

# Texas Code of Criminal Procedure - Article 38.41. Certificate of Analysis

Art. 38.41. CERTIFICATE OF ANALYSIS. Sec. 1. A certificate of analysis that complies with this article is admissible in evidence on behalf of the state or the defendant to establish the results of a laboratory analysis of physical evidence conducted by or for a law enforcement agency without the necessity of the analyst personally appearing in court.

Sec. 2. This article does not limit the right of a party to summon a witness or to introduce admissible evidence relevant to the results of the analysis.

Sec. 3. A certificate of analysis under this article must contain the following information certified under oath:

- (1) the names of the analyst and the laboratory employing the analyst;
- (2) a statement that the laboratory employing the analyst is accredited by a nationally recognized board or association that accredits crime laboratories;
- (3) a description of the analyst's educational background, training, and experience;
- (4) a statement that the analyst's duties of employment included the analysis of physical evidence for one or more law enforcement agencies;
- (5) a description of the tests or procedures conducted by the analyst;
- (6) a statement that the tests or procedures used were reliable and approved by the laboratory employing the analyst; and
- (7) the results of the analysis.

Sec. 4. Not later than the 20th day before the trial begins in a proceeding in which a certificate of analysis under this article is to be introduced, the certificate must be filed with the clerk of the court and a copy must be provided by fax, hand delivery, or certified mail, return receipt requested, to the opposing party.

The certificate is not admissible under Section 1 if, not later than the 10th day before the trial begins, the opposing party files a written objection to the use of the certificate with the clerk of the court and provides a copy of the objection by fax, hand delivery, or certified mail, return receipt requested, to the offering party.

Sec. 5. A certificate of analysis is sufficient for purposes of this article if it uses the following form or if it otherwise substantially complies with this article:

## CERTIFICATE OF ANALYSIS

BEFORE ME, the undersigned authority, personally appeared \_\_\_\_\_, who being duly sworn, stated as follows:

My name is \_\_\_\_\_. I am of sound mind, over the age of 18 years, capable of making this affidavit, and personally acquainted with the facts stated in this affidavit.

I am employed by the \_\_\_\_\_, which was authorized to conduct the analysis referenced in this affidavit. Part of my duties for this laboratory involved the analysis of physical evidence for one or more law enforcement agencies. This laboratory is accredited by \_\_\_\_\_.

My educational background is as follows: (description of educational background)

My training and experience that qualify me to perform the tests or procedures referred to in this affidavit and determine the results of those tests or procedures are as follows: (description of training and experience)

I received the physical evidence listed on laboratory report no. \_\_\_\_\_ (attached) on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_. On the date indicated in the laboratory report, I conducted the following tests or procedures on the physical evidence:

(description of tests and procedures)

The tests and procedures used were reliable and approved by the laboratory. The results are as indicated on the lab report.

\_\_\_\_\_  
Affiant

SWORN TO AND SUBSCRIBED before me on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_

Notary Public, State of Texas

*Added by Acts 2003, 78th Leg., ch. 923, Sec. 1, eff. Sept. 1, 2003.*