

# HOUSE BILL 1254

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CF SB 242

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By: **Delegates Costa, Afzali, Clagett, Cullison, Elliott, Frank, Hogan, Kipke, Krebs, Oaks, Pena–Melnyk, Ready, Reznik, Schulz, Tarrant, and V. Turner**

Introduced and read first time: February 8, 2013

Assigned to: Health and Government Operations and Judiciary

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## A BILL ENTITLED

1 AN ACT concerning

2 **Public Health – Forensic Laboratories – Regulation**

3 FOR the purpose of requiring that inspections of certain forensic laboratories be  
4 conducted with a certain frequency; requiring the Secretary of Health and  
5 Mental Hygiene to authorize a certain nonprofit accreditation body to inspect  
6 certain forensic laboratories in the State; requiring certain forensic laboratories  
7 to obtain accreditation from a certain nonprofit accreditation body before  
8 applying for a certain license; requiring the Secretary to approve a certain  
9 nonprofit accreditation body to accredit forensic laboratories in the State;  
10 requiring a licensee to submit evidence to the Secretary of current accreditation  
11 from a certain nonprofit accreditation body in order to renew its license;  
12 specifying certain matters relating to the implementation of certain provisions  
13 of this Act about which the Forensic Laboratory Advisory Committee must  
14 advise the Secretary; defining a certain term; and generally relating to the  
15 regulation of forensic laboratories in the State.

16 BY repealing and reenacting, with amendments,  
17 Article – Health – General  
18 Section 17–2A–01, 17–2A–02, 17–2A–08, and 17–2A–12(a)  
19 Annotated Code of Maryland  
20 (2009 Replacement Volume and 2012 Supplement)

21 BY adding to  
22 Article – Health – General  
23 Section 17–2A–03.1  
24 Annotated Code of Maryland  
25 (2009 Replacement Volume and 2012 Supplement)

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

3 **Article – Health – General**

4 17–2A–01.

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

6 (b) (1) “Forensic analysis” means a medical, chemical, toxicologic,  
7 firearms, or other expert examination or test performed on physical evidence,  
8 including DNA evidence, for the purpose of determining the connection of the evidence  
9 to a criminal act.

10 (2) “Forensic analysis” includes an examination or test required by a  
11 law enforcement agency, prosecutor, criminal suspect or defendant, or court.

12 (3) “Forensic analysis” does not include:

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

15 (ii) Forensic information technology;

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

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

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

25 (c) “Forensic information technology” means digital or electronic evidence  
26 that is stored or transmitted electronically.

27 (d) (1) “Forensic laboratory” means a facility, entity, or site that offers or  
28 performs forensic analysis.

29 (2) “Forensic laboratory” includes a laboratory owned or operated by  
30 the State, a county or municipal corporation in the State, or another governmental  
31 entity.

32 (3) “Forensic laboratory” does not include:

- 1 (i) A forensic laboratory operated by the federal government; or  
2 (ii) A laboratory licensed or certified by the Department of  
3 Agriculture.

4 (e) “License” means a permit, letter of exception, certificate, or other  
5 document issued by the Secretary granting approval or authority to offer or perform  
6 forensic laboratory tests, examinations, or analyses in the State.

7 (f) “Limited forensic analysis” means a forensic laboratory test or analysis  
8 defined in regulations adopted by the Secretary.

9 (G) **“NONPROFIT ACCREDITATION BODY” MEANS:**

10 (1) **AN ACCREDITATION BODY THAT:**

11 (I) **REQUIRES CONFORMANCE TO FORENSIC SPECIFIC**  
12 **REQUIREMENTS; AND**

13 (II) **IS A SIGNATORY TO THE INTERNATIONAL LABORATORY**  
14 **ACCREDITATION COOPERATION (ILAC) MUTUAL RECOGNITION**  
15 **ARRANGEMENT FOR TESTING; OR**

16 (2) **A STATE-APPROVED ACCREDITATION BODY.**

17 [(g)] (H) “Physical evidence” means any object, thing, or substance relating  
18 to a criminal act.

19 17-2A-02.

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

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

25 (3) The regulations shall:

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

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

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

3 (iv) Establish procedures for verifying the background and  
4 education of the personnel of forensic laboratories;

5 (v) Require the Secretary to charge fees that may not exceed the  
6 actual direct and indirect costs to the Department to carry out the provisions of this  
7 subtitle; and

8 (vi) Establish any additional standards that the Secretary  
9 considers necessary to assure that forensic laboratories provide accurate and reliable  
10 services.

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

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

16 (i) Define satisfactory proficiency testing performance; and

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

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

21 (c) To assure compliance with the standards and requirements under this  
22 subtitle, the Secretary shall **AUTHORIZE A NONPROFIT ACCREDITATION BODY TO**  
23 **conduct:**

24 (1) An inspection of each forensic laboratory for which a license to  
25 operate is sought; and

26 (2) An inspection of each forensic laboratory for which a license has  
27 been issued **AT LEAST EVERY 2 YEARS.**

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

30 (1) A complaint investigation; and

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

1 **17-2A-03.1.**

2 (A) BEFORE APPLYING FOR A LICENSE UNDER § 17-2A-04 OF THIS  
3 SUBTITLE, A FORENSIC LABORATORY SHALL OBTAIN ACCREDITATION FROM A  
4 NONPROFIT ACCREDITATION BODY.

5 (B) THE SECRETARY SHALL APPROVE A NONPROFIT ACCREDITATION  
6 BODY TO ACCREDIT FORENSIC LABORATORIES IN THE STATE AS REQUIRED  
7 UNDER SUBSECTION (A) OF THIS SECTION.

8 17-2A-08.

9 (a) A license expires on the date set by the Secretary unless the license is  
10 renewed as provided in this section.

11 (b) Before the license expires, the licensee may renew its license for an  
12 additional term, if the licensee:

13 (1) Pays to the Department the renewal fee set by the Secretary and  
14 any outstanding licensing or proficiency testing fees;

15 (2) Submits to the Secretary a renewal application on the form that  
16 the Secretary requires; [and]

17 (3) SUBMITS TO THE SECRETARY EVIDENCE OF CURRENT  
18 ACCREDITATION FROM A NONPROFIT ACCREDITATION BODY; AND

19 [(3)] (4) Is in compliance with all standards and requirements of this  
20 subtitle.

21 (c) The Secretary shall renew the license of each licensee that meets the  
22 requirements of this section.

23 17-2A-12.

24 (a) The Governor shall establish a Forensic Laboratory Advisory Committee  
25 to advise the Secretary on matters relating to the implementation of the provisions of  
26 this subtitle, INCLUDING:

27 (1) THE REVIEW AND APPROVAL OF:

28 (I) PROFICIENCY TESTING PROGRAM PROVIDERS; AND

29 (II) REQUESTS FOR A LETTER OF EXCEPTION AND A WAIVER  
30 FROM LICENSURE REQUIREMENTS;

- 1           **(2) THE REVIEW AND MONITORING OF:**
- 2                   **(I) PROFICIENCY TESTING PROGRAMS; AND**
- 3                   **(II) COMPLAINT INVESTIGATIONS;**
- 4           **(3) TECHNICAL REVIEW OF REVISIONS TO COMAR 10.51**  
5 **(FORENSIC LABORATORIES); AND**
- 6           **(4) THE PROVISION OF TECHNICAL ASSISTANCE REGARDING THE**  
7 **IMPLEMENTATION OF COMAR 10.51 (FORENSIC LABORATORIES).**

8           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
9           October 1, 2013.