

1-1 By: Hinojosa S.B. No. 1287
 1-2 (In the Senate - Filed March 11, 2015; March 18, 2015, read
 1-3 first time and referred to Committee on Criminal Justice;
 1-4 April 13, 2015, reported adversely, with favorable Committee
 1-5 Substitute by the following vote: Yeas 6, Nays 0; April 13, 2015,
 1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14			X	
1-15	X			

1-16 COMMITTEE SUBSTITUTE FOR S.B. No. 1287 By: Huffman

1-17 A BILL TO BE ENTITLED
 1-18 AN ACT

1-19 relating to the licensing and regulation of forensic analysts and
 1-20 the administration of the Texas Forensic Science Commission;
 1-21 authorizing fees; requiring an occupational license.

1-22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-23 SECTION 1. Section 3(a), Article 38.01, Code of Criminal
 1-24 Procedure, is amended to read as follows:

1-25 (a) The commission is composed of nine members appointed by
 1-26 the governor as follows:

1-27 (1) two members who must have expertise in the field of
 1-28 forensic science;

1-29 (2) one member who must be a prosecuting attorney that
 1-30 the governor selects from a list of 10 names submitted by the Texas
 1-31 District and County Attorneys Association;

1-32 (3) one member who must be a defense attorney that the
 1-33 governor selects from a list of 10 names submitted by the Texas
 1-34 Criminal Defense Lawyers Association;

1-35 (4) one member who must be a faculty member or staff
 1-36 member of The University of Texas who specializes in clinical
 1-37 laboratory medicine that the governor selects from a list of five
 1-38 [~~10~~] names submitted by the chancellor of The University of Texas
 1-39 System;

1-40 (5) one member who must be a faculty member or staff
 1-41 member of Texas A&M University who specializes in clinical
 1-42 laboratory medicine that the governor selects from a list of five
 1-43 [~~10~~] names submitted by the chancellor of The Texas A&M University
 1-44 System;

1-45 (6) one member who must be a faculty member or staff
 1-46 member of Texas Southern University that the governor selects from
 1-47 a list of five [~~10~~] names submitted by the chancellor of Texas
 1-48 Southern University;

1-49 (7) one member who must be a director or division head
 1-50 of the University of North Texas Health Science Center at Fort Worth
 1-51 Missing Persons DNA Database; and

1-52 (8) one member who must be a faculty or staff member of
 1-53 the Sam Houston State University College of Criminal Justice and
 1-54 have expertise in the field of forensic science or statistical
 1-55 analyses that the governor selects from a list of five [~~10~~] names
 1-56 submitted by the chancellor of the Texas State University System.

1-57 SECTION 2. Article 38.01, Code of Criminal Procedure, is
 1-58 amended by adding Sections 3-a, 4-a, 4-b, and 4-c to read as
 1-59 follows:

1-60 Sec. 3-a. RULES. The commission shall adopt rules

2-1 necessary to implement this article.

2-2 Sec. 4-a. FORENSIC ANALYST LICENSING.

2-3 (a) Notwithstanding Section 2, in this section:

2-4 (1) "Forensic analysis" has the meaning assigned by
2-5 Article 38.35.

2-6 (2) "Forensic analyst" means a person who on behalf of
2-7 a crime laboratory accredited by the Department of Public Safety
2-8 under Section 411.0205, Government Code, technically reviews or
2-9 performs a forensic analysis or draws conclusions from or
2-10 interprets a forensic analysis for a court or crime laboratory. The
2-11 term does not include a medical examiner or other forensic
2-12 pathologist who is a licensed physician.

2-13 (b) A person may not act or offer to act as a forensic
2-14 analyst unless the person holds a forensic analyst license. The
2-15 commission by rule may establish classifications of forensic
2-16 analyst licenses if the commission determines that it is necessary
2-17 to ensure the availability of properly trained and qualified
2-18 forensic analysts to perform activities regulated by the
2-19 commission.

2-20 (c) The commission by rule may establish voluntary
2-21 licensing programs for forensic disciplines that are not subject to
2-22 accreditation by the Department of Public Safety under Section
2-23 411.0205, Government Code.

2-24 (d) The commission by rule shall:

2-25 (1) establish the qualifications for a license that
2-26 include:

2-27 (A) successful completion of the education
2-28 requirements established by the commission;

2-29 (B) specific course work and experience,
2-30 including instruction in courtroom testimony and ethics in a crime
2-31 laboratory;

2-32 (C) successful completion of an examination
2-33 required or recognized by the commission; and

2-34 (D) successful completion of proficiency testing
2-35 to the extent required for crime laboratory accreditation;

2-36 (2) set fees for the issuance and renewal of a license;
2-37 and

2-38 (3) establish the term of a forensic analyst license.

2-39 (e) The commission by rule may recognize a certification
2-40 issued by a national organization in an accredited field of
2-41 forensic science as satisfying the requirements established under
2-42 Subsection (d)(1)(C) to the extent the commission determines the
2-43 content required to receive the certification is substantially
2-44 equivalent to the content of the requirements under that
2-45 subsection.

2-46 (f) The commission shall issue a license to an applicant
2-47 who:

2-48 (1) submits an application on a form prescribed by the
2-49 commission;

2-50 (2) meets the qualifications established by
2-51 commission rule; and

2-52 (3) pays the required fee.

