

## RÉSUMÉ DIGEST

ACT 39 (SB 229)

2020 Regular Session

McMath

Prior law provided that in all criminal cases and in all cases in juvenile or family courts which are of a criminal nature, and in civil forfeiture proceedings arising from criminal activity, the courts of this state shall receive as evidence any certificate made in accordance with prior law subject to the conditions contained in prior law. The certificate shall be received in evidence as prima facie proof of the facts shown thereon, and as prima facie proof of proper custody of the physical evidence listed thereon from time of delivery of said evidence to the facility until its removal therefrom.

New law retains prior law and clarifies that prior law applies to all cases in juvenile court or in all family courts.

Prior law provided that except as provided in new law, the party seeking to introduce a certificate made in accordance with prior law shall, not less than 45 days prior to the commencement of the trial, give written notice of intent to offer proof by certificate. Such notice shall include a copy of the certificate.

Prior law provided that the attorney for the defendant, or the defendant acting in his own defense, if not represented by counsel, may demand that the person making the examination or analysis testify by filing a written demand and serving it upon the district attorney or attorney general seeking to introduce the certificate. If such a demand is made timely as set forth below, the certificate shall not constitute prima facie proof of the facts thereon as set forth in prior law.

New law retains prior law and adds the department attorney to the persons upon which the defendant may demand that the person making the examination or analysis testify by filing a written demand and serving it upon, seeking to introduce the certificate.

Prior law provided that demand for the testimony of the person making the examination or analysis shall be filed and served by counsel for the defendant, or by a defendant acting as his own counsel, within 30 days of the receipt of the notice provided for in prior law. The trial court may extend this 30-day period for good cause shown if such request is made prior to the expiration of the 30 days.

New law provides that demand for the testimony of the person making the examination or analysis shall be filed and served by counsel for the defendant, or by a defendant acting as his own counsel, except as provided in new law, within 30 days of the receipt of the notice provided for in prior law. The trial court may extend the period for good cause shown if such request is made prior to the expiration of the period.

Prior law provided that if no request for additional time is made prior to the expiration of the 30-day period, an extension of time in which to make such a demand may be made only upon a showing of exceptional circumstances. Any allegation that such circumstances exist shall constitute a preliminary plea on the defendant's behalf for the purposes of prior law. Prior law further provides that the demand shall be made in writing and notice shall be served on the district attorney or the attorney general prosecuting the matter. The court shall conduct a contradictory hearing to determine if the extension is warranted.

New law retains prior law but removes the "30-day period" and adds the department attorney to the persons upon which the defendant may demand that the person making the examination or analysis testify by filing a written demand and serving it upon, seeking to introduce the certificate.

New law provides that a party in a case in juvenile court which is of a noncriminal nature seeking to introduce a certificate made in accordance with prior law shall, not less than five days prior to the commencement of the trial, give written notice of intent to offer proof of certificate. Such notice shall include a copy of the certificate. Demands for testimony made pursuant to prior law shall be made within three days of receipt of the notice.

Prior law provided that the court may authorize the following persons to testify by simultaneous transmission through audiovisual equipment, if such technology is available

in the courtroom, during any criminal proceeding, juvenile or family court proceeding which is of a criminal nature, and any civil forfeiture proceeding arising from alleged criminal activity:

- (1) Employees of criminalistics laboratories.
- (2) Coroners.
- (3) Forensic pathologists.
- (4) Any other person practicing in the field of knowledge and expertise in the gathering, examination, and analysis of evidence by scientific means.

New law retains prior law but clarifies that prior law applies to any juvenile court proceeding or any family court proceeding.

Prior law provided that the party seeking to offer testimony as provided in prior law shall provide written notice to opposing counsel not less than 30 days prior to the commencement of the proceeding.

New law provides that the party seeking to offer testimony as provided in prior law shall, in all cases, except those in juvenile court which are of a noncriminal nature, provide written notice to opposing counsel not less than 30 days prior to the commencement of the proceeding. New law further provides that a party in a case in juvenile court which is of a noncriminal nature seeking to offer testimony as provided in prior law shall provide written notice to opposing counsel not less than three days prior to the commencement of the proceeding.

Effective upon signature of the governor (June 4, 2020).

(Amends R.S. 15:500-502)