

BILL ANALYSIS

Senate Research Center

S.B. 1125
By: Hinojosa
Criminal Justice
6/6/2019
Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Texas law does not explicitly permit forensic analysts to testify in criminal cases using video technology. Over the last three years, the Department of Public Safety of the State of Texas (DPS) crime laboratory has spent significant time and resources responding to requests to appear in court, many of which do not even result in testimony. For example:

- A total of 2,266 total duty hours were spent in 2018 traveling to and from courts for appearances which did not result in testimony. An additional 3,290 hours and 8,455 miles were spent on testimony events that calendar year.
- A total of 1,804 total duty hours were spent in 2017 traveling to and from courts for appearances which did not result in testimony. An additional 6,210 hours and 59,900 miles were spent on testimony events that calendar year.
- A total of 1,795 total duty hours were spent in 2016 traveling to and from courts for appearances which did not result in testimony. An additional 6,902 hours and 65,463 miles were spent on testimony events.

Forensic scientists at DPS and other publicly funded labs could complete additional casework if this travel time was spent in the laboratory. In light of current statewide backlogs in DNA, seized drugs and toxicology, S.B. 1125 is urgently needed. Other states have laws permitting video testimony for analysts. Some examples include Oregon, Louisiana, Nevada, and Minnesota.

S.B. 1125 proposes a modification to allow for testimony via current real-time video capability under three conditions: (1) the court approves of the video testimony after notice to all parties; (2) the video conferencing is coordinated to ensure equipment reliability; and (3) a method of electronic submission of documents is available at the witness' location and the court's location. The video conferencing system is required to also comply with certain technical specifications as set forth in S.B. 1125. (Original Author's/Sponsor's Statement of Intent)

S.B. 1125 amends current law relating to the use of video teleconferencing for testimony of a forensic analyst in a criminal proceeding.

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 Chapter 38, Code of Criminal Procedure, by adding Article 38.076, as follows:

Art. 38.076. TESTIMONY OF FORENSIC ANALYST BY VIDEO TELECONFERENCE. (a) Defines "forensic analyst."

(b) Authorizes the testimony of a forensic analyst, in a proceeding in the prosecution of a criminal offense in which a forensic analyst is required to testify

as a witness, to be conducted by video teleconferencing in the manner described by Subsection (c) if:

(1) the use of video teleconferencing is approved by the court and all parties;

(2) the video teleconferencing is coordinated in advance to ensure proper scheduling and equipment compatibility and reliability; and

(3) a method of electronically transmitting documents related to the proceeding is available at both the location at which the witness is testifying and in the court.

(c) Requires a video teleconferencing system used under this article to provide an encrypted, simultaneous, compressed full motion video and interactive communication of image and sound between the judge, the attorney representing the state, the attorney representing the defendant, and the witness.

SECTION 2. Effective date: September 1, 2019.