

SENATE BILL NO. 229

BY SENATOR MCMATH

1 AN ACT

2 To amend and reenact R.S. 15:500 through 502, relative to evidence from criminalistics
3 laboratories; to provide relative to information pertaining to certificates of analysis;
4 to provide with respect to admissibility as evidence; to provide with respect to notice
5 of opposing party and certification of subpoena request; to provide with respect to
6 time delays to provide notice; to provide relative to testimony by simultaneous
7 broadcast; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 15:500 through 502 are hereby amended and reenacted to read as
10 follows:

11 §500. Admissibility

12 In all criminal cases; and in all cases in juvenile court; or in all family courts
13 which are of a criminal nature, and in civil forfeiture proceedings arising from
14 criminal activity, the courts of this state shall receive as evidence any certificate
15 made in accordance with R.S. 15:499 subject to the conditions contained in this
16 Section and R.S. 15:501. The certificate shall be received in evidence as prima facie
17 proof of the facts shown thereon, and as prima facie proof of proper custody of the
18 physical evidence listed thereon from time of delivery of ~~said~~ the evidence to the
19 facility until its removal therefrom.

20 §501. Notice of opposing party and opportunity to cross-examine expert;
21 certification of subpoena request

22 A. Except as provided in Subsection F of this Section, the ~~The~~ party
23 seeking to introduce a certificate made in accordance with R.S. 15:499 shall, not less
24 than forty-five days prior to the commencement of the trial, give written notice of
25 intent to offer proof by certificate. Such notice shall include a copy of the certificate.

26 B. The attorney for the defendant, or the defendant acting in his own defense,

1 if not represented by counsel, may demand that the person making the examination
2 or analysis testify by filing a written demand and serving it upon the **department**
3 **attorney**, district attorney, or attorney general seeking to introduce the certificate.
4 If such a demand is made timely as set forth below, the certificate shall not constitute
5 prima facie proof of the facts thereon as set forth in R.S. 15:500.

6 C. Demand for the testimony of the person making the examination or
7 analysis shall be filed and served by counsel for the defendant, or by a defendant
8 acting as his own counsel, **except as provided in Subsection F of this Section,**
9 within thirty days of the receipt of the notice provided for in Subsection A of this
10 Section. The trial court may extend ~~this thirty-day~~ **the** period for good cause shown
11 if such request is made prior to the expiration of the ~~thirty days~~ **period.**

12 D. If no request for additional time is made prior to the expiration of the
13 ~~thirty-day~~ period, an extension of time in which to make such a demand may be
14 made only upon a showing of exceptional circumstances. Any allegation that such
15 circumstances exist shall constitute a preliminary plea on the defendant's behalf for
16 the purposes of Louisiana Code of Criminal Procedure Article 580. The demand
17 shall be made in writing and notice shall be served on the **department attorney,**
18 district attorney, or the attorney general prosecuting the matter. The court shall
19 conduct a contradictory hearing to determine if the extension is warranted.

20 E. The filing of a demand by the defendant does not prevent the admission
21 of the certificate or its contents in any other manner otherwise appropriate pursuant
22 to the Louisiana Code of Evidence or its ancillaries.

23 **F. A party in a case in juvenile court which is of a noncriminal nature**
24 **seeking to introduce a certificate made in accordance with R.S. 15:499 shall, not**
25 **less than five days prior to the commencement of the trial, give written notice**
26 **of intent to offer proof of certificate. Such notice shall include a copy of the**
27 **certificate. Demands for testimony made pursuant to Subsection B of this**
28 **Section shall be made within three days of receipt of the notice.**

29 §502. Testimony by simultaneous broadcast

30 A. The court may authorize the following persons to testify by simultaneous

1 transmission through audiovisual equipment, if such technology is available in the
2 courtroom, during any criminal proceeding; juvenile **court proceeding**; or **any**
3 family court proceeding which is of a criminal nature, and any civil forfeiture
4 proceeding arising from alleged criminal activity:

5 (1) Employees of criminalistics laboratories.

6 (2) Coroners.

7 (3) Forensic pathologists.

8 (4) Any other person practicing in the field of knowledge and expertise in the
9 gathering, examination, and analysis of evidence by scientific means.

10 B. The party seeking to offer testimony as provided in Subsection A of this
11 Section shall, **in all cases, except those in juvenile court which are of a**
12 **noncriminal nature**, provide written notice to opposing counsel not less than thirty
13 days prior to the commencement of the proceeding. **A party in a case in juvenile**
14 **court which is of a noncriminal nature seeking to offer testimony as provided**
15 **in Subsection A of this Section shall provide written notice to opposing counsel**
16 **not less than three days prior to the commencement of the proceeding.**

17 * * *

18 Section 2. This Act shall become effective upon signature by the governor or, if not
19 signed by the governor, upon expiration of the time for bills to become law without signature
20 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
21 vetoed by the governor and subsequently approved by the legislature, this Act shall become
22 effective on the day following such approval.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____