

1-1 By: Hinojosa S.B. No. 1331
 1-2 (In the Senate - Filed February 28, 2019; March 7, 2019,
 1-3 read first time and referred to Committee on Criminal Justice;
 1-4 April 24, 2019, reported favorably by the following vote: Yeas 6,
 1-5 Nays 0; April 24, 2019, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	X			
1-9	X			
1-10	X			
1-11	X			
1-12			X	
1-13	X			
1-14	X			

1-15 A BILL TO BE ENTITLED
 1-16 AN ACT

1-17 relating to the regulation of individuals and entities that conduct
 1-18 forensic analyses, examinations, and tests.

1-19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-20 SECTION 1. Section 2, Article 38.01, Code of Criminal
 1-21 Procedure, is amended by adding Subdivision (4-a) to read as
 1-22 follows:

1-23 (4-a) "Forensic examination or test not subject to
 1-24 accreditation" means an examination or test described by Articles
 1-25 38.35(a)(4)(A), (B), (C), and (D) that is exempt from
 1-26 accreditation.

1-27 SECTION 2. Article 38.01, Code of Criminal Procedure, is
 1-28 amended by adding Section 3-b to read as follows:

1-29 Sec. 3-b. CODE OF PROFESSIONAL RESPONSIBILITY. (a) The
 1-30 commission shall adopt a code of professional responsibility to
 1-31 regulate the conduct of persons, laboratories, facilities, and
 1-32 other entities regulated under this article.

1-33 (b) The commission shall publish the code of professional
 1-34 responsibility adopted under Subsection (a).

1-35 (c) The commission shall adopt rules establishing sanctions
 1-36 for code violations.

1-37 (d) The commission shall update the code of professional
 1-38 responsibility as necessary to reflect changes in science,
 1-39 technology, or other factors affecting the persons, laboratories,
 1-40 facilities, and other entities regulated under this article.

1-41 SECTION 3. Sections 4(a), (a-1), (b-1), and (c), Article
 1-42 38.01, Code of Criminal Procedure, are amended to read as follows:

1-43 (a) The commission shall:

1-44 (1) develop and implement a reporting system through
 1-45 which a crime laboratory may report professional negligence or
 1-46 professional misconduct;

1-47 (2) require a crime laboratory that conducts forensic
 1-48 analyses to report professional negligence or professional
 1-49 misconduct to the commission; and

1-50 (3) investigate, in a timely manner, any allegation of
 1-51 professional negligence or professional misconduct that would
 1-52 substantially affect the integrity of:

1-53 (A) the results of a forensic analysis conducted
 1-54 by a crime laboratory;

1-55 (B) an examination or test that is conducted by a
 1-56 crime laboratory and that is a forensic examination or test not
 1-57 subject to accreditation; or

1-58 (C) testimony related to an analysis,
 1-59 examination, or test described by Paragraph (A) or (B).

1-60 (a-1) The commission may initiate ~~[for educational~~
 1-61 ~~purposes]~~ an investigation of a forensic analysis or a forensic

2-1 examination or test not subject to accreditation, without receiving
2-2 a complaint[~~r~~] submitted through the reporting system implemented
2-3 under Subsection (a)(1), [~~that contains an allegation of~~
2-4 ~~professional negligence or professional misconduct involving the~~
2-5 ~~forensic analysis conducted]~~ if the commission determines by a
2-6 majority vote of a quorum of the members of the commission that an
2-7 investigation of the [~~forensic]~~ analysis, examination, or test
2-8 would advance the integrity and reliability of forensic science in
2-9 this state.

2-10 (b-1) If the commission conducts an investigation under
2-11 Subsection (a)(3) of a crime laboratory that is not accredited
2-12 under this article or the investigation involves a forensic
2-13 examination or test not subject to accreditation [~~is conducted~~
2-14 ~~pursuant to an allegation involving a forensic method or~~
2-15 ~~methodology that is not an accredited field of forensic science]~~,
2-16 the investigation may include the preparation of a written report
2-17 that contains:

2-18 (1) observations of the commission regarding the
2-19 integrity and reliability of the applicable [~~forensic]~~ analysis,
2-20 examination, or test conducted;

2-21 (2) best practices identified by the commission during
2-22 the course of the investigation; or

2-23 (3) other recommendations that are relevant, as
2-24 determined by the commission.

2-25 (c) The commission by contract may delegate the duties
2-26 described by Subsections (a)(1) and (3) and Sections 4-d(b)(1),
2-27 (b-1), and (d) to any person the commission determines to be
2-28 qualified to assume those duties.

2-29 SECTION 4. Sections 4-a(c) and (d), Article 38.01, Code of
2-30 Criminal Procedure, are amended to read as follows:

2-31 (c) The commission by rule may establish voluntary
2-32 licensing programs for forensic examinations or tests [~~disciplines~~
2-33 ~~that are]~~ not subject to accreditation [~~under this article~~].

2-34 (d) The commission by rule shall:

2-35 (1) establish the qualifications for a license that
2-36 include:

2-37 (A) successful completion of the education
2-38 requirements established by the commission;

2-39 (B) specific course work and experience,
2-40 including instruction in courtroom testimony and ethics in a crime
2-41 laboratory;

2-42 (C) successful completion of an examination
2-43 required or recognized by the commission; [~~and]~~

2-44 (D) successful completion of proficiency testing
2-45 to the extent required for crime laboratory accreditation; and

2-46 (E) minimum standards for character and fitness,
2-47 including consideration of an applicant's criminal history and any
2-48 other information that may indicate whether the person possesses
2-49 the requisite honesty, trustworthiness, or integrity to be a
2-50 license holder;

2-51 (2) set fees for the issuance and renewal of a license;
2-52 and

2-53 (3) establish the term of a forensic analyst license.

2-54 SECTION 5. Section 4-d(b-1), Article 38.01, Code of
2-55 Criminal Procedure, is amended to read as follows:

2-56 (b-1) As part of the accreditation process established and
2-57 implemented under Subsection (b), the commission may:

2-58 (1) establish minimum standards that relate to the
2-59 timely production of a forensic analysis to the agency requesting
2-60 the analysis and that are consistent with this article and
2-61 applicable laws;

2-62 (2) validate or approve specific forensic methods or
2-63 methodologies; and

2-64 (3) establish procedures, policies, standards, and
2-65 practices to improve the quality of forensic analyses conducted in
2-66 this state.

2-67 SECTION 6. This Act takes effect September 1, 2019.