

By: Hinojosa, et al.
(Leach)

S.B. No. 991

A BILL TO BE ENTITLED

AN ACT

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.

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

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

(a) On a determination by the commission that a license holder or crime laboratory has committed professional negligence or professional misconduct under this article, violated the code of professional responsibility under this article, or otherwise violated this article or a rule or order of the commission under this article, the commission may, 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) The commission shall give written notice by certified mail of a determination described by Subsection (a) to the applicable [a] license holder or crime laboratory [~~who is the subject of the determination~~]. The notice must:

1 (1) include a brief summary of the alleged negligence,
2 misconduct, or violation;

3 (2) state the disciplinary action taken by the
4 commission; and

5 (3) inform the license holder or crime laboratory of
6 the license holder's or crime laboratory's right to a hearing before
7 the Judicial Branch Certification Commission on the occurrence of
8 the negligence, misconduct, or violation, the imposition of a
9 disciplinary action, or both.

10 (d) Not later than the 20th day after the date the license
11 holder or crime laboratory receives the notice under Subsection
12 (c), the license holder or crime laboratory may accept the
13 disciplinary action or request a hearing by submitting a written
14 request to the Judicial Branch Certification Commission to contest
15 the findings of fact or conclusions of law, the occurrence of the
16 negligence, misconduct, or violation, or the imposition of a
17 disciplinary action, as applicable. If the license holder or crime
18 laboratory fails to timely submit a request, the commission's
19 disciplinary action becomes final and is not subject to review by
20 the Judicial Branch Certification Commission.

21 (e) If the license holder or crime laboratory requests a
22 hearing, the Judicial Branch Certification Commission shall
23 conduct a hearing to determine whether there is substantial
24 evidence to support the determination under Subsection (a) that the
25 negligence, misconduct, or violation occurred [~~license holder~~
26 ~~committed professional misconduct or violated this article or a~~
27 ~~commission rule or order under this article~~]. If the Judicial

1 Branch Certification Commission upholds the determination, the
2 Judicial Branch Certification Commission shall determine the type
3 of disciplinary action to be taken. The Judicial Branch
4 Certification Commission shall conduct the hearing, and any appeal
5 of that commission's decision, in accordance with the procedures
6 provided by Subchapter B, Chapter 153, Government Code, as
7 applicable, and the rules of the Judicial Branch Certification
8 Commission.

9 SECTION 2. Chapter 411, Government Code, is amended by
10 adding Subchapter G-1 to read as follows:

11 SUBCHAPTER G-1. CRIME LABORATORY PORTAL

12 Sec. 411.161. DEFINITIONS. In this subchapter, "crime
13 laboratory," "criminal action," and "forensic analysis" have the
14 meanings assigned by Article 38.35, Code of Criminal Procedure.

15 Sec. 411.162. CRIME LABORATORY PORTAL. The department by
16 rule shall establish and maintain a central computerized portal
17 that facilitates the process for requesting crime laboratory
18 records and for transferring those records among crime
19 laboratories, attorneys representing the state, and parties
20 authorized to access the records as a part of discovery under
21 Article 39.14, Code of Criminal Procedure. The portal may not be
22 used as a central repository for crime laboratory records.

23 Sec. 411.163. MANDATORY CRIME LABORATORY PARTICIPATION;
24 DISCIPLINARY ACTION. (a) A crime laboratory that performs a
25 forensic analysis for use in a criminal action shall participate,
26 in accordance with department rule, in the transfer of crime
27 laboratory records using the crime laboratory portal established

1 under Section 411.162. The department by rule may exempt a crime
2 laboratory from the requirements of this subsection if the
3 department determines that the crime laboratory:

- 4 (1) is located outside of this state; and
5 (2) performs an insufficient number of forensic
6 analyses in criminal actions in this state to warrant participation
7 in the crime laboratory portal.

8 (b) A crime laboratory that violates Subsection (a) is
9 subject to disciplinary action by the Texas Forensic Science
10 Commission in the same manner as if the laboratory had otherwise
11 violated accreditation standards under Article 38.01, Code of
12 Criminal Procedure.

13 Sec. 411.164. DEFENSE COUNSEL ACCESS TO CRIME LABORATORY
14 PORTAL. The attorney representing the state in a criminal action
15 shall ensure that the defendant or the defendant's attorney, as
16 appropriate, is able to access and use the crime laboratory portal
17 under Section 411.162 to request any crime laboratory records that
18 are subject to discovery under Article 39.14, Code of Criminal
19 Procedure.

20 SECTION 3. This Act takes effect September 1, 2023.