86R23080 AJZ-F

By:  Farrar H.B. No. 3554

Substitute the following for H.B. No. 3554:

By:  González of Dallas C.S.H.B. No. 3554

A BILL TO BE ENTITLED

AN ACT

relating to the admissibility of expert testimony regarding forensic analyses of physical evidence in a criminal case and to the regulation of certain expert witnesses.

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

SECTION 1.  Section 4(a), Article 38.01, Code of Criminal Procedure, is amended to read as follows:

(a)  The commission shall:

(1)  develop and implement a reporting system through which a crime laboratory may report professional negligence or professional misconduct;

(2)  require a crime laboratory that conducts forensic analyses to report professional negligence or professional misconduct to the commission; [~~and~~]

(3)  investigate, in a timely manner, any allegation of professional negligence or professional misconduct that would substantially affect the integrity of the results of a forensic analysis conducted by a crime laboratory; and

(4)  investigate professional negligence or professional misconduct by an expert witness relating to a forensic analysis conducted by a crime laboratory.

SECTION 2.  Article 38.35(d)(1), Code of Criminal Procedure, is amended to read as follows:

(1)  Except as provided by Subsection (e), a forensic analysis of physical evidence under this article is [~~and expert testimony relating to the evidence are~~] not admissible in a criminal action if, at the time of the analysis, the crime laboratory conducting the analysis was not accredited by the commission under Article 38.01.

SECTION 3.  Articles 38.35(e) and (f), Code of Criminal Procedure, are amended to read as follows:

(e)  A forensic analysis of physical evidence under this article is [~~and expert testimony relating to the evidence are~~] not inadmissible in a criminal action based solely on the accreditation status of the crime laboratory conducting the analysis if the laboratory:

(A)  except for making proper application, was eligible for accreditation by the commission at the time of the examination or test; and

(B)  obtains accreditation from the commission before the time of testimony about the examination or test.

(f)  This article does not apply to expert testimony under Rule 702, 703, or 704, Texas Rules of Evidence, regarding the forensic analysis of physical evidence performed by an accredited crime laboratory or the portion of an autopsy conducted by a medical examiner or other forensic pathologist who is a licensed physician. This article does not limit the commission's duty to investigate professional negligence or professional misconduct by an expert witness relating to a forensic analysis conducted by an accredited crime laboratory, including negligence or misconduct affecting the testimony of the witness.

SECTION 4.  This Act takes effect September 1, 2019.