

By: Hinojosa

S.B. No. 1331

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of individuals and entities that conduct forensic analyses, examinations, and tests.

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

SECTION 1. Section 2, Article 38.01, Code of Criminal Procedure, is amended by adding Subdivision (4-a) to read as follows:

(4-a) "Forensic examination or test not subject to accreditation" means an examination or test described by Articles 38.35(a)(4)(A), (B), (C), and (D) that is exempt from accreditation.

SECTION 2. Article 38.01, Code of Criminal Procedure, is amended by adding Section 3-b to read as follows:

Sec. 3-b. CODE OF PROFESSIONAL RESPONSIBILITY. (a) The commission shall adopt a code of professional responsibility to regulate the conduct of persons, laboratories, facilities, and other entities regulated under this article.

(b) The commission shall publish the code of professional responsibility adopted under Subsection (a).

(c) The commission shall adopt rules establishing sanctions for code violations.

(d) The commission shall update the code of professional responsibility as necessary to reflect changes in science, technology, or other factors affecting the persons, laboratories,

1 facilities, and other entities regulated under this article.

2 SECTION 3. Sections 4(a), (a-1), (b-1), and (c), Article
3 38.01, Code of Criminal Procedure, are amended to read as follows:

4 (a) The commission shall:

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

8 (2) require a crime laboratory that conducts forensic
9 analyses to report professional negligence or professional
10 misconduct to the commission; and

11 (3) investigate, in a timely manner, any allegation of
12 professional negligence or professional misconduct that would
13 substantially affect the integrity of:

14 (A) the results of a forensic analysis conducted
15 by a crime laboratory;

16 (B) an examination or test that is conducted by a
17 crime laboratory and that is a forensic examination or test not
18 subject to accreditation; or

19 (C) testimony related to an analysis,
20 examination, or test described by Paragraph (A) or (B).

21 (a-1) The commission may initiate [~~for educational~~
22 ~~purposes~~] an investigation of a forensic analysis or a forensic
23 examination or test not subject to accreditation, without receiving
24 a complaint[7] submitted through the reporting system implemented
25 under Subsection (a)(1), [~~that contains an allegation of~~
26 ~~professional negligence or professional misconduct involving the~~
27 ~~forensic analysis conducted~~] if the commission determines by a

1 majority vote of a quorum of the members of the commission that an
2 investigation of the [~~forensic~~] analysis, examination, or test
3 would advance the integrity and reliability of forensic science in
4 this state.

5 (b-1) If the commission conducts an investigation under
6 Subsection (a)(3) of a crime laboratory that is not accredited
7 under this article or the investigation involves a forensic
8 examination or test not subject to accreditation [~~is conducted~~
9 ~~pursuant to an allegation involving a forensic method or~~
10 ~~methodology that is not an accredited field of forensic science~~],
11 the investigation may include the preparation of a written report
12 that contains:

13 (1) observations of the commission regarding the
14 integrity and reliability of the applicable [~~forensic~~] analysis,
15 examination, or test conducted;

16 (2) best practices identified by the commission during
17 the course of the investigation; or

18 (3) other recommendations that are relevant, as
19 determined by the commission.

20 (c) The commission by contract may delegate the duties
21 described by Subsections (a)(1) and (3) and Sections 4-d(b)(1),
22 (b-1), and (d) to any person the commission determines to be
23 qualified to assume those duties.

24 SECTION 4. Sections 4-a(c) and (d), Article 38.01, Code of
25 Criminal Procedure, are amended to read as follows:

26 (c) The commission by rule may establish voluntary
27 licensing programs for forensic examinations or tests [~~disciplines~~

1 ~~that are]~~ not subject to accreditation [~~under this article]~~.

2 (d) The commission by rule shall:

3 (1) establish the qualifications for a license that
4 include:

5 (A) successful completion of the education
6 requirements established by the commission;

7 (B) specific course work and experience,
8 including instruction in courtroom testimony and ethics in a crime
9 laboratory;

10 (C) successful completion of an examination
11 required or recognized by the commission; ~~and]~~

12 (D) successful completion of proficiency testing
13 to the extent required for crime laboratory accreditation; and

14 (E) minimum standards for character and fitness,
15 including consideration of an applicant's criminal history and any
16 other information that may indicate whether the person possesses
17 the requisite honesty, trustworthiness, or integrity to be a
18 license holder;

19 (2) set fees for the issuance and renewal of a license;
20 and

21 (3) establish the term of a forensic analyst license.

22 SECTION 5. Section 4-d(b-1), Article 38.01, Code of
23 Criminal Procedure, is amended to read as follows:

24 (b-1) As part of the accreditation process established and
25 implemented under Subsection (b), the commission may:

26 (1) establish minimum standards that relate to the
27 timely production of a forensic analysis to the agency requesting

1 the analysis and that are consistent with this article and
2 applicable laws;

3 (2) validate or approve specific forensic methods or
4 methodologies; and

5 (3) establish procedures, policies, standards, and
6 practices to improve the quality of forensic analyses conducted in
7 this state.

8 SECTION 6. This Act takes effect September 1, 2019.