

Regular Session, 2010
HOUSE BILL NO. 375

ACT No. 693

BY REPRESENTATIVES MORRIS AND WOOTON

1 AN ACT

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

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 15:499(B) and 501 are hereby amended and reenacted and R.S.
11 15:499(D) is 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:

20 (1) A description of each analyst's educational background, training, and
21 experience.

22 (2) A listing of all accreditations held by the laboratory or individual.

23 * * *

1 §501. Notice of opposing party and opportunity to cross-examine expert;
2 certification of subpoena request

3 A. The party seeking to introduce a certificate made in accordance with R.S.
4 15:499 shall, not less than ~~ten~~ forty-five days prior to the commencement of the trial,
5 give written notice of intent to offer proof by certificate. Such notice shall include
6 a copy of the certificate.

7 ~~B.(1) The party against whom such certificate is offered shall be permitted~~
8 ~~to subpoena on cross-examination, the person who performed the examination or~~
9 ~~analysis of the evidence. If the subpoena is requested at least five days prior to the~~
10 ~~commencement of trial or the person subpoenaed responds to the subpoena, the~~
11 ~~certificate shall not be prima facie proof of its contents or of proper custody.~~

12 ~~(2) When the attorney for the defendant, or the defendant acting in his own~~
13 ~~defense, requests that a subpoena issue to the person who performed the examination~~
14 ~~or analysis, the request shall be in writing and shall contain a certification that the~~
15 ~~attorney or the defendant intends in good faith to conduct the cross-examination.~~

16 The attorney for the defendant, or the defendant acting in his own defense,
17 if not represented by counsel, may demand that the person making the examination
18 or analysis testify by filing a written demand and serving it upon the district attorney
19 or attorney general seeking to introduce the certificate. If such a demand is made
20 timely as set forth below, the certificate shall not constitute prima facie proof of the
21 facts thereon as set forth in R.S. 15:500.

22 C. Demand for the testimony of the person making the examination or
23 analysis shall be filed and served by counsel for the defendant, or by a defendant
24 acting as his own counsel, within thirty days of the receipt of the notice provided for
25 in Subsection A of this Section. The trial court may extend this thirty-day period for
26 good cause shown if such request is made prior to the expiration of the thirty days.

27 D. If no request for additional time is made prior to the expiration of the
28 thirty-day period, an extension of time in which to make such a demand may be
29 made only upon a showing of exceptional circumstances. Any allegation that such
30 circumstances exist shall constitute a preliminary plea on the defendant's behalf for

1 the purposes of Louisiana Code of Criminal Procedure Article 580. The demand
 2 shall be made in writing and notice shall be served on the district attorney or the
 3 attorney general prosecuting the matter. The court shall conduct a contradictory
 4 hearing to determine if the extension is warranted.

5 E. The filing of a demand by the defendant does not prevent the admission
 6 of the certificate or its contents in any other manner otherwise appropriate pursuant
 7 to the Louisiana Code of Evidence or its ancillaries.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____