Article 7C.

Admissibility of Forensic Evidence.

§ 8-58.20. Forensic analysis admissible as evidence.

(a) In any criminal prosecution, a laboratory report of a written forensic analysis, including an analysis of the defendant's DNA, or a forensic sample alleged to be the defendant's DNA, as that term is defined in G.S. 15A-266.2(2), that states the results of the analysis and that is signed and sworn to by the person performing the analysis shall be admissible in evidence without the testimony of the analyst who prepared the report in accordance with the requirements of this section.

(b) A forensic analysis, to be admissible under this section, shall be performed by a laboratory that is accredited by an accrediting body that requires conformance to forensic specific requirements and which is a signatory to the International Laboratory Accreditation Cooperation (ILAC) Mutual Recognition Arrangement For Testing for the submission, identification, analysis, and storage of forensic analyses. The analyses of DNA samples and typing results of DNA samples shall be performed by a laboratory that is accredited by an accrediting body that requires conformance to forensic specific requirements and which is a signatory to the ILAC Mutual Recognition Arrangement For Testing.

(c) The analyst who analyzes the forensic sample and signs the report shall complete an affidavit on a form developed by the State Crime Laboratory. In the affidavit, the analyst shall state (i) that the person is qualified by education, training, and experience to perform the analysis, (ii) the name and location of the laboratory where the analysis was performed, and (iii) that performing the analysis is part of that person's regular duties. The analyst shall also aver in the affidavit that the tests were performed pursuant to the accrediting body's standards for that discipline and that the evidence was handled in accordance with established and accepted procedures while in the custody of the laboratory. The affidavit shall be sufficient to constitute prima facie evidence regarding the person's qualifications. The analyst shall attach the affidavit to the laboratory report and shall provide the affidavit to the investigating officer and the district attorney in the prosecutorial district in which the criminal charges are pending. An affidavit by a forensic analyst sworn to and properly executed before an official authorized to administer oaths is admissible in evidence without further authentication in any criminal proceeding with respect to the forensic analysis administered and the procedures followed.

(d) The district attorney shall serve a copy of the laboratory report and affidavit and indicate whether the report and affidavit will be offered as evidence at any proceeding against the defendant on the attorney of record for the defendant, or on the defendant if that person has no attorney, no later than five business days after receiving the report and affidavit, or 30 business days before any proceeding in which the report may be used against the defendant, whichever occurs first.

(e) Upon receipt of a copy of the laboratory report and affidavit, the attorney of record for the defendant or the defendant if that person has no attorney, shall have 15 business days to file a written objection to the use of the laboratory report and affidavit at any proceeding against the defendant. The written objection shall be filed with the court in which the matter is pending with a copy provided to the district attorney.

(f) If the defendant's attorney of record, or the defendant if that person has no attorney, fails to file a written objection with the court to the use of the laboratory report and affidavit within the time allowed by this section, then the objection shall be deemed waived and the laboratory report and affidavit shall be admitted in evidence in any proceeding without the testimony of the analyst

subject to the presiding judge ruling otherwise at the proceeding when offered. If, however, a written objection is filed, this section does not apply and the admissibility of the evidence shall be determined and governed by the appropriate rules of evidence.

(g) Procedure for Establishing Chain of Custody of Evidence Subject to Forensic Analysis Without Calling Unnecessary Witnesses. –

(1) For the purpose of establishing the chain of physical custody or control of evidence that has been subjected to forensic analysis performed as provided in subsection (b) of this section, a statement signed by each successive person in the chain of custody that the person delivered it to the other person indicated on or about the date stated is prima facie evidence that the person had custody and made the delivery as stated, without the necessity of a personal appearance in court by the person signing the statement.

(2) The statement shall contain a sufficient description of the material or its container so as to distinguish it as the particular item in question and shall state that the material was delivered in essentially the same condition as received. The statement may be placed on the same document as the report provided for in subsection (a) of this section.

(3) The provisions of this subsection may be utilized by the State only if (i) the State notifies the defendant at least 15 business days before any proceeding at which the statement would be used of its intention to introduce the statement into evidence under this subsection and provides the defendant with a copy of the statement and (ii) the defendant fails to file a written notification with the court, with a copy to the State, at least five business days before the proceeding that the defendant objects to the introduction of the statement into evidence.

(4) In lieu of the notice required in subdivision (3) of this subsection, the State may include the statement with the laboratory report and affidavit, as provided in subsection (d) of this section.

(5) If the defendant's attorney of record, or the defendant if that person has no attorney, fails to file the written objection as provided in this subsection, then the objection shall be deemed waived and the statement shall be admitted into evidence without the necessity of a personal appearance by the person signing the statement.

(6) Upon filing a timely objection, the admissibility of the statement shall be determined and governed by the appropriate rules of evidence.

Nothing in this subsection precludes the right of any party to call any witness, except an analyst regarding the results of forensic testing and the testimony of each person in the associated chain of custody made available via remote testimony in real time in district court pursuant to G.S. 15A-1225.3. Nothing in this subsection precludes the right of any party to introduce any evidence supporting or contradicting the evidence contained in the statement.

(h) This section does not apply to chemical analyses under G.S. 20-139.1. (2004-124, s. 15.2(c); 2007-484, s. 1; 2009-473, s. 7; 2011-19, s. 7; 2011-307, s. 9; 2012-168, s. 6; 2013-171, ss. 2, 3; 2013-194, s. 2; 2013-338, s. 1; 2014-100, s. 17.1(u); 2015-173, s. 1; 2021-180, s. 16.17(b).)

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