

By: Hinojosa

S.B. No. 1287

A BILL TO BE ENTITLED

AN ACT

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

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

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

Sec. 3-a. RULES. The commission shall adopt rules necessary to implement this article.

Sec. 4-a. FORENSIC ANALYST LICENSING. (a) Notwithstanding Section 2, in this section:

(1) "Forensic analysis" has the meaning assigned by Article 38.35.

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

(b) A person may not act or offer to act as a forensic analyst unless the person holds a forensic analyst license. The commission by rule may establish classifications of forensic

analyst licenses if the commission determines that it is necessary to ensure the availability of properly trained and qualified forensic analysts to perform activities regulated by the commission.

(c) The commission by rule may establish voluntary licensing programs for forensic disciplines that are not subject to accreditation by the Department of Public Safety under Section [411.0205](#), Government Code.

(d) The commission by rule shall:

(1) establish the qualifications for a license that include:

(A) successful completion of the education requirements established by the commission;

(B) specific course work and experience, including instruction in courtroom testimony and ethics in a crime laboratory;

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

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

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

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

(e) The commission by rule may recognize a certification issued by a national organization in an accredited field of forensic science as satisfying the requirements established under Subsection (d)(1)(C) to the extent the commission determines the

1 content required to receive the certification is substantially  
2 equivalent to the content of the requirements under that  
3 subsection.

4 (f) The commission shall issue a license to an applicant  
5 who:

6 (1) submits an application on a form prescribed by the  
7 commission;

8 (2) meets the qualifications established by  
9 commission rule; and

10 (3) pays the required fee.

11 Sec. 4-b. ADVISORY COMMITTEE. (a) The commission shall  
12 establish an advisory committee to advise the commission and make  
13 recommendations on matters related to the licensing of forensic  
14 analysts under Section 4-a.

15 (b) The advisory committee consists of nine members as  
16 follows:

17 (1) one prosecuting attorney recommended by the Texas  
18 District and County Attorneys Association;

19 (2) one defense attorney recommended by the Texas  
20 Criminal Defense Lawyers Association; and

21 (3) seven members who are forensic scientists, crime  
22 laboratory directors, or crime laboratory quality managers,  
23 selected by the commission from a list of 20 names submitted by the  
24 Texas Association of Crime Laboratory Directors.

25 (c) The commission shall ensure that appointments under  
26 Subsection (b)(3) include representation from municipal, county,  
27 state, and private crime laboratories that are accredited by the

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

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

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

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

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

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

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

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

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

4            (1) report regularly to the commission on matters that  
5 are the basis of the probation; or

6            (2) continue or review continuing professional  
7 education until the license holder attains a degree of skill  
8 satisfactory to the commission in those areas that are the basis of  
9 the probation.

10        (c) Disciplinary proceedings of the commission are governed  
11 by Chapter 2001, Government Code.

12        SECTION 2. Section 9, Article 38.01, Code of Criminal  
13 Procedure, is amended to read as follows:

14        Sec. 9. ADMINISTRATIVE ATTACHMENT TO DEPARTMENT OF PUBLIC  
15 SAFETY [~~SAM HOUSTON STATE UNIVERSITY~~]. (a) The commission is  
16 administratively attached to the Department of Public Safety [~~Sam~~  
17 ~~Houston State University~~].

18        (b) The Department of Public Safety [~~Board of Regents of the~~  
19 ~~Texas State University System~~] shall provide administrative  
20 support to the commission as necessary to carry out the purposes of  
21 this article.

22        (c) Only the commission may exercise the duties of the  
23 commission under this article. Except as provided by Subsection  
24 (b), the Department of Public Safety [~~neither the Board of Regents~~  
25 ~~of the Texas State University System nor Sam Houston State~~  
26 ~~University~~] has no [~~any~~] authority or responsibility with respect  
27 to the duties of the commission under this article.

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

6                   (1) four members to serve terms expiring August 31,  
7 2016; and

8                   (2) five members to serve terms expiring August 31,  
9 2017.

10          SECTION 4. Not later than January 1, 2017, the Texas  
11 Forensic Science Commission shall make recommendations to the  
12 legislature regarding suggested changes to the licensing of  
13 forensic analysts as established by this Act, including  
14 recommendations regarding the issuance of licenses to individuals  
15 practicing as forensic analysts on the effective date of this Act.

16          SECTION 5. (a) Except as provided by Subsection (b) of this  
17 section, this Act takes effect September 1, 2015.

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