

BILL ANALYSIS

S.B. 991
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Homeland Security & Public Safety
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Currently, crime laboratory records are managed independently through customized laboratory information management systems 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 both the ability to communicate and an adequate infrastructure to accomplish this task in an efficient, timely, accurate, and complete manner. As a result, the production of exculpatory, impeachment, and mitigation evidence to authorized parties for use in court could potentially be impacted and cause severe and avoidable consequences for all the affected parties involved in the criminal justice system. S.B. 991 seeks to address this issue by requiring the Department of Public Safety to establish a central computerized laboratory portal that processes requests for records and transmits them among the appropriate parties.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Department of Public Safety in SECTION 2 of this bill.

ANALYSIS

S.B. 991 amends the Government Code to require the Department of Public Safety (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. The portal may not be used as a central repository for crime laboratory records.

S.B. 991 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. The bill authorizes DPS by rule to exempt a crime laboratory from the participation requirement if DPS determines that the crime laboratory, as follows:

- is located outside of Texas; and
- performs an insufficient number of forensic analyses in Texas criminal actions to warrant participation in the crime laboratory portal.

The bill establishes that a crime laboratory that violates the participation requirement is subject to disciplinary action by the Texas Forensic Science Commission (FSC) in the same manner as if the laboratory had otherwise violated accreditation standards. The bill requires the attorney representing the state in a criminal action to ensure that the defendant or the defendant's attorney,

as appropriate, is able to access and use the crime laboratory portal to request any crime laboratory records that are subject to discovery. The bill defines "crime laboratory," "criminal action," and "forensic analysis" for these purposes by reference to the Code of Criminal Procedure.

S.B. 991 amends the Code of Criminal Procedure to revise the accreditation standards the violation of which is grounds for the FSC to take disciplinary action. Accordingly, the bill as follows:

- includes professional negligence and a violation of the code of professional responsibility among the violations of accreditation standards that may be subject to such action;
- authorizes the FSC to revoke, suspend, or refuse to renew a violating crime laboratory's accreditation, or reprimand the crime laboratory;
- authorizes a crime laboratory or license holder that receives notice of a disciplinary action the option to accept the disciplinary action;
- specifies that a hearing for which a laboratory or license holder may submit a written request to the Judicial Branch Certification Commission is a hearing 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; and
- requires the Judicial Branch Certification Commission to conduct any appeal of its decision regarding the disciplinary action.

EFFECTIVE DATE

September 1, 2023.