

BILL ANALYSIS

Senate Research Center
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S.B. 1909
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Criminal Justice
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

This proposed legislation is in response to the recent National Academy of Science report which outlined forensic science areas that need improvement across the country, such as crime lab reliability. This bill creates a traveling DNA laboratory audit program overseen by the Texas Forensic Science Commission (FSC) as recommended by the Texas Criminal Justice Integrity Unit. The lab will act as an auditing entity that will conduct unannounced checks on criminal labs throughout Texas. The lab will arrive to a crime lab without notice to review lab operations, which will include taking samples to be processed and analyzed at a stationary lab. The auditing system will provide an additional and independent accountability check for Texas crime labs and set a new precedent for the state and the nation as a way to ensure that DNA labs are complying with professional standards. Additionally, this bill will assist with possible exonerations in the future by strengthening the integrity of crime labs and provide a "front end" process that may prevent wrongful convictions by ensuring that biological evidence is properly preserved and handled from the beginning.

As proposed, S.B. 1909 relates to the establishment of a DNA laboratory audit program by FSC.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Forensic Science Commission in SECTION 1 (Article 38.01, Code of Criminal Procedure) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 2, Article 38.01, Code of Criminal Procedure, as follows:

Sec. 2. New heading: DEFINITIONS. Defines "DNA laboratory," "DNA record," and "DNA sample," and "forensic analysis."

SECTION 2. Amends Article 38.01, Code of Criminal Procedure, by adding Section 4A, as follows:

Sec. 4A. DNA LABORATORY AUDIT PROGRAM. (a) Requires the Texas Forensic Science Commission (FSC) to establish a DNA laboratory audit program to conduct periodic unannounced audits of DNA laboratories in this state.

(b) Requires that the program established under Subsection (a) include an on-site review by experienced forensic DNA analysts of work recently performed by the DNA laboratory being audited, including an examination of any DNA record created by the laboratory and whether the laboratory followed all applicable quality control steps in creating the record; and in circumstances determined by FSC by rule, an off-site retrospective reexamination of one or more DNA samples analyzed by the laboratory.

(c) Requires FSC to prepare a written report summarizing each audit conducted under this section and provide the report to the audited laboratory not later than the 30th day after the date the audit is completed. Requires that the report include the findings of the audit and specify whether the laboratory is required to take any corrective action.

(d) Requires FSC, if the report described by Subsection (c) requires a DNA laboratory to take corrective action, to, not earlier than the 30th day after the date the report is provided to the laboratory under Subsection (c), perform a subsequent evaluation of the laboratory to review the laboratory's implementation of any required corrective action, and prepare a written report of the findings of the evaluation.

(e) Requires FSC to make all reports completed under Subsections (c) and (d) available to the public. Prohibits FSC, if FSC requires a DNA laboratory to take corrective action under Subsection (c), from making the report summarizing the initial audit available to the public until FSC makes available to the public the subsequent report completed under Subsection (d).

(f) Requires FSC to promptly submit to the public safety director of the Department of Public Safety (director) (DPS) any report completed under Subsection (c) or (d) that relates to a DNA laboratory that is accredited or seeking accreditation by DPS.

(g) Provides that an audit conducted under this section is in addition to any audit conducted by the director under Section 411.144 (Access to Criminal History Record Information: Department of Protective and Regulatory Services), Government Code.

(h) Provides that a report completed under Subsection (c) or (d), in a subsequent civil or criminal proceeding, is not prima facie evidence of the information or findings contained in the report.

(i) Requires FSC to adopt rules to implement this section.

SECTION 3. Amends Section 7, Article 38.01, Code of Criminal Procedure, as follows:

Sec. 7. SUBMISSION. Requires FSC to submit any report received under Section (4)(a)(2) (relating to FSC requiring certain entities that conduct forensic analyses to report professional negligence or misconduct to FSC) and any report prepared under Section 4(b)(1) (relating to an investigation of any allegation of professional negligence or misconduct include certain information) or Section 4A(c) or (d) to the governor, lieutenant governor, and the speaker of the house of representatives not later than December 1 of each even-numbered year.

SECTION 4. Effective date: upon passage or September 1, 2009.