

The Texas Forensic Science Commission (“Commission”) proposes an amendment to 37 Tex. Admin. Code § 651.7 to 1) add the forensic discipline “forensic odontology used for purposes of human identification and age assessment, not to include bite mark comparison related to patterned injuries”; 2) add the forensic discipline “testing and/or screening conducted for sexually transmitted diseases”; and 3) remove the forensic discipline “forensic hypnosis” from the list of forensic disciplines exempt from statutory Commission Accreditation. The amendments are necessary to update the rule language in Title 37, Part 1, Chapter 651, Subchapter A, § 651.7 to reflect adoptions made by the Commission at its October 5, 2016 quarterly meeting, excluding forensic odontology used for human identification and age assessment from accreditation oversight in Texas and removing forensic hypnosis from the list of forensic disciplines exempt from accreditation oversight in Texas and at its February 10, 2016 meeting, excluding testing and/or screening conducted for sexually transmitted diseases from accreditation oversight in Texas. The adoption was made in accordance with the Commission’s accreditation authority to exempt from the crime laboratory accreditation process a type of analysis, examination, or test as described in Tex. Code. Crim. Proc. art. 38.01§ 4-d(c).

**Fiscal Note.** Leigh M. Savage, Associate General Counsel of the Texas Forensic Science Commission, has determined that for each year of the first five years the proposed amendment will be in effect, there will be no fiscal impact to state or local governments as a result of the enforcement or administration of the proposal. There will be no anticipated effect on local employment or the local economy as a result of the proposal.

**Public Benefit/Cost Note.** Leigh M. Savage, Associate General Counsel of the Texas Forensic Science Commission has also determined that for each year of the first five years the proposed amendments and repeal are in effect, the anticipated public benefit will be accurate and updated rules.

**Economic Impact Statement and Regulatory Flexibility Analysis for Small and Micro Businesses.** As required by the Government Code § 2006.002(c) and (f), Leigh M. Savage, Associate General Counsel of the Texas Forensic Science Commission has determined that the proposed amendments and repeal will not have an adverse economic effect on any small or micro business because there are no anticipated economic costs to any person who is required to comply with the rules as proposed.

**Takings Impact Assessment.** Leigh M. Savage, Associate General Counsel of the Texas Forensic Science Commission has determined that no private real property interests are affected by this proposal and that this proposal does not restrict or limit an owner's right to property that would otherwise exist in the absence of government action and, therefore, does not constitute a taking or require a takings impact assessment under the Government Code § 2007.043.

**Request for Public Comment.** The Texas Forensic Science Commission invites comments on the proposal from any member of the public. Please submit comments to Leigh M. Savage, 1700 North Congress Avenue, Suite 445, Austin, Texas 78701 or [leigh@fsc.texas.gov](mailto:leigh@fsc.texas.gov). Comments must be received by March 29, 2017 to be considered by the Commission.

**Statutory Authority.** The amendment is proposed under Tex. Code Crim. Proc. art 38.01 § 4-d.

**Cross reference to statute.** The proposal affects 37 Tex. Admin. Code § 651.7.

TITLE 37. PUBLIC SAFETY AND CORRECTIONS

PART 15. TEXAS FORENSIC SCIENCE COMMISSION

CHAPTER 651. DNA, CODIS, FORENSIC ANALYSIS, AND CRIME LABORATORIES

SUBCHAPTER A. ACCREDITATION

§651.7. Disciplines, Subdisciplines, and Procedures Exempt from Statutory Commission Accreditation

- (a) This section describes a discipline, subdiscipline, or procedure that is 'forensic analysis' but is not subject to accreditation by one or more recognized accrediting bodies.
- (b) Even though a discipline or subdiscipline is forensic analysis, the Commission has determined that no accreditation is appropriate or available from a recognized accrediting body for the following disciplines, subdisciplines, or procedures and a laboratory may not apply for Commission accreditation for:
  - (1) sexual assault examination of the person;
  - (2) forensic anthropology, entomology, or botany;
  - (3) environmental testing;
  - (4) facial or traffic accident reconstruction;
  - (5) serial number restoration;
  - (6) polygraph examination;
  - (7) voice stress, voiceprint, or similar voice analysis;
  - [(8)][forensic hypnosis;]
  - [(8) [(9)]statement analysis;
  - [(9)][(10)]profiling;
  - [(10) forensic odontology for purposes of human identification or age determination, not to include bite mark comparison related to patterned injuries;
  - [(11) testing and/or screening conducted for sexually transmitted diseases; or
  - [(12)][(13)]other discipline or subdiscipline so determined by the Commission, including those identified and listed at the Commission's website.
- (c) A request for exemption shall be submitted in writing to the Commission.