

House Bill 238

By: Representatives Willard of the 40<sup>th</sup>, Walker of the 115<sup>th</sup> and Campbell of the 39<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 1 of Title 24 of the Official Code of Georgia Annotated, relating to  
2 general provisions relative to evidence, so as to provide for certificates related to the testing  
3 of certain substances; to provide for the admission of such certificates as evidence; to provide  
4 for a pretrial hearing upon motions related to the admission of such certificates; to provide  
5 for definitions; for provide for related matters; to provide an effective date; to repeal  
6 conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Chapter 1 of Title 24 of the Official Code of Georgia Annotated, relating to general  
10 provisions relative to evidence, is amended by adding after Code Section 24-1-5 a new Code  
11 section to read as follows:

12 "24-1-6.

13 (a) As used in this Code section, the term:

14 (1) 'Laboratory employee' means an employee of one of the laboratories operated by the  
15 Division of Forensic Sciences of the Georgia Bureau of Investigation.

16 (2) 'Substance' means marijuana, a controlled substance, dangerous drug, counterfeit  
17 substance, poison, or drug, as defined in Chapter 13 of Title 16 or a blood or urine sample  
18 obtained from a person pursuant to a violation of Code Section 40-6-391.

19 (b) Whenever a party intends to tender in a criminal or civil proceeding results of an  
20 analysis performed on a substance submitted by a law enforcement agency related to a  
21 violation of the provisions of Article 2 of Chapter 13 of Title 16, the 'Georgia Controlled  
22 Substances Act,' or Article 3 of Chapter 13 of Title 16, the 'Dangerous Drug Act,' or of  
23 Article 15 of Chapter 6 of Title 40, relating to serious traffic offenses, the results of such  
24 analysis shall be admissible and received in evidence insofar as such evidence is attested  
25 by a certificate signed by the laboratory employee conducting such analysis the same as if  
26 that person were present at trial and testifying as a witness; provided, however, that such

1 certificate and notice of intention to introduce such certificate must first be provided to the  
2 adverse party and to the clerk of the court at least 15 days prior to trial. The certificate  
3 must be signed by the laboratory employee under oath and shall include an attestation as  
4 to the result of the analysis. The presentation of this certificate to a court by any party to  
5 a proceeding shall be evidence of compliance with all the requirements and provisions of  
6 this Code section. This certificate shall be sworn to before a notary public or other person  
7 empowered by law to take oaths and shall contain a statement establishing the following:  
8 the type of analysis performed; the result achieved; any conclusions reached based upon  
9 that result; that the subscriber is the laboratory employee who performed the analysis and  
10 made the conclusions; the laboratory employee's training or experience to perform the  
11 analysis; and the nature and condition of the equipment used. When properly executed, the  
12 certificate shall, subject to subsection (c) of this Code section and notwithstanding any  
13 other provision of law, be admissible evidence of the composition, quality, and quantity of  
14 the substance submitted to the laboratory for analysis, and the court shall take judicial  
15 notice of the signature of the laboratory employee performing the analysis and of the fact  
16 that he or she is that person.

17 (c) Any adverse party may object to the admissibility of any portion of the certificate,  
18 other than on the ground that it is hearsay, within ten days of being provided with the  
19 certificate by notice to the tendering party and to the clerk of the court. Whenever a notice  
20 of objection is filed, admissibility of the certificate shall be determined at a pretrial hearing  
21 prior to the beginning of the trial. Further, any adverse party shall have the right to  
22 cross-examine the laboratory employee signing the certificate and provide rebuttal  
23 testimony at such pretrial hearing. The party tendering the certificate may also introduce  
24 testimony at such pretrial hearing of the laboratory employee signing the certificate for the  
25 purpose of supplementing the certificate or otherwise. Either party shall have the right to  
26 require the laboratory employee to testify at the trial."

## 27 **SECTION 2.**

28 This Act shall become effective upon its approval by the Governor or upon its becoming law  
29 without such approval.

## 30 **SECTION 3.**

31 All laws and parts of laws in conflict with this Act are repealed.