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LRB094 16749 RSP 56031 a

1 AMENDMENT TO HOUSE BILL 5241

2 AMENDMENT NO. _____. Amend House Bill 5241 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Department of State Police Law of the Civil
5 Administrative Code of Illinois is amended by changing Section
6 2605-40 as follows:

7 (20 ILCS 2605/2605-40) (was 20 ILCS 2605/55a-4)

8 Sec. 2605-40. Division of Forensic Services.

9 (a) The Division of Forensic Services shall exercise the
10 following functions:

11 (1) Exercise the rights, powers, and duties vested by
12 law in the Department by the Criminal Identification Act.

13 (2) Exercise the rights, powers, and duties vested by
14 law in the Department by Section 2605-300 of this Law.

15 (3) Provide assistance to local law enforcement
16 agencies through training, management, and consultant
17 services.

18 (4) (Blank).

19 (5) Exercise other duties that may be assigned by the
20 Director in order to fulfill the responsibilities and
21 achieve the purposes of the Department.

22 (6) Establish and operate a forensic science
23 laboratory system, including a forensic toxicological
24 laboratory service, for the purpose of testing specimens

1 submitted by coroners and other law enforcement officers in
2 their efforts to determine whether alcohol, drugs, or
3 poisonous or other toxic substances have been involved in
4 deaths, accidents, or illness. Forensic toxicological
5 laboratories shall be established in Springfield, Chicago,
6 and elsewhere in the State as needed.

7 (7) Subject to specific appropriations made for these
8 purposes, establish and coordinate a system for providing
9 accurate and expedited forensic science and other
10 investigative and laboratory services to local law
11 enforcement agencies and local State's Attorneys in aid of
12 the investigation and trial of capital cases.

13 (b) When used in this Section, the following words and
14 terms shall have the meanings ascribed to them in this
15 subsection:

16 "Forensic laboratory" means any laboratory operated by the
17 Division of Forensic Services that performs forensic testing on
18 evidence in an investigation or other proceedings for the
19 prosecution of a violation of the Criminal Code of 1961 or for
20 matters adjudicated under the Juvenile Court Act of 1987.

21 "Forensic testing" includes the analysis of physical
22 evidence in an investigation or other proceedings for the
23 prosecution of a violation of the Criminal Code of 1961 or for
24 matters adjudicated under the Juvenile Court Act of 1987, and
25 includes the use of forensic databases and databanks, including
26 DNA, firearm, and fingerprint databases, and expert testimony.

27 "I.S.O" means International Organization for
28 Standardization, standard 17025 offered by Forensic Quality
29 Services.

30 (c) A forensic laboratory authorized under this Section
31 must establish and carry out procedures to ensure, upon
32 subpoena request by prosecution or defense counsel, complete
33 disclosure in legal proceedings. Disclosure shall include, but
34 is not limited to, all reports, notes, and conversation logs,

1 quality assurance and quality control (QA/QC) documentation,
2 protocol and procedure manuals, unless the disclosure would be
3 burdensome and duplicative, command directives and other
4 statements of procedure and policy relating to forensic
5 testing, validation studies, documentation relating to
6 corrective actions and remedial actions, incidents, incident
7 logs, errors, and incidents of contamination, proficiency
8 tests, and results. This disclosure obligation also applies to
9 any subcontractors used by the forensic laboratory to undertake
10 forensic examinations. Forensic laboratories shall also ensure
11 prosecution and defense counsel reasonable access to interview
12 personnel involved in the case. This shall include cases that
13 the laboratory sends to other contract laboratories as
14 subcontractors. Costs for interviews and discovery materials
15 in cases involving subcontractors shall be born by the Illinois
16 State Police. Disclosure shall be limited to the documents and
17 personnel used in the pending case unless a court determines
18 that additional discovery is relevant.

