

BILL ANALYSIS

Senate Research Center

S.B. 991
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Criminal Justice
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Currently, crime laboratory records are managed independently through customized Laboratory Information Management Systems (LIMS) and other records management systems. Records are provided via the traditional paper-driven discovery process when requested by prosecutors and defense attorneys.

This process relies on affirmative requests for the transmission of information by criminal justice stakeholders and utilizes systems that lack the ability to communicate and an adequate infrastructure to accomplish this task in an efficient, timely, accurate, and complete manner.

As a result, issues with the existing process can potentially impact the production of exculpatory, impeachment, and mitigation evidence to authorized parties for use in court. The significance of having inadequate infrastructure to accomplish mandated obligations can have severe and avoidable consequences for all the affected parties involved in the criminal justice system.

S.B. 991 seeks to shift the paradigm to actively make relevant lab records available to stakeholders as content is created or modified. A new statewide crime laboratory portal will ensure key forensic laboratory records are made accessible seamlessly to those criminal justice partners who are responsible for accessing the information.

BILL DETAILS

- S.B. 991 requires the Department of Public Safety of the State of Texas to establish a central computerized laboratory portal that processes requests for records and transmits them among the appropriate parties.
- S.B. 991 clarifies that crime laboratories that perform forensic analysis for use in a criminal action must participate and are subject to disciplinary action by the Texas Forensic Science Commission (FSC).
- The system would not serve as a repository for laboratory records for any entity. Records management and retention remain the responsibility of the participating crime laboratories.

COMMITTEE SUBSTITUTE

- The committee substitute makes minor changes to FSC's existing disciplinary and appeals process to cover any non-compliance with the portal solution and to allow for a uniform and clear appeals process for any entity or individual subject to FSC's jurisdiction.

S.B. 991 amends current law relating to the establishment of a crime laboratory portal by the Department of Public Safety of the State of Texas and to disciplinary proceedings applicable to a crime laboratory or license holder investigated by the Texas Forensic Science Commission.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Department of Public Safety of the State of Texas in SECTION 2 (Sections 411.162 and 411.163, Government Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Sections 4-c(a), (c), (d), and (e), Article 38.01, Code of Criminal Procedure, as follows:

(a) Authorizes the Texas Forensic Science Commission (FSC), on a determination by FSC that a license holder or crime laboratory has committed professional negligence or professional misconduct under Article 38.01 (Texas Forensic Science Commission), violated the code of professional responsibility under this article, or otherwise violated this article or a rule or order of FSC under this article, to, as applicable:

(1) revoke or suspend the person's license or crime laboratory's accreditation;

(2) refuse to renew the person's license or crime laboratory's accreditation;
or

(3) reprimand the license holder or crime laboratory.

(c) Requires FSC to give written notice by certified mail of a determination described by Subsection (a) to the applicable license holder or crime laboratory, rather than to a license holder who is the subject of the determination. Makes conforming changes.

(d) Authorizes the license holder or crime laboratory, not later than the 20th day after the date the license holder or crime laboratory receives the notice under Subsection (c), to accept the disciplinary action or request a hearing by submitting a written request to the Judicial Branch Certification Commission (JBCC) to contest the findings of fact or conclusions of law, the occurrence of the negligence, misconduct, or violation, or the imposition of a disciplinary action, as applicable. Makes a conforming change.

(e) Requires JBCC, if the license holder or crime laboratory requests a hearing, to conduct a hearing to determine whether there is substantial evidence to support the determination under Subsection (a) that the negligence, misconduct, or violation occurred, rather than 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. Requires JBCC to conduct the hearing, and any appeal of JBCC's decision, in accordance with the procedures provided by Subchapter B (Administrative Penalty; Administrative Sanction), Chapter 153, Government Code, as applicable, and the rules of JBCC.

SECTION 2. Amends Chapter 411, Government Code, by adding Subchapter G-1, as follows:

SUBCHAPTER G-1. CRIME LABORATORY PORTAL

Sec. 411.161. DEFINITIONS. Defines "crime laboratory," "criminal action," and "forensic analysis."

Sec. 411.162. CRIME LABORATORY PORTAL. Requires the Department of Public Safety of the State of Texas (DPS) by rule to establish and maintain a central computerized portal that facilitates the process for requesting crime laboratory records and for transferring those records among crime laboratories, attorneys representing the state, and parties authorized to access the records as a part of discovery under Article 39.14 (Discovery), Code of Criminal Procedure. Prohibits the portal from being used as a central repository for crime laboratory records.

Sec. 411.163. MANDATORY CRIME LABORATORY PARTICIPATION; DISCIPLINARY ACTION. (a) Requires a crime laboratory that performs a forensic

analysis for use in a criminal action to participate, in accordance with DPS rule, in the transfer of crime laboratory records using the crime laboratory portal established under Section 411.162. Authorizes DPS by rule to exempt a crime laboratory from the requirements of this subsection if DPS determines that the crime laboratory:

(1) is located outside of this state; and

(2) performs an insufficient number of forensic analyses in criminal actions in this state to warrant participation in the crime laboratory portal.

(b) Provides that a crime laboratory that violates Subsection (a) is subject to disciplinary action by FSC in the same manner as if the laboratory had otherwise violated accreditation standards under Article 38.01, Code of Criminal Procedure.

Sec. 411.164. DEFENSE COUNSEL ACCESS TO CRIME LABORATORY PORTAL. Requires the attorney representing the state in a criminal action, in accordance with DPS rule, to designate the defendant or the defendant's attorney, as appropriate, as an individual who is authorized to access and use the crime laboratory portal under Section 411.162 to request any crime laboratory records that are subject to discovery under Article 39.14, Code of Criminal Procedure.

SECTION 3. Effective date: September 1, 2023.