2-53 Sec. 4-b. ADVISORY COMMITTEE. (a) The commission shall
2-54 establish an advisory committee to advise the commission and make
2-55 recommendations on matters related to the licensing of forensic
2-56 analysts under Section 4-a.

2-57 (b) The advisory committee consists of nine members as
2-58 follows:

2-59 (1) one prosecuting attorney recommended by the Texas
2-60 District and County Attorneys Association;

2-61 (2) one defense attorney recommended by the Texas
2-62 Criminal Defense Lawyers Association; and

2-63 (3) seven members who are forensic scientists, crime
2-64 laboratory directors, or crime laboratory quality managers,
2-65 selected by the commission from a list of 20 names submitted by the
2-66 Texas Association of Crime Laboratory Directors.

2-67 (c) The commission shall ensure that appointments under
2-68 Subsection (b)(3) include representation from municipal, county,
2-69 state, and private crime laboratories that are accredited by the

3-1 Department of Public Safety under Section 411.0205, Government
3-2 Code.

3-3 (d) The advisory committee members serve staggered two-year
3-4 terms, with the terms of four or five members, as appropriate,
3-5 expiring on August 31 of each year. An advisory committee member
3-6 may not serve more than two consecutive terms. A vacancy on the
3-7 advisory committee is filled by appointing a member in the same
3-8 manner as the original appointment to serve for the unexpired
3-9 portion of the term.

3-10 (e) The advisory committee shall elect a presiding officer
3-11 from among its members to serve a one-year term. A member may serve
3-12 more than one term as presiding officer.

3-13 (f) The advisory committee shall meet annually and at the
3-14 call of the presiding officer or the commission.

3-15 (g) An advisory committee member is not entitled to
3-16 compensation. A member is entitled to reimbursement for actual and
3-17 necessary expenses incurred in performing duties as a member of the
3-18 advisory committee subject to the General Appropriations Act.

3-19 (h) Chapter 2110, Government Code, does not apply to the
3-20 advisory committee.

3-21 Sec. 4-c. DISCIPLINARY ACTION. (a) On a determination by
3-22 the commission that a license holder has committed professional
3-23 misconduct under this article or violated this article or a rule or
3-24 order of the commission under this article, the commission may:

- 3-25 (1) revoke or suspend the person's license;
3-26 (2) refuse to renew the person's license; or
3-27 (3) reprimand the license holder.

3-28 (b) The commission may place on probation a person whose
3-29 license is suspended. If a license suspension is probated, the
3-30 commission may require the license holder to:

- 3-31 (1) report regularly to the commission on matters that
3-32 are the basis of the probation; or
3-33 (2) continue or review continuing professional
3-34 education until the license holder attains a degree of skill
3-35 satisfactory to the commission in those areas that are the basis of
3-36 the probation.

3-37 (c) Disciplinary proceedings of the commission are governed
3-38 by Chapter 2001, Government Code.

3-39 SECTION 3. Section 9, Article 38.01, Code of Criminal
3-40 Procedure, is amended to read as follows:

3-41 Sec. 9. ADMINISTRATIVE ATTACHMENT TO DEPARTMENT OF PUBLIC
3-42 SAFETY [~~SAM HOUSTON STATE UNIVERSITY~~]. (a) The commission is
3-43 administratively attached to the Department of Public Safety [~~Sam~~
3-44 ~~Houston State University~~].

3-45 (b) The Department of Public Safety [~~Board of Regents of the~~
3-46 ~~Texas State University System~~] shall provide administrative
3-47 support to the commission as necessary to carry out the purposes of
3-48 this article.

3-49 (c) Only the commission may exercise the duties of the
3-50 commission under this article. Except as provided by Subsection
3-51 (b), the Department of Public Safety [~~neither the Board of Regents~~
3-52 ~~of the Texas State University System nor Sam Houston State~~
3-53 ~~University~~] has no [~~any~~] authority or responsibility with respect
3-54 to the duties of the commission under this article.

3-55 SECTION 4. Not later than January 1, 2016, the Texas
3-56 Forensic Science Commission shall appoint the members of the
3-57 advisory committee in accordance with Section 4-b, Article 38.01,
3-58 Code of Criminal Procedure, as added by this Act. In making the
3-59 appointments, the commission shall designate:

- 3-60 (1) four members to serve terms expiring August 31,
3-61 2016; and
3-62 (2) five members to serve terms expiring August 31,
3-63 2017.

3-64 SECTION 5. Not later than January 1, 2017, the Texas
3-65 Forensic Science Commission shall make recommendations to the
3-66 legislature regarding suggested changes to the licensing of
3-67 forensic analysts as established by this Act, including
3-68 recommendations regarding the issuance of licenses to individuals
3-69 practicing as forensic analysts on the effective date of this Act.

4-1 SECTION 6. (a) Except as provided by Subsection (b) of
4-2 this section, this Act takes effect September 1, 2015.

4-3 (b) Section 4-a(b), Article [38.01](#), Code of Criminal
4-4 Procedure, as added by this Act, takes effect January 1, 2019.

4-5

* * * * *