19 (d) Forensic laboratories authorized under this Section,
20 shall report to the Illinois Laboratory Advisory Committee:

21 (i) allegations made known to the Illinois State Police
22 against a forensic laboratory or its staff of
23 misrepresentation of data, credentials, test results,
24 testimony, or any deception or misrepresentation in
25 obtaining forensic laboratory accreditation;

26 (ii) results from any and all investigations regarding
27 allegations or incidents disclosed under subsection (a) (i)
28 of this Section with supporting documentation;

29 (iii) instances of errors in the performance of
30 forensic laboratory examination procedures or incidents of
31 contamination;

32 (iv) incidents where full and complete disclosure is
33 not made to counsel or interviews are not provided to
34 counsel; and

1 (v) any complaint or allegation reported under (d) (i)
2 or (d) (ii) shall cause the Committee Chair to appoint a
3 balanced sub-committee to review the complaint or
4 allegation and timely report back to the full Committee
5 with recommendations on the appropriate action and
6 response. If the allegation or complaint is determined to
7 be unfounded, the sub-committee will report that finding to
8 the full Committee.

9 (e) A forensic laboratory authorized under this Section
10 shall respond to all inquiries from the Illinois Laboratory
11 Advisory Committee.

12 (f) Notwithstanding any provision of this Section to the
13 contrary, no private or public laboratory shall be granted a
14 subcontract to conduct forensic testing of evidence unless that
15 laboratory has acquired I.S.O accreditation.

16 (Source: P.A. 90-130, eff. 1-1-98; 91-239, eff. 1-1-00; 91-589,
17 eff. 1-1-00; 91-760, eff. 1-1-01.)

18 Section 10. The the Illinois Laboratory Advisory Committee
19 Act is amended by changing Section 5 as follows:

20 (20 ILCS 3981/5)

21 Sec. 5. Illinois Laboratory Advisory Committee; creation.

22 (a) There is created the Illinois Laboratory Advisory
23 Committee (hereinafter referred to as the Committee).

24 (b) The Committee shall consist of 16 ~~15~~ members appointed
25 as follows:

26 (1) one member who is a scientist from the Department
27 of Agriculture, appointed by the Director of Agriculture;

28 (2) one member who is a scientist from the Department
29 of Natural Resources, appointed by the Director of Natural
30 Resources;

31 (3) one member who is a scientist from the Department
32 of Public Health, appointed by the Director of Public

1 Health;

2 (4) one member who is a scientist from the Department
3 of State Police, appointed by the Director of State Police;

4 (5) one member who is a scientist from the
5 Environmental Protection Agency, appointed by the Director
6 of the Environmental Protection Agency;

7 (6) one member who is a scientist from the Illinois
8 Emergency Management Agency, appointed by the Director of
9 the Illinois Emergency Management Agency;

10 (7) one member who is a scientist from the Department
11 of Transportation, appointed by the Secretary of
12 Transportation;

13 (8) one member who is a licensed attorney, with
14 expertise in scientific evidence, appointed by the Cook
15 County Public Defender;

16 (9) one member who is a licensed attorney, with
17 expertise in scientific evidence, appointed by the Cook
18 County State's Attorney;

19 (10) one member who is a licensed attorney, with
20 expertise in scientific evidence, appointed by the State
21 Appellate Defender;

22 (11) one member who is a licensed attorney, with
23 expertise in scientific evidence, appointed by the
24 Director of the Office of the State's Attorneys Appellate
25 Prosecutor;

26 (12) one member who is a licensed attorney, with
27 expertise in scientific evidence, appointed by the
28 Attorney General;

29 (13) one member who is an academic scientist with an
30 advanced degree in life, physical, or medical sciences
31 appointed by the Attorney General;

32 (14) one member who is a scientist employed by the
33 DuPage County Sheriff's Crime Laboratory appointed by the
34 DuPage County Sheriff's Crime Laboratory Director; ~~and~~

1 (15) one member who is an academic forensic scientist
2 with an advanced degree in the life, physical,
3 criminalistic, or medical sciences appointed by the
4 president of the University of Illinois; and -

5 (16) one member who is a forensic scientist employed by
6 an in-state private forensic lab that has I.S.O.
7 accreditation.

8 (a-5) For purposes of this Section "I.S.O." shall have the
9 same meaning as provided in Section 2605-40 of the Department
10 of State Police Law of the Civil Administrative Code of
11 Illinois.

12 (c) The Committee Chairperson may appoint one ex officio
13 member representing private laboratories, and one ex officio
14 member who is a scientist representing the Northern Illinois
15 Police Crime Laboratory. The president of the University of
16 Illinois may appoint one ex officio member to the Committee
17 representing social scientists.

