



February 24, 2012

**ENGROSSED
SENATE BILL No. 246**

DIGEST OF SB 246 (Updated February 22, 2012 4:33 pm - DI 69)

Citations Affected: IC 35-36.

Synopsis: Lab technician testimony in criminal cases. Requires a prosecuting attorney who intends to introduce a laboratory report into evidence to file a notice of intent at least 20 days before the trial, and requires a defendant who wishes to cross-examine the technician who prepared the laboratory report to file a pretrial demand for cross-examination not later than ten days after receiving the notice from the prosecutor. Prohibits a prosecuting attorney who fails to comply with the notice requirement from introducing a laboratory report into evidence without the testimony of the person who prepares the report, and provides that a defendant who does not comply with the demand requirement waives the right to confront and cross-examine the person who prepared the laboratory report.

Effective: July 1, 2012.

Bray, Zakas, Steele, Randolph

(HOUSE SPONSORS — FOLEY, KOCH)

January 4, 2012, read first time and referred to Committee on Judiciary.
January 26, 2012, amended, reported favorably — Do Pass.
January 30, 2012, read second time, ordered engrossed. Engrossed.
January 31, 2012, read third time, passed. Yeas 48, nays 0.

HOUSE ACTION

February 9, 2012, read first time and referred to Committee on Courts and Criminal Code.
February 23, 2012, reported — Do Pass.

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ES 246—LS 6720/DI 106+



February 24, 2012

Second Regular Session 117th General Assembly (2012)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2011 Regular Session of the General Assembly.

ENGROSSED SENATE BILL No. 246

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 35-36-11 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2012]:

4 **Chapter 11. Laboratory Reports**
5 **Sec. 1. As used in this chapter, "laboratory report" means a**
6 **written report or affidavit relating to the results of a scientific test**
7 **that is prepared for use at trial or to assist in a law enforcement**
8 **investigation.**

9 **Sec. 2. If the prosecuting attorney intends to introduce a**
10 **laboratory report as evidence in a criminal trial, the prosecuting**
11 **attorney must file a notice of intent to introduce the laboratory**
12 **report not later than twenty (20) days before the trial date, unless**
13 **the court establishes a different time.**

14 **Sec. 3. If the defendant wishes for the person who prepared the**
15 **laboratory report to be present at the trial for cross-examination,**
16 **the defendant must file a demand for cross-examination not later**
17 **than ten (10) days after the defendant receives the notice filed**

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1 under section 2 of this chapter, unless the court establishes a
2 different time.
3 **Sec. 4. If the prosecuting attorney does not comply with section**
4 **2 of this chapter, the prosecuting attorney may not introduce the**
5 **laboratory report into evidence without the testimony of the person**
6 **who conducted the test and prepared the laboratory report.**
7 **Sec. 5. If the prosecuting attorney complies with section 2 of this**
8 **chapter and the defendant does not comply with section 3 of this**
9 **chapter, the defendant waives the right to confront and**
10 **cross-examine the person who prepared the laboratory report.**

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COMMITTEE REPORT

Madam President: The Senate Committee on Judiciary, to which was referred Senate Bill No. 246, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, line 12, delete "omnibus" and insert "**trial**".

Page 2, delete lines 3 through 25, begin a new paragraph, and insert:

"Sec. 4. If the prosecuting attorney does not comply with section 2 of this chapter, the prosecuting attorney may not introduce the laboratory report into evidence without the testimony of the person who conducted the test and prepared the laboratory report.

Sec. 5. If the prosecuting attorney complies with section 2 of this chapter and the defendant does not comply with section 3 of this chapter, the defendant waives the right to confront and cross-examine the person who prepared the laboratory report."

and when so amended that said bill do pass.

(Reference is to SB 246 as introduced.)

BRAY, Chairperson

Committee Vote: Yeas 8, Nays 0.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred Senate Bill 246, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

STEUERWALD, Chair

Committee Vote: yeas 11, nays 0.

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