

# SENATE BILL REPORT

## SB 5710

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As of January 21, 2022

**Title:** An act relating to reducing contamination in the state toxicology laboratory.

**Brief Description:** Reducing contamination in the state toxicology laboratory.

**Sponsors:** Senators Padden and Wilson, L..

**Brief History:**

**Committee Activity:** Law & Justice: 1/24/22.

**Brief Summary of Bill**

- Requires the Bureau of Forensic Laboratory Services to adopt rules for the state toxicology laboratory regarding sampling and testing for contamination in its laboratories and other work areas.
- Requires the State Forensic Investigations Council to study and adopt recommendations for reducing contamination and implementing required legal disclosures.

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### SENATE COMMITTEE ON LAW & JUSTICE

**Staff:** Joe McKittrick (786-7287)

**Background:** Washington State Patrol Toxicology Laboratory. The Washington State Toxicology Laboratory was established in 1963 and performs drug and alcohol testing for coroners, medical examiners, law enforcement agencies, prosecuting attorneys, and the State Liquor and Cannabis Board, in all 39 Washington counties.

The laboratory receives approximately 16,000 cases per year of which approximately 65 percent are law enforcement driving under the influence cases and 35 percent are coroner or medical examiner cases. Forensic scientists perform analysis of samples submitted to the

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laboratory and provide court testimony as experts on alcohol and drugs, and their effects.

Washington State Patrol Crime Laboratory Division. The Crime Laboratory Division (CLD) operates five multi-service crime laboratories in Seattle, Tacoma, Marysville, Spokane, Vancouver, and limited-service crime laboratories including the Kennewick and Tumwater Laboratories, and the combined DNA index system laboratory in Seattle. The laboratories provide forensic services for criminal justice agencies within the state of Washington. At the Seattle location, CLD scientists previously synthesized controlled substances, including methamphetamine, to better understand how individuals make those substances on the streets.

Toxicology Lab Contamination. Between October 2018 and June 2019, in three separate cases where evidence was processed by the Washington State Toxicology Laboratory, confirmation results for methamphetamine were not comparable to the initial positive screening results. A second round of confirmation testing verified the negative methamphetamine results in those three cases.

In June 2019, while procuring services to test the facility for environmental methamphetamine contamination, five additional cases were identified as having the same discrepancy. Further investigation determined that in all eight cases, the sample preparation for one or more of the analyses was performed by a scientist occupying lab and office areas at the Seattle laboratory location previously used for chemical and materials analysis work by CLD. These annex lab and office areas had been acquired for use by the Toxicology Laboratory Division (TLD) in 2018. TLD has disclosed that multiple cases where testing was conducted in the main Seattle laboratory, across the hall from the annex lab and office areas, have also produced false positives for methamphetamine.

**Summary of Bill:** The bill as referred to committee not considered.

**Summary of Bill (Proposed Substitute):** By April 1, 2023, the Bureau of Forensic Laboratory Services, in consultation with the Washington State Forensic Investigations Council, must adopt rules for the state toxicology laboratory requiring the laboratory to conduct sampling and testing for contamination in laboratories and other work areas at least quarterly per fiscal year, and coordinate a periodic environmental sampling to be conducted by a qualified and accredited private third party which must include a corrective action report for noted deficiencies.

The Bureau of Forensic Laboratory Services must complete an annual report of the environmental sampling findings and provide this report to the Washington State Forensic Investigations Council to be shared with the Senate Law and Justice Committee and the House Public Safety Committee.

**Appropriation:** None.

**Fiscal Note:** Requested on January 17, 2022.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.