

By: Madden

H.B. No. 3383

A BILL TO BE ENTITLED

AN ACT

relating to private DNA laboratories performing forensic analyses on samples or specimens related to the investigation or prosecution of certain criminal offenses.

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

SECTION 1. The heading to Subchapter G, Chapter 411, Government Code, is amended to read as follows:

SUBCHAPTER G. DNA [~~DATABASE SYSTEM~~]

SECTION 2. Subchapter G, Chapter 411, Government Code, is amended by adding Sections 411.155 and 411.156 to read as follows:

Sec. 411.155. FORENSIC ANALYSES PERFORMED BY PRIVATE DNA LABORATORIES: CERTAIN OFFENSES AGAINST PROPERTY. (a) This section applies only to a sample or specimen related to the investigation or prosecution of an offense under Chapter 28, 29, 30, or 31, Penal Code.

(b) A law enforcement agency may submit a sample or specimen described by Subsection (a) to a private DNA laboratory for forensic analysis if:

(1) the private DNA laboratory is accredited by:

(A) the department; and

(B) the American Society of Crime Laboratory Directors, Forensic Quality Services-International, or any other nonprofit professional association of persons actively involved in forensic science that is nationally recognized within the forensic

1 science community; and

2 (2) the law enforcement agency pays all costs of the
3 analysis.

4 Sec. 411.156. QUALITY ASSURANCE REVIEW FOR FORENSIC
5 ANALYSES PERFORMED BY PRIVATE DNA LABORATORIES. (a) In this
6 section, "analyst" means a person employed at a DNA laboratory who
7 is qualified to perform a forensic analysis on a sample or specimen
8 derived from a human body, physical evidence, or a crime scene.

9 (b) Subject to Subsection (c), with respect to forensic
10 analyses performed by a private DNA laboratory under Section
11 411.155, a public DNA laboratory that services the geographic area
12 where the private DNA laboratory is located shall perform the
13 quality assurance reviews required by the FBI.

14 (c) If the public DNA laboratory does not have adequate
15 resources to perform the necessary quality assurance reviews, the
16 public DNA laboratory shall enter into a barter agreement with the
17 private DNA laboratory with respect to which the quality assurance
18 reviews must be performed. Under the barter agreement, the private
19 DNA laboratory shall perform forensic DNA analyses for the public
20 DNA laboratory in relation to the investigation or prosecution of a
21 variety of offenses:

22 (1) at no cost to the public DNA laboratory; and

23 (2) in a volume necessary to enable the public DNA
24 laboratory to perform all necessary quality assurance reviews
25 described by this section.

26 (d) The barter agreement required by Subsection (c) must
27 include the following conditions:

1 (1) an analyst employed at the public DNA laboratory
2 must perform quality assurance reviews each week on 50 samples or
3 specimens analyzed by the private DNA laboratory;

4 (2) the public DNA laboratory is not required to
5 perform a quality assurance review on a sample or specimen that
6 fails to generate a DNA profile meeting the requirements necessary
7 for uploading the sample or specimen to the CODIS database;

8 (3) the private DNA laboratory must agree to perform a
9 set amount of forensic analyses, as calculated under Subsection
10 (e), each week for the public DNA laboratory at no charge;

11 (4) subject to Subdivision (2), the public DNA
12 laboratory must perform a quality assurance review on each of the
13 forensic analyses performed by the private DNA laboratory under
14 Subdivision (3); and

15 (5) the private DNA laboratory must perform forensic
16 analyses on different types or categories of samples or specimens,
17 such as a category relating to unscreened sexual assault evidence
18 collection kits, in a proportion equal to the different types or
19 categories of samples and specimens received for purposes of
20 analysis by the public DNA laboratory during the 12-month period
21 preceding the date of the agreement.

22 (e) The set amount of forensic analyses performed at no
23 charge each week by a private DNA laboratory under Subsection
24 (d)(3) is equal to the total number of samples or specimens for
25 which the public DNA laboratory has performed forensic analyses
26 during the 12-month period preceding the date of the agreement,
27 divided by the number of analysts employed at the public DNA

1 laboratory during that period, and further divided by 52.

2 (f) The public DNA laboratory is entitled to retain any
3 costs saved as a result of the barter agreement and shall use the
4 savings, if any, to expedite forensic analyses of samples or
5 specimens related to violent offenses.

6 SECTION 3. This Act takes effect September 1, 2011.