

1 (6) One member appointed by the Governor, who shall
2 be an attorney or judge with a background in privacy
3 issues and biomedical ethics;

4 (7) One member appointed by the Governor
5 representing the Illinois State Police having experience
6 as a practicing forensic scientist and forensic science
7 administrator;

8 (8) One member appointed by the Attorney General
9 representing the Office of the Attorney General;

10 (9) Two members of the general public appointed by
11 the Governor; and

12 (10) Two members appointed by the Governor who are
13 scientists having experience in the areas of laboratory
14 standards or quality assurance regulation and monitoring.

15 (c) The Governor shall appoint a presiding officer for
16 the Board from among the Board members appointed under
17 subsection (b) of this Section, which presiding officer shall
18 serve at the pleasure of the Governor.

19 (d) Each member appointed under clauses (1) through (8)
20 of subsection (b) shall demonstrate substantial expertise and
21 experience in the field of laboratory operations, or forensic
22 science as applied in criminal investigation, laboratory
23 work, or litigation.

24 (e) Each member of the Board shall serve a 4-year term,
25 except that 6 of the initial members appointed to the Board
26 after the effective date of this Act shall each serve a
27 2-year term.

28 (f) Vacancies on the Board shall be filled by the
29 Governor in accordance with subsection (b). A member of the
30 Board appointed to fill a vacancy shall serve for the
31 unexpired term of the member whom he or she is succeeding.

32 (g) The travel costs associated with membership on the
33 Board created in subsection (a) of this Section will be
34 reimbursed subject to availability of funds.

1 (h) There is established the Illinois Forensic
2 Laboratory Oversight Act Fund in the State Treasury into
3 which funds received from public or private sources shall be
4 deposited, and from which funds shall be appropriated to the
5 Illinois Forensic Laboratory Oversight Board for oversight.

6 (i) The Board and the individual members of the Board
7 shall be immune from any liability, whether civil or
8 criminal, for the good faith performance of the duties of the
9 Board as specified in this Section.

10 (j) No member of the Board shall be disqualified from
11 holding any public office or employment, nor shall he or she
12 forfeit any such office or employment, by reason of his or
13 her appointment hereunder, and members of the Board shall not
14 be required to take and file oaths of office before serving
15 on the Board.

16 (k) Definitions. When used in this Act, the following
17 words and terms shall have the meanings ascribed to them in
18 this Section:

19 (i) For purposes of general forensic analysis,
20 "forensic laboratory" means any laboratory operated by
21 the State, a unit of local government, an academic
22 institution, or a private institution that performs
23 forensic testing on evidence in a criminal investigation
24 or proceeding.

25 (ii) "Forensic testing" includes the analysis of
26 physical evidence in criminal matters and matters
27 adjudicated under the Juvenile Court Act of 1987 to
28 include the entering of analytical data into forensic
29 databases and providing expert testimony in a criminal
30 proceeding.

31 (l) Powers and duties of the Board.

32 (1) The Board may promulgate rules as are necessary
33 to carry out the duties of the Board.

34 (2) The first meeting of the Board shall be held

1 within 90 days after the effective date of this Act.

2 (3) Not later than May 1, 2004, the Board shall
3 develop and prescribe procedures for Board certification.

4 (4) The Board shall meet at least 4 times each year
5 and may establish its own rules and procedures concerning
6 the conduct of its meetings and other affairs not
7 inconsistent with law.

8 (5) The Board shall develop minimum standards and a
9 program of Board certification for all forensic
10 laboratories in Illinois.

11 (6) In designing a system of Board certification
12 pursuant to this Act, the Board shall evaluate all
13 applicable programs of accreditation.

14 (7) The minimum standards and program of Board
15 certification shall be designed to accomplish the
16 following objectives:

17 (A) Ensure the integrity, honesty, and
18 openness of forensic laboratories;

19 (B) Increase and maintain the effectiveness,
20 efficiency, reliability, and accuracy of forensic
21 laboratories, including forensic DNA laboratories;

22 (C) Ensure that forensic analyses, including
23 forensic DNA testing, are performed in accordance
24 with the highest scientific standards practicable;

25 (D) Promote increased cooperation and
26 coordination among forensic laboratories and other
27 agencies in the criminal justice system; and

28 (E) Ensure compatibility, to the extent
29 consistent with the provisions of this Act and any
30 other applicable provision of law pertaining to
31 privacy or restricting disclosure or redisclosure of
32 information.

