

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

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

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

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

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

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

(5) one member who must be a faculty member or staff member of Texas A&M University who specializes in clinical

laboratory medicine that the governor selects from a list of five [10] names submitted by the chancellor of The Texas A&M University System;

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

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

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

SECTION 2. 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

1 performs a forensic analysis or draws conclusions from or
2 interprets a forensic analysis for a court or crime laboratory. The
3 term does not include a medical examiner or other forensic
4 pathologist who is a licensed physician.

5 (b) A person may not act or offer to act as a forensic
6 analyst unless the person holds a forensic analyst license. The
7 commission by rule may establish classifications of forensic
8 analyst licenses if the commission determines that it is necessary
9 to ensure the availability of properly trained and qualified
10 forensic analysts to perform activities regulated by the
11 commission.

12 (c) The commission by rule may establish voluntary
13 licensing programs for forensic disciplines that are not subject to
14 accreditation by the Department of Public Safety under Section
15 [411.0205](#), Government Code.

16 (d) The commission by rule shall:

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

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

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

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

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

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

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

4 (e) The commission by rule may recognize a certification
5 issued by a national organization in an accredited field of
6 forensic science as satisfying the requirements established under
7 Subsection (d)(1)(C) to the extent the commission determines the
8 content required to receive the certification is substantially
9 equivalent to the content of the requirements under that
10 subsection.

11 (f) The commission shall issue a license to an applicant
12 who:

13 (1) submits an application on a form prescribed by the
14 commission;

15 (2) meets the qualifications established by
16 commission rule; and

17 (3) pays the required fee.

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

22 (b) The advisory committee consists of nine members as
23 follows:

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

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

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

5 (c) The commission shall ensure that appointments under
6 Subsection (b)(3) include representation from municipal, county,
7 state, and private crime laboratories that are accredited by the
8 Department of Public Safety under Section [411.0205](#), Government
9 Code.

10 (d) The advisory committee members serve staggered two-year
11 terms, with the terms of four or five members, as appropriate,
12 expiring on August 31 of each year. An advisory committee member
13 may not serve more than two consecutive terms. A vacancy on the
14 advisory committee is filled by appointing a member in the same
15 manner as the original appointment to serve for the unexpired
16 portion of the term.

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

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

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

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

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

5 (1) revoke or suspend the person's license;

6 (2) refuse to renew the person's license; or

7 (3) reprimand the license holder.

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

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

13 (2) continue or review continuing professional
14 education until the license holder attains a degree of skill
15 satisfactory to the commission in those areas that are the basis of
16 the probation.

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

19 SECTION 3. Section 9, Article 38.01, Code of Criminal
20 Procedure, is amended to read as follows:

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

25 (b) The Department of Public Safety [~~Board of Regents of the~~
26 ~~Texas State University System~~] shall provide administrative
27 support to the commission as necessary to carry out the purposes of

1 this article.

2 (c) Only the commission may exercise the duties of the
3 commission under this article. Except as provided by Subsection
4 (b), the Department of Public Safety [~~neither the Board of Regents~~
5 ~~of the Texas State University System nor Sam Houston State~~
6 ~~University~~] has no [~~any~~] authority or responsibility with respect
7 to the duties of the commission under this article.

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

13 (1) four members to serve terms expiring August 31,
14 2016; and

15 (2) five members to serve terms expiring August 31,
16 2017.

17 SECTION 5. Not later than January 1, 2017, the Texas
18 Forensic Science Commission shall make recommendations to the
19 legislature regarding suggested changes to the licensing of
20 forensic analysts as established by this Act, including
21 recommendations regarding the issuance of licenses to individuals
22 practicing as forensic analysts on the effective date of this Act.

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

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