

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

1 AN ACT

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

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

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

8 (a) The commission shall:

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

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

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

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

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

24 (1) Except as provided by Subsection (e), a forensic

1 analysis of physical evidence under this article is [~~and expert~~  
2 ~~testimony relating to the evidence are~~] not admissible in a  
3 criminal action if, at the time of the analysis, the crime  
4 laboratory conducting the analysis was not accredited by the  
5 commission under Article 38.01.

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

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

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

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

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

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