18 (d) Appointments to the Committee shall be made within 90
19 days after the effective date of this Act with the first
20 meeting of the Committee being held no later than 180 days
21 following the effective date of this Act. The members of the
22 Committee shall choose a chairperson from among its members.
23 The chairperson shall serve a 2-year term and shall be
24 responsible for convening meetings, setting agendas, and
25 finalizing reports.

26 (e) For the purpose of ensuring continuity on the
27 Committee, each member of the Committee shall serve a 4-year
28 term except 5 members, chosen at random, who shall serve an
29 initial term of 2 years, after which they shall be eligible for
30 reappointment for a term of 4 years. Members shall serve at the
31 discretion of their appointing authorities.

32 (f) Vacancies on the Committee shall be filled in
33 accordance with subsections (b) and (e). A member of the
34 Committee appointed to fill a vacancy shall serve for the

1 unexpired term of the member whom he or she is succeeding.

2 (g) The Committee shall not be compensated. Travel costs
3 associated with the Committee shall be reimbursed subject to
4 the availability of State or the appointing agency's funds.
5 Funds received from public or private sources shall be governed
6 by all applicable laws to ensure ethics compliance. There is
7 established the Illinois Laboratory Advisory Committee Act
8 Fund in the State treasury into which funds received from
9 public or private sources shall be deposited for use by the
10 Committee.

11 (h) The Committee and individual members of the Committee
12 are immune from any liability, whether civil or criminal, for
13 the good faith performance of the duties of the Committee as
14 specified in this Section.

15 (i) No member of the Committee shall be disqualified from
16 holding public office or employment, nor shall he or she
17 forfeit any such office or employment, by reason of appointment
18 under this Act, and members may not be required to take and
19 file oaths of office before serving on the Committee.

20 (j) Responsibilities of the Committee. The Committee
21 shall:

22 (1) establish the rules and procedures concerning the
23 conduct of Committee meetings and other affairs not
24 inconsistent with law;

25 (2) make recommendations regarding improving policy
26 and procedures to ensure counsel for the defense and
27 prosecution are receiving all evidence, reports, and
28 analytical documentation relevant to disclosure;

29 (3) make recommendations regarding accreditation and
30 quality assurance as it applies to laboratory testing that
31 will be in compliance with recognized International
32 Organization for Standardization and applicable
33 professional standards;

34 (4) make recommendations regarding training procedures

1 to ensure training is conducted consistent with recognized
2 scientific procedures;

3 (5) make recommendations regarding staffing and
4 funding needs to ensure resources to obtain accurate,
5 timely, and complete analysis of all samples submitted for
6 testing;

7 (6) make recommendations regarding private
8 laboratories conducting scientific testing, including
9 forensic testing, to ensure quality assurance and
10 accreditation standards are in concert with the
11 governmental laboratories within the State;

12 (7) make recommendations to ensure consistency among
13 judicial orders and rulings as it relates to evidence and
14 discovery;

15 (8) examine ways to make more efficient use of the
16 State laboratories, including facilities, personnel, and
17 equipment;

18 (9) examine ways to reduce laboratory backlogs;

19 (10) review and comment on the proposed construction,
20 expansion, or renovation of State laboratory facilities
21 exceeding \$250,000 and generally plan for future
22 laboratory needs;

23 (11) conduct such other activities as may be necessary
24 to provide for the safe and efficient operation of State
25 laboratories;

26 (12) make recommendations on other laboratory issues
27 not listed in this Section as the Committee deems
28 appropriate;

29 (13) examine ways to enhance Illinois Homeland
30 Security through coordination of laboratory services with
31 the Illinois Terrorism Task Force;

32 (14) continue to ensure that analysts are provided all
33 necessary tools and information needed to draw all relevant
34 scientific conclusions, and consider methods to guarantee

1 that observations and conclusions are not inadvertently
2 influenced by extraneous information; and

3 (15) make annual recommendations in a report filed with
4 the Governor, General Assembly, and Illinois Supreme Court
5 to facilitate any of the responsibilities of the Committee.

6 Reports shall be furnished to all members of the Committee.

7 (Source: P.A. 93-784, eff. 1-1-05.)".