

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

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HOUSE BILL 357
PROPOSED COMMITTEE SUBSTITUTE H357-PCS20290-TV-6

Short Title: Toxicology Reports/District Court.

(Public)

Sponsors:

Referred to:

March 26, 2015

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT A WRITTEN TOXICOLOGY ANALYSIS MAY BE INTRODUCED AS EVIDENCE IN A DISTRICT COURT CRIMINAL PROSECUTION WITHOUT EXPERT TESTIMONY PROVIDED THERE IS A RIGHT TO TRIAL DE NOVO.

The General Assembly of North Carolina enacts:

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

"§ 8-58.21. Toxicology analysis admissible as evidence in criminal prosecution in district court.

(a) Notwithstanding G.S. 8-58.20 and G.S. 20-139.1, in any criminal prosecution in district court, a laboratory report of a written toxicology analysis that states the results of the analysis and that is signed and sworn to by the person performing the analysis may be admissible in evidence without the testimony of the analyst who prepared the report provided all of the following criteria are satisfied:

- (1) The analysis complies with the provisions of G.S. 8-58.20(b).
- (2) The analyst who conducts the toxicology analysis and signs the report complies with the provisions of G.S. 8-58.20(c).
- (3) The district attorney serves a copy of the laboratory report and affidavit and indicates whether the report and affidavit will be offered as evidence at any proceeding in district court against the defendant on the attorney of record for the defendant, or on the defendant if that person has no attorney, no later than 10 business days after receiving the report and affidavit and at least 10 business days before trial.
- (4) The defendant in the criminal prosecution has a right to appeal from the criminal prosecution for a trial de novo as provided in Article 90 of Chapter 15A of the General Statutes.

(b) A defendant who wants to contest the results of a toxicology analysis that may be admitted into evidence pursuant to subsection (a) of this section retains the right to subpoena the person performing the analysis to testify in the criminal prosecution in district court as provided by G.S. 8-59. If the analyst fails to comply with the subpoena, and the case is not continued for the analyst to do so, the results of the analysis are inadmissible at trial in the district court.

(b1) If a defendant wants the analyst present and the analyst is employed out of state, the defendant must notify the State in writing within five days of receiving the notice and report from the District Attorney. The State must then produce the analyst witness.



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1 (b2) Under this section the State retains the burden of proof beyond a reasonable doubt.
2 If an analyst testifies pursuant to a subpoena issued by the defendant, the analyst may be
3 declared a hostile witness for direct examination purposes under the North Carolina Rules of
4 Evidence.

5 (c) Nothing in this section shall be construed as an abrogation of any State or federal
6 constitutional or statutory right otherwise applicable in criminal cases with the exception of the
7 right to a jury trial in district court."

8 **SECTION 2.** This act becomes effective October 1, 2015, and applies to trials
9 commencing on or after that date.