



SENATE BILL 630: Evidence & DNA Expunction Laws.-AB

2013-2014 General Assembly

Committee: Senate Judiciary I
Introduced by: Sen. Newton
Analysis of: First Edition

Date: May 7, 2013
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SUMMARY: *This act provides for a retention period for chemical analyses for the presence of alcohol in bodily fluids; provides that laboratory reports and affidavits shall be admissible into evidence without the testimony of the laboratory technician unless specifically requested; and enlarges the period of time for the SBI to notify a person of the disposition of DNA results following a request for expunction.*

[As introduced, this bill was identical to H386, as introduced by Rep. Stevens, which is currently in Rules and Operations of the Senate.]

BACKGROUND and CURRENT LAW: In the Melendez-Diaz case, the United States Supreme Court, held, based upon the Sixth Amendment's confrontation clause, that if the State intended to submit the results of a laboratory test into evidence, then the laboratory analyst who performed the test was required to testify. However, the Court held that if the defendant failed to object after being provided notice of the State's intent, then the report was admissible without the analyst's testimony.

BILL ANALYSIS: This act:

- Provides that any blood or urine sample subject to chemical analysis for an impairing substance may be destroyed 12 months after the issuance date of the report of all examinations conducted. If a motion to preserve the evidence has been filed by either party, the evidence must remain in the custody of the analyzing agency or the agency that collected the sample until a court order disposing of the sample is issued.
- Absent an objection after notice by the State to the defendant that it intends to offer a laboratory report into evidence, current law allows a judge to enter a laboratory report into evidence without the testimony of the laboratory analyst. The act removes the court's discretion and provides that the evidence shall be admitted.
- Currently, following the receipt of a form from a defendant seeking the expunction of a DNA sample, the SBI has 30 days to notify the defendant that the DNA sample has been destroyed, or that the defendant is not eligible for an expunction. The act changes the response period from 30 days to 90 days.

EFFECTIVE DATE: The portions of the act that apply to destruction of samples and the response period for the SBI to notify a defendant of DNA expunction become effective December 1, 2013. The provisions relating to the requirement that laboratory reports be admitted if there is no objection raised by the defendant applies to proceedings that occur on or after December 1, 2013.

**Hal Pell, Staff Attorney, contributed substantially to this summary.*

