

SENATE BILL 242

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By: **Senator Astle**

Introduced and read first time: January 18, 2013

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Public Health – Forensic Laboratories – Regulation**

3 FOR the purpose of requiring that inspections of certain forensic laboratories be
4 conducted with a certain frequency; requiring the Secretary of Health and
5 Mental Hygiene to authorize a certain nonprofit accreditation body to inspect
6 certain forensic laboratories in the State; requiring certain forensic laboratories
7 to obtain accreditation from a certain nonprofit accreditation body before
8 applying for a certain license; requiring the Secretary to approve a certain
9 nonprofit accreditation body to accredit forensic laboratories in the State;
10 requiring a licensee to submit evidence to the Secretary of current accreditation
11 from a certain nonprofit accreditation body in order to renew its license;
12 specifying certain matters relating to the implementation of certain provisions
13 of this Act about which the Forensic Laboratory Advisory Committee must
14 advise the Secretary; defining a certain term; and generally relating to the
15 regulation of forensic laboratories in the State.

16 BY repealing and reenacting, with amendments,
17 Article – Health – General
18 Section 17-2A-01, 17-2A-02, 17-2A-08, and 17-2A-12(a)
19 Annotated Code of Maryland
20 (2009 Replacement Volume and 2012 Supplement)

21 BY adding to
22 Article – Health – General
23 Section 17-2A-03.1
24 Annotated Code of Maryland
25 (2009 Replacement Volume and 2012 Supplement)

26 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
27 MARYLAND, That the Laws of Maryland read as follows:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **Article – Health – General**

2 17–2A–01.

3 (a) In this subtitle the following words have the meanings indicated.

4 (b) (1) “Forensic analysis” means a medical, chemical, toxicologic,
5 firearms, or other expert examination or test performed on physical evidence,
6 including DNA evidence, for the purpose of determining the connection of the evidence
7 to a criminal act.8 (2) “Forensic analysis” includes an examination or test required by a
9 law enforcement agency, prosecutor, criminal suspect or defendant, or court.

10 (3) “Forensic analysis” does not include:

11 (i) A test of a specimen of breath or blood to determine alcohol
12 concentration or controlled dangerous substance content;

13 (ii) Forensic information technology;

14 (iii) A presumptive test performed at a crime scene;

15 (iv) A presumptive test performed for the purpose of
16 determining compliance with a term or condition of community supervision or parole
17 and conducted by or under contract with a county department of corrections or the
18 State Department of Public Safety and Correctional Services; or19 (v) An expert examination or test conducted principally for the
20 purpose of scientific research, medical practice, civil or administrative litigation, or
21 any other purpose unrelated to determining the connection of physical evidence to a
22 criminal act.23 (c) “Forensic information technology” means digital or electronic evidence
24 that is stored or transmitted electronically.25 (d) (1) “Forensic laboratory” means a facility, entity, or site that offers or
26 performs forensic analysis.27 (2) “Forensic laboratory” includes a laboratory owned or operated by
28 the State, a county or municipal corporation in the State, or another governmental
29 entity.

30 (3) “Forensic laboratory” does not include:

31 (i) A forensic laboratory operated by the federal government; or

1 (ii) A laboratory licensed or certified by the Department of
2 Agriculture.

3 (e) "License" means a permit, letter of exception, certificate, or other
4 document issued by the Secretary granting approval or authority to offer or perform
5 forensic laboratory tests, examinations, or analyses in the State.

6 (f) "Limited forensic analysis" means a forensic laboratory test or analysis
7 defined in regulations adopted by the Secretary.

8 (G) "NONPROFIT ACCREDITATION BODY" MEANS:

9 (1) AN ACCREDITATION BODY THAT:

10 (I) REQUIRES CONFORMANCE TO FORENSIC SPECIFIC
11 REQUIREMENTS; AND

12 (II) IS A SIGNATORY TO THE INTERNATIONAL LABORATORY
13 ACCREDITATION COOPERATION (ILAC) MUTUAL RECOGNITION
14 ARRANGEMENT FOR TESTING; OR

15 (2) A STATE-APPROVED ACCREDITATION BODY.

16 [(g)] (H) "Physical evidence" means any object, thing, or substance relating
17 to a criminal act.

18 17-2A-02.

19 (a) (1) The Secretary shall adopt regulations that set standards and
20 requirements for forensic laboratories.

21 (2) The regulations shall contain the standards and requirements that
22 the Secretary considers necessary to assure the citizens of the State that forensic
23 laboratories provide safe, reliable, and accurate services.

24 (3) The regulations shall:

25 (i) Require the director of a forensic laboratory to establish and
26 administer an ongoing quality assurance program using standards acceptable to the
27 Secretary;

28 (ii) Require the director of a forensic laboratory to retain all case
29 files for at least 10 years;

30 (iii) Establish qualifications for the personnel of forensic
31 laboratories;

1 (iv) Establish procedures for verifying the background and
2 education of the personnel of forensic laboratories;

3 (v) Require the Secretary to charge fees that may not exceed the
4 actual direct and indirect costs to the Department to carry out the provisions of this
5 subtitle; and

6 (vi) Establish any additional standards that the Secretary
7 considers necessary to assure that forensic laboratories provide accurate and reliable
8 services.

9 (b) (1) A forensic laboratory that examines or analyzes physical evidence
10 shall demonstrate satisfactory performance in an approved proficiency testing
11 program specifically related to the particular forensic analysis being performed.

12 (2) The Secretary shall adopt regulations for the forensic proficiency
13 testing program that:

14 (i) Define satisfactory proficiency testing performance; and

15 (ii) Set standards and requirements that a forensic proficiency
16 testing program shall meet.

17 (3) The Department shall review a forensic laboratory's proficiency
18 testing program.

19 (c) To assure compliance with the standards and requirements under this
20 subtitle, the Secretary shall **AUTHORIZE A NONPROFIT ACCREDITATION BODY TO**
21 conduct:

22 (1) An inspection of each forensic laboratory for which a license to
23 operate is sought; and

24 (2) An inspection of each forensic laboratory for which a license has
25 been issued **AT LEAST EVERY 2 YEARS**.

26 (d) To assure compliance with the standards and requirements under this
27 subtitle, the Secretary may conduct:

28 (1) A complaint investigation; and

29 (2) A validation survey of an accredited forensic laboratory.

30 **17-2A-03.1.**

- 1 **(I) PROFICIENCY TESTING PROGRAMS; AND**
- 2 **(II) COMPLAINT INVESTIGATIONS;**
- 3 **(3) TECHNICAL REVIEW OF REVISIONS TO COMAR 10.51**
4 **(FORENSIC LABORATORIES); AND**
- 5 **(4) THE PROVISION OF TECHNICAL ASSISTANCE REGARDING THE**
6 **IMPLEMENTATION OF COMAR 10.51 (FORENSIC LABORATORIES).**

7 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
8 October 1, 2013.