

WITHDRAWN

1 Senators Hamrick of the 30th and Balfour of the 9th offered the following amendment:

2 Amend HB 1192 by inserting following "nomenclature;" on line 4 of page 1 the following:

3 "to amend Article 6 of Chapter 3 of Title 35 of the Official Code of Georgia Annotated,
4 relating to the Division of Forensic Sciences within the Georgia Bureau of Investigation,
5 so as to designate drug analysis reports issued by the state crime laboratory as prima-facie
6 evidence of the facts contained in such report; to deem such reports admissible in court
7 without the testimony of the employee who performed the tests and created the report; to
8 allow the defendant to demand that the employee who performed the tests testify; to
9 provide for applicability;".

10 By redesignating Section 3 as Section 5.

11 By adding after line 24 of page 2 the following:

12 **"SECTION 3.**

13 Article 6 of Chapter 3 of Title 35 of the Official Code of Georgia Annotated, relating to the
14 Division of Forensic Sciences within the Georgia Bureau of Investigation, is amended by
15 inserting immediately following Code Section 35-3-154 a new Code section to read as
16 follows:

17 '35-3-154.1.

18 (a) A copy of a report of the methods and findings of any examination or analysis of drugs
19 or drug related materials conducted by an employee of the state crime laboratory,
20 authenticated under oath by the employee, is prima-facie evidence in all grand jury and
21 court proceedings in the State of Georgia of the facts contained in such report reciting the
22 methods and findings. The signature of the employee can be written or in electronic format.

23 (b) The report has the same force and effect as if the person who performed the analysis
24 or examination had testified in person. The report shall be accompanied by an affidavit of
25 the employee who performed the test or tests and created the report stating:

26 (1) That he or she is certified as qualified to perform the requisite analysis or
27 examination;

28 (2) His or her training and experience as a chemist or analyst, including the number of
29 times he or she has been qualified as an expert witness and testified in court; and

1 (3) That he or she conducted the test or tests shown on the report using procedures
2 approved by the Georgia Bureau of Investigation and that the report accurately reflects
3 his or her opinion regarding the results of those tests.

4 (c) The prosecuting attorney shall serve a copy of the report on the attorney of record for
5 the defendant, or on the defendant if the defendant has no attorney, prior to the first judicial
6 proceeding in which the report is to be used against the defendant.

7 (d) Any report issued for use under this Code section shall contain notice of the right of
8 the defendant to demand the testimony of the person signing the report.

9 (e) The defendant or opposing party may object in writing any time after service of the
10 report upon him or her, but not later than ten days prior to trial of the case, to the
11 introduction of the report from the state crime laboratory. If such objection is made, the
12 trial judge shall require the state crime laboratory employee to be present for the purpose
13 of personally testifying. The state shall diligently investigate the availability of the crime
14 laboratory witness and report back to the court. If the witness is not available on a timely
15 basis, the court shall grant a continuance until the next available trial or hearing date when
16 the witness will be available.

17 (f) Nothing in this Code section precludes the right of any party to call any witness or to
18 introduce any evidence supporting or contradicting the evidence contained in the report.'

19 **SECTION 4.**

20 The provisions of Section 3 of this Act shall not apply to any proceedings instituted before
21 the effective date of this Act. Any such proceedings shall be governed by the statutes in
22 effect at the time the proceedings were instituted."