GENERAL ASSEMBLY OF NORTH CAROLINA
1997 SESSION

S.L. 1997-304
HOUSE BILL 1122

AN ACT TO FACILITATE THE TRIAL OF DRUG OFFENSES BY AUTHORIZING THE USE OF LABORATORY REPORTS IN SUPERIOR COURT AND JUVENILE COURT PROCEEDINGS AND BY ELIMINATING THE NEED FOR UNNECESSARY WITNESSES IN ESTABLISHING A CHAIN OF CUSTODY WHEN THE DEFENDANT DOES NOT TIMELY OBJECT TO THE ADMISSION OF A LABORATORY REPORT OR THE CHAIN OF CUSTODY, TO AMEND THE EVIDENCE LAWS DEALING WITH THE OPTOMETRIST/PATIENT PRIVILEGE, AND TO AUTHORIZE SUPERIOR COURT SESSIONS IN THOMASVILLE AND MOORESVILLE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 90-95(g) reads as rewritten:

"(g) Whenever matter is submitted to the North Carolina State Bureau of Investigation Laboratory, the Charlotte, North Carolina, Police Department Laboratory or to the Toxicology Laboratory, Reynolds Health Center, Winston-Salem for chemical analysis to determine if the matter is or contains a controlled substance, the report of that analysis certified to upon a form approved by the Attorney General by the person performing the analysis shall be admissible without further authentication in all proceedings in the district court ~~division~~ and superior court divisions of the General Court of Justice as evidence of the identity, nature, and quantity of the matter analyzed. Provided, however, that a report is admissible in a criminal proceeding in the superior court division or in an adjudicatory hearing in juvenile court in the district court division only if:

(1) The State notifies the defendant at least 15 days before trial of its intention to introduce the report into evidence under this subsection and provides a copy of the report to the defendant, and

(2) The defendant fails to notify the State at least five days before trial that the defendant objects to the introduction of the report into evidence.

Nothing in this subsection precludes the right of any party to call any witness or to introduce any evidence supporting or contradicting the evidence contained in the report."

Section 2. G.S. 90-95 is amended by adding a new subsection to read:

"(g1) Procedure for establishing chain of custody without calling unnecessary witnesses. –

(1) For the purpose of establishing the chain of physical custody or control of evidence consisting of or containing a substance tested or analyzed to determine whether it is a controlled substance, 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 (g) of this section.

(3) The provisions of this subsection may be utilized by the State only if:

a. The State notifies the defendant at least 15 days before trial of its intention to introduce the statement into evidence under this subsection and provides the defendant with a copy of the statement, and

b. The defendant fails to notify the State at least five days before trial that the defendant objects to the introduction of the statement into evidence.

(4) Nothing in this subsection precludes the right of any party to call any witness or to introduce any evidence supporting or contradicting the evidence contained in the statement."

Section 3. G.S. 8-53.9, as enacted in Section 4 of S.L. 1997-75, reads as rewritten:

"**§ 8-53.9. Optometrist/patient privilege.**

No person licensed pursuant to Article 6 of Chapter 90 of the General Statutes shall be required to disclose any information that may have been acquired in rendering professional optometric ~~services,~~ services and which information was necessary to enable that person to render professional optometric services, except that the presiding judge of a superior or district court may compel this disclosure, if, in the court's opinion, disclosure is necessary to a proper administration of justice and disclosure is not prohibited by other statute or rule."

Section 4. G.S. 7A-42 is amended by adding a new subsection to read:

"(a1) In addition to the sessions of superior court authorized by subsection (a) of this section, sessions of superior court in the following counties may be held in the additional seats of court listed by order of the Senior Resident Superior Court Judge after consultation with the Chief District Court Judge:

County	Additional Seats of Court
Davidson	Thomasville

The courtrooms and related judicial facilities for these sessions of superior court may be provided by the municipality, and in such cases the facilities fee collected for the State by the clerk of superior court shall be remitted to the municipality to assist in meeting the expense of providing those facilities."

Section 5. Sections 1 and 2 of this act become effective December 1, 1997, and apply to criminal offenses committed on or after that date. Section 3 of this act is effective when this act becomes law and applies to information acquired on or after that date. The remainder of this act becomes effective July 7, 1997.

In the General Assembly read three times and ratified this the 14th day of July, 1997.

s/ Dennis A. Wicker
President of the Senate

s/ Harold J. Brubaker
Speaker of the House of Representatives

s/ James B. Hunt, Jr.
Governor

Approved 10:50 a.m. this 16th day of July, 1997