

No. 354, S.]

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CHAPTER 696.

AN ACT to amend 165.01 (3) (b), 165.04 (1) and to create 165.01 (3) (e), (f), 165.04 (3) and 165.06 of the statutes, relating to the state crime laboratory.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 165.01 (3) (b) of the statutes is amended to read:

165.01 (3) (b) The superintendent and employes of the laboratory are not peace officers and shall have no power of arrest or to serve or execute criminal process, nor shall they be appointed as deputy sheriffs nor in any manner clothed with police powers by appointment or election to any office. They shall not undertake investigation of criminal conduct except upon the request of a sheriff, coroner, chief of police, village marshal, district attorney, *warden or superintendent of any state prison*, attorney-general or governor. The head of any state department may request investigations but in such cases the services shall be limited to the field of health, welfare and law enforcement responsibility which has by statute been vested in the particular state department.

SECTION 2. 165.01 (3) (e) and (f) of the statutes are created to read:

165.01 (3) (e) The superintendent in his discretion may decline to provide laboratory service in any case not involving a potential charge of felony.

(f) The services of the laboratory may be provided in civil cases in which the state or any department, bureau, agency or officer of the state is a party in an official capacity, when requested by the attorney-general.

SECTION 3. 165.04 (1) of the statutes is amended to read:

165.04 (1) Evidence, information, and analyses of evidence obtained *from law enforcement officers* by the superintendent or employes of the laboratory shall be privileged and not available to persons other than law enforcement officers * * * *nor shall the defendant be entitled to an inspection of information and evidence submitted to the laboratory by the state or of the laboratory's findings thereon, or to examine laboratory personnel as witnesses concerning the same, prior to trial, except to the extent that the same is used by the state at a preliminary hearing.* Upon request of a defendant in a * * * felony action, approved by the presiding judge, the laboratory shall conduct analyses of evidence upon behalf of such defendant; *in such event no prosecuting officer shall be entitled to an inspection of information and evidence submitted to the laboratory by the defendant, or of the laboratory's findings thereon, or to examine laboratory personnel as witnesses concerning the same, prior to trial, except to the extent that the same is used by the accused at a preliminary hearing.* Employes of the laboratory who made examinations or analyses of evidence shall attend the criminal trial as witnesses, without subpoena, upon reasonable written notice from either party requesting such attendance.

SECTION 4. 165.04 (3) of the statutes is created to read:

165.04 (3) At any preliminary examination a report of the laboratory's findings with reference to all or any part of the evidence submitted to it, certified as correct by the superintendent, shall, when offered by the state or the accused, be received as evidence of the facts and findings therein stated, if relevant and otherwise admissible in evidence. The expert who made the findings need not be called as a witness unless his appearance is demanded by the opposing party, in which case the magistrate shall so order and adjourn the hearing to a time when the expert is available to testify.

SECTION 5. 165.06 of the statutes is created to read:

165.06 DISPOSAL OF EVIDENCE. Whenever the superintendent is informed by the submitting officer or agency that physical evidence in the possession of the laboratory is no longer needed the superintendent may, unless otherwise provided by law, either destroy the same, retain it in the laboratory or turn it over to the university of Wisconsin upon the request of the head of any department thereof. Whenever the superintendent

receives information from which it appears probable that such evidence is no longer needed, he may give written notice to the submitting agency and the appropriate district attorney, by registered mail, of his intention to dispose of the evidence and if no objection is received within 20 days after such notice was mailed he may dispose of such evidence as herein provided.

Approved July 19, 1951.
