

Serial 141
Evidence Amendment Bill 2003
Dr Toyne

**A BILL
for
AN ACT**

to amend the *Evidence Act*

NORTHERN TERRITORY OF AUSTRALIA

EVIDENCE AMENDMENT ACT 2003

No. of 2003

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NORTHERN TERRITORY OF AUSTRALIA

No. of 2003

AN ACT

to amend the *Evidence Act*

[Assented to 2003]
[Second reading 2003]

The Legislative Assembly of the Northern Territory enacts as follows:

1. Short title

This Act may be cited as the *Evidence Amendment Act 2003*.

2. Commencement

This Act comes into operation on the date fixed by the Administrator by notice in the Gazette.

3. Principal Act

The *Evidence Act* is in this Act referred to as the Principal Act.

4. New section

The Principal Act is amended by inserting after section 23 the following:

"24. Evidentiary certificate by reporting scientist

"(1) This section applies to a criminal proceeding.

"(2) A certificate purporting to be signed by a reporting scientist and stating any of the following matters is evidence of the matter:

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- (a) that a stated thing was received at a stated laboratory on a stated day;
- (b) that the thing was tested at the laboratory on a stated day or between stated days;
- (c) that a stated DNA profile has been obtained from the thing;
- (d) that the reporting scientist –
 - (i) examined the laboratory's records relating to the receipt, storage and testing of the thing, including any test process that was done by someone other than the reporting scientist; and
 - (ii) confirms the records indicate all quality assurance procedures for the receipt, storage and testing of the thing that were in place in the laboratory at the time of the test were complied with.

"(3) If a party intends to rely on the certificate, the party must, at least 10 business days before producing the certificate in evidence at the hearing of the proceeding, give a copy of the certificate to each other party.

"(4) If the Commissioner of Police receives a written request from a party for a copy of the laboratory's records relating to the receipt, storage and testing of the thing, the Commissioner must give the party a copy of the records within 7 business days after receiving the request.

"(5) If a party intends to challenge a matter stated in the certificate, the party must, at least 3 business days before challenging the matter at the hearing of the proceeding, give the Commissioner of Police and each other party written notice of the matter to be challenged.

"(6) If a party gives a notice under subsection (5), the party relying on the certificate must call the reporting scientist to give evidence at the hearing.

"(7) A party challenging a matter stated in the certificate may, with the leave of the Court, require the party relying on the certificate to call any person involved in the receipt, storage or testing of the thing to give evidence at the hearing.

"(8) The Court may give leave only if satisfied –

- (a) an irregularity may exist in relation to the receipt, storage or testing of the thing about which the person to be called is able to give evidence; and



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- (b) it is in the interests of justice that the person be called to give evidence.

"(9) Any equipment used in testing the thing at the laboratory is to be taken to have given accurate results in the absence of evidence to the contrary.

"(10) A document required to be given under this section may be given personally or by post, facsimile or another form of electronic communication.

"(11) On application made to it, the Court may, before or after a time fixed under this section expires, extend or abridge the time by an order fixing, extending or abridging the time, whether or not the application is made before the time expires.

"(12) In this section –

'business day' means a day that is not –

- (a) a Saturday or Sunday; or
- (b) a day that is declared to be a public holiday under the *Public Holidays Act*;

'criminal proceeding' includes a committal hearing and summary proceeding;

'DNA profile' means the result from a DNA analysis;

'laboratory' means a forensic science laboratory of the Commonwealth or a State or Territory;

'records', of a laboratory, means records in the possession of the Commissioner of Police or to which the Commissioner has access;

'reporting scientist' means a person who holds a prescribed qualification."

5. Application of section 24 of Principal Act

To remove doubt, section 24 of the Principal Act as amended by this Act applies to a certificate for a test carried out before the commencement of this Act.

