

# SENATE BILL 746

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By: **Senators Astle, Brinkley, Kelley, and Ramirez**

Introduced and read first time: January 31, 2014

Assigned to: Finance

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## A BILL ENTITLED

1 AN ACT concerning

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

3 FOR the purpose of requiring the Department of Health and Mental Hygiene to adopt  
4 regulations that establish certain calculation and reporting requirements for  
5 forensic laboratories; requiring the Department, for a certain purpose, to  
6 require that certain out-of-state forensic laboratories be accredited by a certain  
7 accreditation body; specifying that certain required inspections be conducted for  
8 certain forensic laboratories in the State; requiring an out-of-state forensic  
9 laboratory to obtain accreditation from a certain accreditation body before  
10 applying for a certain license; defining a certain term; and generally relating to  
11 the regulation of forensic laboratories in the State.

12 BY repealing and reenacting, with amendments,  
13 Article – Health – General  
14 Section 17-2A-01 and 17-2A-02  
15 Annotated Code of Maryland  
16 (2009 Replacement Volume and 2013 Supplement)

17 BY adding to  
18 Article – Health – General  
19 Section 17-2A-03.1  
20 Annotated Code of Maryland  
21 (2009 Replacement Volume and 2013 Supplement)

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

24 **Article – Health – General**

25 17-2A-01.

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

2 (b) (1) “Forensic analysis” means a medical, chemical, toxicologic,  
3 firearms, or other expert examination or test performed on physical evidence,  
4 including DNA evidence, for the purpose of determining the connection of the evidence  
5 to a criminal act.

6 (2) “Forensic analysis” includes an examination or test required by a  
7 law enforcement agency, prosecutor, criminal suspect or defendant, or court.

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

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

11 (ii) Forensic information technology;

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

13 (iv) A presumptive test performed for the purpose of  
14 determining compliance with a term or condition of community supervision or parole  
15 and conducted by or under contract with a county department of corrections or the  
16 State Department of Public Safety and Correctional Services; or

17 (v) An expert examination or test conducted principally for the  
18 purpose of scientific research, medical practice, civil or administrative litigation, or  
19 any other purpose unrelated to determining the connection of physical evidence to a  
20 criminal act.

21 (c) “Forensic information technology” means digital or electronic evidence  
22 that is stored or transmitted electronically.

23 (d) (1) “Forensic laboratory” means a facility, entity, or site that offers or  
24 performs forensic analysis.

25 (2) “Forensic laboratory” includes a laboratory owned or operated by  
26 the State, a county or municipal corporation in the State, or another governmental  
27 entity.

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

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

30 (ii) A laboratory licensed or certified by the Department of  
31 Agriculture.

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

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

6 (G) "NONPROFIT ACCREDITATION BODY" MEANS:

7 (1) AN ACCREDITATION BODY THAT:

8 (I) REQUIRES CONFORMANCE TO FORENSIC SPECIFIC  
9 REQUIREMENTS; AND

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

13 (2) A STATE-APPROVED ACCREDITATION BODY.

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

16 17-2A-02.

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

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

22 (3) The regulations shall:

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

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

28 (iii) Establish qualifications for the personnel of forensic  
29 laboratories;

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

1                   **(v) ESTABLISH REQUIREMENTS FOR THE CALCULATION**  
2 **AND REPORTING OF MEASUREMENT UNCERTAINTY IN CALIBRATION AND**  
3 **TESTING;**

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

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

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

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

15                           (i) Define satisfactory proficiency testing performance; and

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

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

20           (c) To assure compliance with the standards and requirements under this  
21 subtitle, the Secretary shall **[conduct]**:

22                   (1) **[An] CONDUCT AN** inspection of each forensic laboratory **IN THE**  
23 **STATE** for which a license to operate is sought; **[and]**

24                   (2) **[An] CONDUCT AN** inspection of each forensic laboratory **IN THE**  
25 **STATE** for which a license has been issued; **AND**

26                   **(3) REQUIRE THAT EACH OUT-OF-STATE FORENSIC LABORATORY**  
27 **FOR WHICH A LICENSE IS SOUGHT IS ACCREDITED BY A NONPROFIT**  
28 **ACCREDITATION BODY.**

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

31                   (1) A complaint investigation; and

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

2     **17-2A-03.1.**

3                   **BEFORE APPLYING FOR A LICENSE UNDER § 17-2A-04 OF THIS SUBTITLE,**  
4     **AN OUT-OF-STATE FORENSIC LABORATORY SHALL OBTAIN ACCREDITATION**  
5     **FROM A NONPROFIT ACCREDITATION BODY.**

6                   SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
7     October 1, 2014.