained in the report.  
2-2 (i) The commission shall adopt rules to implement this  
2-3 section.

2-4 SECTION 3. Section 7, Article 38.01, Code of Criminal  
2-5 Procedure, is amended to read as follows:

2-6 Sec. 7. SUBMISSION. The commission shall submit any report  
2-7 received under Section 4(a)(2) and any report prepared under  
2-8 Section 4(b)(1) or Section 4A(c) or (d) to the governor, the  
2-9 lieutenant governor, and the speaker of the house of  
2-10 representatives not later than December 1 of each even-numbered  
2-11 year.

2-12 SECTION 4. This Act takes effect immediately if it receives  
2-13 a vote of two-thirds of all the members elected to each house, as  
2-14 provided by Section 39, Article III, Texas Constitution. If this  
2-15 Act does not receive the vote necessary for immediate effect, this  
2-16 Act takes effect September 1, 2009.

2-17

\* \* \* \* \*