33 (8) The program of Board certification shall
34 include, at a minimum, the following requirements:

1 (A) accreditation by a body approved by the
2 Board;

3 (B) routine internal and external proficiency
4 testing of all laboratory personnel involved in
5 forensic analysis, including blind external
6 proficiency testing if the Board determines such a
7 blind proficiency testing program to be practicable
8 and appropriate; in determining whether a blind
9 proficiency testing program is practicable and
10 appropriate, the Board shall consider such factors
11 as the effectiveness of the test to provide a
12 meaningful measurement of performance,
13 cost-effectiveness, time, allocation of resources,
14 and availability;

15 (C) quality control and quality assurance
16 protocols, a method validation procedure and a
17 corrective action and remedial program;

18 (D) annual documentation to the Board by the
19 forensic laboratories of their continued compliance
20 with the requirements of the accreditation program;

21 (E) procedures to ensure that proficiency
22 tests and results by the laboratory and discipline
23 within the laboratory shall be made available to the
24 Board and the public as the Board determines;

25 (F) procedures to ensure counsel for
26 prosecution and defense complete disclosure in legal
27 proceedings, including but not limited to all
28 reports, notes, phone and conversation logs,
29 protocols, validation studies, documentation of
30 errors and contaminations, error or incident logs,
31 and access to interview personnel involved in the
32 case; this shall include cases that the laboratory
33 sends to other laboratories as subcontractors;

34 (G) the Board certification of a forensic

1 laboratory may be revoked, suspended or otherwise
2 limited, upon a determination by the Board that the
3 laboratory:

4 (i) is guilty of misrepresentation in
5 obtaining a forensic laboratory accreditation;

6 (ii) tendered a report on laboratory work
7 actually performed in another forensic
8 laboratory without disclosing the fact that the
9 examination or procedure was performed by such
10 other forensic laboratory;

11 (iii) showed a pattern of excessive
12 errors in the performance of forensic
13 laboratory examination procedures;

14 (iv) failed to file any report required
15 to be submitted pursuant to this Act or the
16 rules and regulations promulgated under this
17 Act;

18 (v) violated in a material respect any
19 provision of this Act or the rules and
20 regulations promulgated under this Act;

21 (vi) fails to:

22 (A) Ensure that a full and complete
23 disclosure of findings is made to the
24 submitting agency.

25 (B) Ensure that work notes on all
26 items, examinations, results, and findings
27 are generated contemporaneously with the
28 examination are preserved.

29 (C) Render opinions and conclusions
30 strictly in accordance with the evidence
31 in the case and only to the extent
32 justified by that evidence.

33 (D) Testify in a clear,
34 straightforward manner and refuse to

1 extend themselves beyond their field of
2 competence, phrasing their testimony in
3 such a manner so that the results are not
4 misinterpreted.

5 (E) Consent, if requested, to
6 interviews with counsel for both sides
7 prior to trial.

8 (F) Refrain from providing any
9 material misrepresentation of data upon
10 which an expert opinion or conclusion is
11 based; and

12 (vii) no forensic laboratory Board
13 certification shall be revoked, suspended, or
14 otherwise limited without a hearing. The Board
15 shall serve written notice of the alleged
16 violation, together with written notice of the
17 time and place of the hearing, which notice
18 shall be mailed by certified mail to the holder
19 of the forensic laboratory accreditation at the
20 address of such holder at least 21 days prior
21 to the date fixed for such hearing. An
22 accredited laboratory may file a written answer
23 to the charges with the Board, not less than 5
24 days prior to the hearing.

25 Section 10. Report to the General Assembly. By May 1st
26 of each year the Board shall make a report to the General
27 Assembly regarding the implementation of this Act.

28 Section 105. The State Finance Act is amended by adding
29 Section 5.595 as follows:

30 (30 ILCS 105/5.595 new)

31 Sec. 5.595. The Illinois Forensic Laboratory Oversight

1 Act Fund.".