

HOUSE BILL 1207

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HB 1226/14 – HGO & JUD

5lr2891

By: **Delegates Anderson, Conaway, Oaks, and Vallario**
Introduced and read first time: February 26, 2015
Assigned to: Rules and Executive Nominations

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, for a certain
4 purpose, to require that certain forensic laboratories be accredited by a certain
5 accreditation body; specifying that certain required inspections be conducted for
6 certain forensic laboratories in the State; requiring a forensic laboratory to obtain
7 accreditation from a certain accreditation body before applying for a certain license;
8 defining a certain term; and generally relating to the regulation of forensic
9 laboratories in the State.

10 BY repealing and reenacting, with amendments,
11 Article – Health – General
12 Section 17–2A–01 and 17–2A–02
13 Annotated Code of Maryland
14 (2009 Replacement Volume and 2014 Supplement)

15 BY adding to
16 Article – Health – General
17 Section 17–2A–03.1
18 Annotated Code of Maryland
19 (2009 Replacement Volume and 2014 Supplement)

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

22 **Article – Health – General**

23 17–2A–01.

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.



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

4 (2) "Forensic analysis" includes an examination or test required by a law
5 enforcement agency, prosecutor, criminal suspect or defendant, or court.

6 (3) "Forensic analysis" does not include:

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

9 (ii) Forensic information technology;

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

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

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

19 (c) "Forensic information technology" means digital or electronic evidence that is
20 stored or transmitted electronically.

21 (d) (1) "Forensic laboratory" means a facility, entity, or site that offers or
22 performs forensic analysis.

23 (2) "Forensic laboratory" includes a laboratory owned or operated by the
24 State, a county or municipal corporation in the State, or another governmental entity.

25 (3) "Forensic laboratory" does not include:

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

27 (ii) A laboratory licensed or certified by the Department of
28 Agriculture.

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

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

3 (G) "NONPROFIT ACCREDITATION BODY" MEANS:

4 (1) AN ACCREDITATION BODY THAT:

5 (I) REQUIRES CONFORMANCE TO FORENSIC SPECIFIC
6 REQUIREMENTS; AND

7 (II) IS A SIGNATORY TO THE INTERNATIONAL LABORATORY
8 ACCREDITATION COOPERATION (ILAC) MUTUAL RECOGNITION ARRANGEMENT
9 FOR TESTING; OR

10 (2) A STATE-APPROVED ACCREDITATION BODY.

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

13 17-2A-02.

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

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

19 (3) The regulations shall:

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

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

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

26 (iv) Establish procedures for verifying the background and education
27 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 considers
2 necessary to assure that forensic laboratories provide accurate and reliable services.

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

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

8 (i) Define satisfactory proficiency testing performance; and

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

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

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

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

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

19 (3) REQUIRE THAT EACH FORENSIC LABORATORY FOR WHICH A
20 LICENSE IS SOUGHT IS ACCREDITED BY A NONPROFIT ACCREDITATION BODY.

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

23 (1) A complaint investigation; and

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

25 **17-2A-03.1.**

26 **BEFORE APPLYING FOR A LICENSE UNDER § 17-2A-04 OF THIS SUBTITLE, A**
27 **FORENSIC LABORATORY SHALL OBTAIN ACCREDITATION FROM A NONPROFIT**
28 **ACCREDITATION BODY.**

29 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
30 October 1, 2015.

