

BILL ANALYSIS

Senate Research Center
86R2352 MAW-F

S.B. 284
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Criminal Justice
3/22/2019
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

In 2015, the Texas Legislature passed S.B. 1287, which required the Forensic Science Commission to establish a process for licensing forensic analysts and required forensic analysts to obtain licensing by January 1, 2019.

Currently, the Forensic Science Commission may reprimand, revoke, or suspend a license of an individual who commits misconduct. Disciplinary proceedings of the commission are conducted by an administrative law judge of the State Office of Administrative Hearings.

In 2017, the legislature administratively attached the Forensic Science Commission to the Office of Court Administration. The purpose of S.B. 284 is to revise the forensic analyst licensing section on disciplinary action to reflect the same process as the Judicial Branch Certification Commission (JBCC). The JBCC is the logical agency to conduct such independent hearings, as its purpose is to oversee the regulatory policies and certification of the professionals under its jurisdiction on behalf of Office of Court Administration and the Supreme Court of Texas. By harmonizing the disciplinary appeals process, S.B. 284 will achieve consistency and efficiency within the Office of Court Administration's licensing and certification programs.

S.B. 284 requires the Forensic Science Commission to give written notice to a license holder who is the subject of professional misconduct and inform the license holder of their right to a hearing before the JBCC.

As proposed, S.B. 284 amends current law relating to disciplinary proceedings applicable to a licensed forensic analyst.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 4-c, Article 38.01, Code of Criminal Procedure, by amending Subsection (c) and adding Subsections (d) and (e), as follows:

(c) Requires the Texas Forensic Science Commission (FSC) to give written notice by certified mail of a determination described by Subsection (a) to a license holder who is the subject of the determination. Requires the notice to include a brief summary of the alleged misconduct or violation, state the disciplinary action take by FSC, and inform the license holder of a license holder's right to a hearing before the Judicial Branch Certification Commission (JBCC) on the occurrence of the misconduct or violation, the imposition of disciplinary action, or both.

(d) Authorizes the license holder, not later than the 20th day after the date the license holder receives the notice under Subsection (c), to request a hearing by submitting a written request to JBCC. Provides that if the license holder fails to timely submit a request, the FSC disciplinary action becomes final and is not subject to review by JBCC.

(e) Requires JBCC to conduct a hearing to determine whether there is substantial evidence to support the determination under Subsection (a) that the license holder committed professional misconduct or violated this article, or a FSC rule or order under this article if the license holder requests a hearing. Requires JBCC, if JBCC upholds the determination, to determine the type of disciplinary action to be taken. Requires JCBB to conduct the hearing in accordance with procedures provided by Subchapter B (Administrative Penalty; Administrative Sanction), Chapter 153, Government Code, as applicable, and the rules of JCBB. Deletes existing text providing that disciplinary proceedings of JBCC are governed by Chapter 2001 (Administrative Procedure), Government Code, and that hearings under this section are required to be conducted by an administrative law judge of the State Office of Administrative Hearings.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 2019.