

Regular Session, 2010

HOUSE BILL NO. 375

BY REPRESENTATIVES MORRIS AND WOOTON

CRIMINAL/PROCEDURE: Provides with respect to the use of certificates of analysis in criminal cases

1 AN ACT

2 To amend and reenact R.S. 15:499(B) and 501(B) and to enact R.S. 15:499(D) and 501(C),
3 (D), and (E), relative to evidence from criminalistics laboratories; to provide for the
4 retention of certain records regarding the accreditation and background of analysts
5 and laboratories issuing certificates of analysis; to provide for the issuance of a
6 written demand regarding testimony of the person signing the certificate of analysis;
7 to provide for the procedure for making a demand; to provide for time limitations;
8 and to provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 15:499(B) and 501(B) are hereby amended and reenacted and R.S.
11 15:499(D) and 501(C), (D), and (E) are hereby enacted to read as follows:

12 §499. Certificates of analysis

13 * * *

14 B. The certificate shall give the name and address of the facility in which the
15 examination or analysis was made, and shall be signed by the person making the
16 examination or analysis ~~and by the person in charge of the facility.~~

17 * * *

18 D. All organizations, entities, or persons issuing certificates as set forth in
19 this Section shall retain and provide upon written request all of the following:

- 1 D. If no request for additional time is made prior to the expiration of the
2 fifteen-day period, an extension of time in which to make such a demand may be
3 made only upon a showing of exceptional circumstances. Any allegation that such
4 circumstances exist shall constitute a preliminary plea on the defendant's behalf for
5 the purposes of Louisiana Code of Criminal Procedure Article 580. The demand
6 shall be made in writing and notice shall be served on the district attorney or the
7 attorney general prosecuting the matter. The court shall conduct a contradictory
8 hearing to determine if the extension is warranted.
- 9 E. The filing of a demand by the defendant does not prevent the admission
10 of the certificate or its contents in any other manner otherwise appropriate pursuant
11 to the Louisiana Code of Evidence or its ancillaries.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Morris

HB No. 375

Abstract: Provides with respect to the admissibility of certificates of analysis in criminal cases.

Present law provides for certificates of analysis and provides for their admissibility in criminal court proceedings.

Present law provides that the certificate shall give the name and address of the facility in which the examination or analysis was made and shall be signed by the person making the examination or analysis and by the person in charge of the facility.

Proposed law removes requirement that the person in charge of the facility sign the examination or analysis and otherwise retains present law.

Present law provides that the party against whom a certificate of analysis is offered shall be permitted to subpoena on cross-examination the person who performed the examination or analysis of the evidence. If the subpoena is requested at least five days prior to the commencement of trial or the person subpoenaed responds to the subpoena, the certificate shall not be prima facie proof of its contents or of proper custody.

Present law further provides that when the attorney for the defendant, or the defendant acting in his own defense, requests that a subpoena issued to the person who performed the examination or analysis, the request shall be in writing and shall contain a certification that the attorney or the defendant intends in good faith to conduct the cross-examination.

Proposed law changes present law to provide that the attorney for the defendant, or the defendant acting in his own defense if not represented by counsel, may demand that the person making the examination or analysis testify by filing a written demand and serving it

upon the district attorney or attorney general seeking to introduce the certificate. If such a demand is made timely, the certificate shall not constitute prima facie proof of the facts thereon.

Proposed law further provides that the demand for the testimony of the person making the analysis shall be filed and served by counsel for the defendant, or by a defendant acting as his own counsel within 15 days of the receipt of notice. The trial court may extend this 15-day period for good cause shown if such request is made prior to the expiration of the 15 days.

Proposed law further provides, if no request for additional time is made prior to the expiration of the 15-day period, an extension of time in which to make such a demand may be made only upon a showing of exceptional circumstances. Any allegation that such circumstances exist shall constitute a preliminary plea on the defendant's behalf. The demand shall be made in writing and notice shall be served on the district attorney or the attorney general prosecuting the matter. The court shall conduct a contradictory hearing to determine if the extension is warranted.

Proposed law provides that the filing of a demand by the defendant does not prevent the admission of the certificate or its contents in any other manner otherwise appropriate pursuant to present law.

(Amends R.S. 15:499(B) and 501(B); Adds R.S. 15:499(D) and 501(C), (D), and (E))

Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Administration of Criminal Justice to the original bill.

1. Changed requirements from the person signing the certificate to the person making the examination or analysis.
2. Removed requirement that the person in charge of the facility sign the examination or analysis.
3. Provided that the extension of time to demand testimony shall be made in writing and notice shall be served on the district attorney or the attorney general prosecuting the matter. Required the court to conduct a contradictory hearing to determine if the extension is warranted.
4. Made technical changes.