

SUBJECT: Requiring DPS to establish a crime laboratory portal

COMMITTEE: Homeland Security & Public Safety — favorable, without amendment

VOTE: 8 ayes — Guillen, Jarvis Johnson, Bowers, Dorazio, Goodwin, Harless, Holland, Troxclair

0 nays

1 absent — Canales

SENATE VOTE: On final passage (April 5) — 31 - 0

WITNESSES: None (*considered in a formal meeting on May 11*)

BACKGROUND: Some have suggested that having a central laboratory portal for criminal justice stakeholders to process record requests and transmit them to the appropriate parties would improve communication and efficiency in the process of record management and transfer.

DIGEST: SB 991 would require the Department of Public Safety (DPS) to establish and maintain a central computerized portal that facilitated the process for requesting crime laboratory records and for transferring those records among crime laboratories, attorneys representing the state, and parties authorized to access the records as a part of discovery. The attorney representing the state in a criminal action would be required to ensure that the defendant or the defendant's attorney, as appropriate, was able to access and use the portal to request any crime laboratory records that were subject to discovery. The portal could not be used as a central repository for crime laboratory records.

Under the bill, a crime laboratory that performed a forensic analysis for use in a criminal action would be required to participate, under DPS rule, in the transfer of crime laboratory records using the crime laboratory portal. DPS could exempt a crime laboratory from these requirements if the crime laboratory was located outside of Texas and performed an

insufficient number of forensic analyses of criminal actions in Texas to warrant participation in the portal.

A crime laboratory that violated these requirements would be subject to disciplinary action by the Texas Forensic Science Commission (FSC) in the same manner as if the laboratory had otherwise violated accreditation standards.

The bill would revise standards for which a violation would be grounds for the FSC to take disciplinary action. The bill would include professional negligence and a violation of the code of professional responsibility among these violations for crime laboratories in addition to license holders. The bill would authorize the FSC to revoke, suspend, or refuse to renew the laboratory's accreditation or to reprimand the laboratory if the laboratory committed such a violation.

The bill would include applicable crime laboratories among the entities to which a notice of disciplinary action would be given and would give license holders and crime laboratories the option to accept the disciplinary action taken by FSC. In addition, the bill would specify that the purpose of a hearing requested by a crime laboratory or license holder would be to contest the findings of fact or conclusions of law, the occurrence of the negligence, misconduct, or violation, or the imposition of a disciplinary action, as applicable.

The bill would take effect September 1, 2023.

NOTES:

According to the Legislative Budget Board, SB 991 would have a negative impact on general revenue related funds of \$3,222,281 through fiscal 2024-25.