

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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HOUSE PRINCIPAL CLERK

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HOUSE DRH30710-SAza-14 (03/31)

Short Title: Remote Testimony by Analysts. (Public)

Sponsors: Representatives Davis and Burr (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO AUTHORIZE REMOTE VIDEO TESTIMONY BY FORENSIC AND
3 CHEMICAL ANALYSTS, AS RECOMMENDED BY THE LEGISLATIVE RESEARCH
4 COMMISSION'S COMMITTEE ON JUDICIAL EFFICIENCY AND EFFECTIVE
5 ADMINISTRATION OF JUSTICE.

6 The General Assembly of North Carolina enacts:

7 **SECTION 1.** Article 73 of Chapter 15A of the General Statutes is amended by
8 adding a new section to read:

9 **§ 15A-1225.3. Forensic analyst remote testimony.**

10 (a) Definitions. – The following definitions apply to this section:

11 (1) Criminal proceeding. – Any hearing or trial in a prosecution of a person
12 charged with violating a criminal law of this State and any hearing or
13 proceeding conducted under Subchapter II of Chapter 7B of the General
14 Statutes where a juvenile is alleged to have committed an offense that would
15 be a criminal offense if committed by an adult.

16 (2) Remote testimony. – A method by which a forensic analyst testifies from a
17 location other than the location where the hearing or trial is being conducted
18 and outside the physical presence of a party or parties.

19 (b) Remote Testimony Authorized. – In any criminal proceeding, the testimony of an
20 analyst regarding the results of forensic testing admissible pursuant to G.S. 8-58.20, and
21 reported by that analyst, shall be permitted by remote testimony if all of the following occur:

22 (1) The State has provided a copy of the report to the attorney of record for the
23 defendant, or to the defendant if that person has no attorney, as required by
24 G.S. 8-58.20(d).

25 (2) The State notifies the attorney of record for the defendant, or the defendant if
26 that person has no attorney, at least 15 business days before the proceeding
27 at which the evidence would be used of its intention to introduce the
28 testimony regarding the results of forensic testing into evidence using remote
29 testimony.

30 (3) The defendant's attorney of record, or the defendant if that person has no
31 attorney, fails to file a written objection with the court, with a copy to the
32 State, at least five business days before the proceeding at which the
33 testimony will be presented that the defendant objects to the introduction of
34 the remote testimony.



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1 If the defendant's attorney of record, or the defendant if that person has no attorney, fails to
2 file a written objection as provided in this subsection, then the analyst shall be allowed to
3 testify by remote testimony.

4 (c) Testimony. – The method used for remote testimony authorized by this section shall
5 allow the trier of fact and all parties to observe the demeanor of the analyst as the analyst
6 testifies in a similar manner as if the analyst were testifying in the location where the hearing or
7 trial is being conducted. The court shall ensure that the defendant's attorney, or the defendant if
8 that person has no attorney, has a full and fair opportunity for examination and
9 cross-examination of the analyst.

10 (d) Nothing in this section shall preclude the right of any party to call any witness."

11 **SECTION 2.** G.S. 20-139.1 is amended by adding a new subsection to read:

12 "(c5) The testimony of an analyst regarding the results of a chemical analysis of blood or
13 urine admissible pursuant to subsection (c1) of this section, and reported by that analyst, shall
14 be permitted by remote testimony, as defined in G.S. 15A-1225.3, in all administrative
15 hearings, and in any court, if all of the following occur:

16 (1) The State has provided a copy of the report to the attorney of record for the
17 defendant, or to the defendant if that person has no attorney, as required by
18 subsections (c1) and (c3) of this section.

19 (2) The State notifies the attorney of record for the defendant, or the defendant if
20 that person has no attorney, at least 15 business days before the proceeding
21 at which the evidence would be used of its intention to introduce the
22 testimony regarding the chemical analysis into evidence using remote
23 testimony.

24 (3) The defendant's attorney of record, or the defendant if that person has no
25 attorney, fails to file a written objection with the court, with a copy to the
26 State, at least five business days before the proceeding at which the
27 testimony will be presented that the defendant objects to the introduction of
28 the remote testimony.

29 If the defendant's attorney of record, or the defendant if that person has no attorney, fails to
30 file a written objection as provided in this subsection, then the analyst shall be allowed to
31 testify by remote testimony.

32 The method used for remote testimony authorized by this subsection shall allow the trier of
33 fact and all parties to observe the demeanor of the analyst as the analyst testifies in a similar
34 manner as if the analyst were testifying in the location where the hearing or trial is being
35 conducted. The court shall ensure that the defendant's attorney, or the defendant if that person
36 has no attorney, has a full and fair opportunity for examination and cross-examination of the
37 analyst.

38 Nothing in this section shall preclude the right of any party to call any witness."

39 **SECTION 3.** There is appropriated from the General Fund to the Administrative
40 Office of the Courts the sum required to fund equipment needed for the use of remote
41 testimony in at least three prosecutorial districts, not to exceed the sum of five hundred
42 thousand dollars (\$500,000) for the 2014-2015 fiscal year.

43 **SECTION 4.** Section 3 of this act becomes effective July 1, 2014. The remainder
44 of this act becomes effective December 1, 2014, and applies to testimony admitted on or after
45 that date.