

(SENATE AUTHORS: NIENOW and Ortman)

DATE	D-PG	OFFICIAL STATUS
05/09/2011	1846	Introduction and first reading Referred to Judiciary and Public Safety

1.1A bill for an act

1.2relating to public safety; modifying certain provisions regarding the Forensic

1.3Laboratory Advisory Board; amending Minnesota Statutes 2010, section

1.4299C.156.

1.5BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6Section 1. Minnesota Statutes 2010, section 299C.156, is amended to read:

1.7**299C.156 FORENSIC LABORATORY ADVISORY BOARD.**

1.8Subdivision 1. **Membership.** (a) The Forensic Laboratory Advisory Board consists

1.9of the following:

1.10(1) the superintendent of the Bureau of Criminal Apprehension or the

1.11superintendent's designee;

1.12(2) the commissioner of public safety or the commissioner's designee;

1.13(3) the commissioner of corrections or the commissioner's designee;

1.14(4) an individual with expertise in the field of forensic science, selected by the

1.15governor;

1.16(5) an individual with expertise in the field of forensic science, selected by the

1.17attorney general;

1.18(6) a faculty member of the University of Minnesota, selected by the president of

1.19the university;

1.20(7) the state public defender or a designee;

1.21(8) a prosecutor, selected by the Minnesota County Attorneys Association;

1.22(9) a sheriff, selected by the Minnesota Sheriffs Association;

1.23(10) a police chief, selected by the Minnesota Chiefs of Police Association;

(11) a judge or court administrator, selected by the chief justice of the Supreme Court; and

(12) a criminal defense attorney, selected by the Minnesota State Bar Association.

(b) The board shall select a chair from among its members.

(c) Board members serve four-year terms and may be reappointed.

(d) The board may employ staff necessary to carry out its duties.

Subd. 2. **Duties.** The board ~~may~~ shall:

(1) develop and implement a reporting system through which laboratories, ~~facilities,~~
~~or entities~~ that conduct forensic analyses report professional negligence or misconduct that substantially affects the integrity of the forensic results committed by employees or contractors;

(2) ~~encourage~~ require all laboratories, ~~facilities,~~ ~~or entities~~ that conduct forensic analyses to report professional negligence or misconduct that substantially affects the integrity of the forensic results committed by employees or contractors to the board;

(3) to the extent funding is available, investigate, in a timely manner, any allegation of professional negligence or misconduct that would substantially affect the integrity of the results of a forensic analysis conducted by a laboratory, ~~facility,~~ ~~or entity~~; and

(4) ~~encourage~~ require all laboratories, ~~facilities,~~ ~~and entities~~ that conduct forensic analyses to become accredited by the American Society of Crime Laboratory Directors/Laboratory Accreditation Board (ASCLD/LAB) or other appropriate accrediting body and develop and implement a process for those entities to report their accreditation status to the board.

Subd. 3. **Investigations.** ~~(a)~~ An investigation under subdivision 2, clause (3):

(1) may include the preparation of a written report that identifies and describes the methods and procedures used to identify:

(i) the alleged negligence or misconduct;

(ii) whether negligence or misconduct occurred; and

(iii) any corrective action required of the laboratory, facility, or entity; and

(2) may include one or more:

(i) retrospective reexaminations of other forensic analyses conducted by the laboratory, facility, or entity that may involve the same kind of negligence or misconduct; and

(ii) follow-up evaluations of the laboratory, facility, or entity to review:

(A) the implementation of any corrective action required under clause (1)(iii); or

(B) the conclusion of any retrospective reexamination under clause (2)(i).

~~(b) The costs of an investigation under this section must be borne by the laboratory, facility, or entity being investigated.~~

Subd. 3a. **Immunity.** Board members, committees, subcommittees, task forces, delegates, and agents are immune from liability in any civil, administrative, or criminal action for any act, omission, transaction, or publication in the execution of, or relating to, their duties under this chapter.

Subd. 4. **Delegation of duties.** The board by contract may delegate the duties described in subdivision 2, clauses (1) and (3), to any person or entity that the board determines to be qualified to assume those duties.

Subd. 5. ~~Reviews and reports are public~~ **Data privacy practices.** The board shall make all investigation reports completed under subdivision 3, ~~paragraph (a),~~ clause (1), available to the public. A report completed under subdivision 3, ~~paragraph (a),~~ clause (1), in a subsequent civil or criminal proceeding is not prima facie evidence of the information or findings contained in the report.

Subd. 6. **Reports to legislature.** By January 15 of each year, the board shall submit any report prepared under subdivision 3, ~~paragraph (a),~~ clause (1), during the preceding calendar year to the governor and the legislature.

Subd. 7. ~~Forensic analysis processing time period guidelines science improvement report.~~ (a) By July 1, 2007, the board shall recommend forensic analysis processing time period guidelines applicable to the Bureau of Criminal Apprehension and other laboratories, facilities, and entities that conduct forensic analyses. When adopting and recommending these guidelines and when making other related decisions, the board shall consider the goals and priorities identified by the presidential DNA initiative. The board shall consider the feasibility of the Bureau of Criminal Apprehension completing the processing of forensic evidence submitted to it by sheriffs, chiefs of police, or state or local corrections authorities.

~~(b) The bureau shall provide information to the board in the time, form, and manner determined by the board and keep it informed of the most up-to-date data on the actual forensic analysis processing turnaround time periods.~~ By January 15 of each year, the board shall report to the legislature on these issues on the status of services provided by public forensic laboratories, including the recommendations made by the board to improve turnaround times.

~~Subd. 8. Forensic evidence processing deadline.~~ The board may recommend ~~reasonable standards and deadlines for the Bureau of Criminal Apprehension to test and catalog forensic evidence samples relating to alleged crimes committed, including DNA analysis, in their control and possession.~~

4.1 Subd. 9. **Office space.** The commissioner of public safety ~~may~~ shall provide
4.2 adequate office space and administrative services to the board.

4.3 Subd. 10. **Expenses.** Section 15.059 applies to the board.

4.4 Subd. 11. ~~**Definition**~~ **Definitions.** As used in this section:

4.5 (1) "forensic analysis" means a ~~medical, chemical, toxicologic, ballistic, scientific~~ or
4.6 other expert examination or test performed on physical evidence, ~~including DNA evidence,~~
4.7 for the purpose of determining the connection of the evidence to a criminal action; and

4.8 (2) "forensic laboratory" means a publicly or privately operated entity or facility
4.9 that scientifically examines physical evidence in order to inform any person's scientific
4.10 conclusion or opinion in a matter that is or that foreseeably may become the subject of
4.11 a criminal investigation by a Minnesota law enforcement agency or a criminal judicial
4.12 proceeding in a Minnesota court, whether or not the examiner will provide expert
4.13 testimony in court proceedings. A forensic laboratory does not include medical examiners.