
SENATE BILL No. 246

DIGEST OF INTRODUCED BILL

Citations Affected: IC 35-36-11.

Synopsis: Lab technician testimony in criminal cases. Requires a prosecuting attorney who intends to introduce a laboratory report into evidence to file a notice of intent at least 20 days before the trial, and requires a defendant who wishes to cross-examine the technician who prepared the laboratory report to file a pretrial demand for cross-examination not later than ten days after receiving the notice from the prosecutor. Provides that if a defendant properly files a pretrial demand for cross-examination, a laboratory report is not admissible into evidence unless the technician who prepared the report testifies at trial, except that the laboratory report is admissible without the testimony of the technician if the technician is unavailable for trial and the defendant was provided a pretrial opportunity to cross-examine the technician. Provides that a defendant's failure to properly file a pretrial demand for cross-examination constitutes a waiver of the right to cross-examine the laboratory technician.

Effective: July 1, 2012.

Bray

January 4, 2012, read first time and referred to Committee on Judiciary.

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Second Regular Session 117th General Assembly (2012)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2011 Regular Session of the General Assembly.

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SENATE BILL No. 246



A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 35-36-11 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2012]:

4 **Chapter 11. Laboratory Reports**

5 **Sec. 1. As used in this chapter, "laboratory report" means a**
6 **written report or affidavit relating to the results of a scientific test**
7 **that is prepared for use at trial or to assist in a law enforcement**
8 **investigation.**

9 **Sec. 2. If the prosecuting attorney intends to introduce a**
10 **laboratory report as evidence in a criminal trial, the prosecuting**
11 **attorney must file a notice of intent to introduce the laboratory**
12 **report not later than twenty (20) days before the omnibus date,**
13 **unless the court establishes a different time.**

14 **Sec. 3. If the defendant wishes for the person who prepared the**
15 **laboratory report to be present at the trial for cross-examination,**
16 **the defendant must file a demand for cross-examination not later**
17 **than ten (10) days after the defendant receives the notice filed**



1 under section 2 of this chapter, unless the court establishes a
2 different time.
3 Sec. 4. (a) Except as provided in subsection (b), if:
4 (1) the defendant complies with section 3 of this chapter; or
5 (2) the prosecuting attorney does not comply with section 2 of
6 this chapter;
7 the prosecuting attorney may not introduce the laboratory report
8 into evidence without the testimony of the person who prepared the
9 laboratory report.
10 (b) If:
11 (1) the defendant complies with section 3 of this chapter; or
12 (2) the prosecuting attorney does not comply with section 2 of
13 this chapter;
14 the prosecuting attorney may introduce the laboratory report into
15 evidence without the testimony of the person who prepared the
16 laboratory report if the person who prepared the laboratory report
17 is unavailable and the defendant had the opportunity to
18 cross-examine the person before trial.
19 (c) If:
20 (1) the prosecuting attorney complies with section 2 of this
21 chapter; and
22 (2) the defendant does not comply with section 3 of this
23 chapter;
24 the defendant waives the right to confront and cross-examine the
25 person who prepared the laboratory report.

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