

HOUSE BILL 1294

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By: **Delegate Anderson**

Introduced and read first time: February 15, 2012

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **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 accreditation body to inspect certain
6 forensic laboratories; requiring certain forensic laboratories to obtain
7 accreditation from a certain State–approved accreditation body before applying
8 for a certain license; requiring the Secretary to approve a certain accreditation
9 body to accredit forensic laboratories in the State; directing the Forensic
10 Laboratory Advisory Committee to advise the Secretary on certain matters
11 relating to the implementation of certain provisions of this Act; defining a
12 certain term; and generally relating to the regulation of forensic laboratories in
13 the State.

14 BY repealing and reenacting, with amendments,
15 Article – Health – General
16 Section 17–2A–01, 17–2A–02, and 17–2A–12(a)
17 Annotated Code of Maryland
18 (2009 Replacement Volume and 2011 Supplement)

19 BY adding to
20 Article – Health – General
21 Section 17–2A–03.1
22 Annotated Code of Maryland
23 (2009 Replacement Volume and 2011 Supplement)

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

26 **Article – Health – General**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 17-2A-01.

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

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

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

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

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

12 (ii) Forensic information technology;

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

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

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

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

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

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

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

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

31 (ii) A laboratory licensed or certified by the Department of
32 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 AN ACCREDITATION**
7 **BODY THAT HAS OBTAINED SIGNATORY STATUS WITH THE INTERNATIONAL**
8 **LABORATORY ACCREDITATION COOPERATION (ILAC) MUTUAL RECOGNITION**
9 **ARRANGEMENT.**

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

12 17-2A-02.

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

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

18 (3) The regulations shall:

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

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

24 (iii) Establish qualifications for the personnel of forensic
25 laboratories;

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

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

1 (vi) Establish any additional standards that the Secretary
2 considers necessary to assure that forensic laboratories provide accurate and reliable
3 services.

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

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

9 (i) Define satisfactory proficiency testing performance; and

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

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

14 (c) To assure compliance with the standards and requirements under this
15 subtitle, the Secretary shall conduct:

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

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

20 **(D) THE SECRETARY SHALL AUTHORIZE A NONPROFIT ACCREDITATION**
21 **BODY TO INSPECT A FORENSIC LABORATORY AS REQUIRED UNDER SUBSECTION**
22 **(C) OF THIS SECTION.**

23 ~~[(d)]~~ **(E)** To assure compliance with the standards and requirements under
24 this subtitle, the Secretary may conduct:

25 (1) A complaint investigation; and

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

27 **17-2A-03.1.**

28 **(A) BEFORE APPLYING FOR A LICENSE UNDER § 17-2A-04 OF THIS**
29 **SUBTITLE, A FORENSIC LABORATORY SHALL HAVE OBTAINED ACCREDITATION**
30 **FROM A STATE-APPROVED NONPROFIT ACCREDITATION BODY.**

1 **(B) THE SECRETARY SHALL APPROVE A NONPROFIT ACCREDITATION**
2 **BODY TO ACCREDIT FORENSIC LABORATORIES IN THE STATE AS REQUIRED**
3 **UNDER SUBSECTION (A) OF THIS SECTION.**

4 17-2A-12.

5 (a) The Governor shall establish a Forensic Laboratory Advisory Committee
6 to advise the Secretary on matters relating to the implementation of the provisions of
7 this subtitle, **INCLUDING:**

8 **(1) THE REVIEW AND APPROVAL OF:**

9 **(I) FORENSIC LABORATORY ACCREDITATION BODIES AND**
10 **PROFICIENCY TESTING PROGRAM PROVIDERS;**

11 **(II) APPLICATIONS FOR LICENSURE OF A FORENSIC**
12 **LABORATORY; AND**

13 **(III) REQUESTS FOR A LETTER OF EXCEPTION AND A WAIVER**
14 **FROM LICENSURE REQUIREMENTS; AND**

15 **(2) THE REVIEW AND MONITORING OF:**

16 **(I) PROFICIENCY TESTING PROGRAM RESULTS;**

17 **(II) COMPLAINT INVESTIGATIONS; AND**

18 **(III) FORENSIC LABORATORY ACCREDITATION ACTIONS AND**
19 **DEFICIENCY STATEMENT RESPONSES.**

20 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
21 October 1, 2012.