

VETOES

TOXICOLOGIST--UNDER--THE--POSTMORTEM--EXAMINERS--COMMISSION--IN--A
LABORATORY--APPROVED--BY--THE--TOXICOLOGIST--

(e)-(1)--For the purpose of establishing that the {test} TESTS--OF--BREATH,--BLOOD,--URINE,--OR--OTHER--BODY--FLUIDS--(was)--WERE administered with equipment approved by the toxicologist--under the--Postmortem--Examiners--Commission, a statement signed by the toxicologist certifying that the equipment used in the {test has} TESTS--HAVE--been approved by him shall be prima facie evidence--of the approval, and the statement is admissible in evidence without the necessity of the toxicologist personally appearing in court.

(2)-(1)--IF--A--DEFENDANT--DESIRES--THE--TOXICOLOGIST--TO--BE PRESENT--AND--TESTIFY--AT--TRIAL--AS--A--DEFENSE--WITNESS,--THE--DEFENDANT SHALL--FILE--A--SUBPOENA--FOR--THE--TOXICOLOGIST--AT--LEAST--30--DAYS BEFORE--THE--TRIAL--IN--THE--APPROPRIATE--COURT--

(II)--IF--THE--CASE--IS--TRANSFERRED--TO--THE--CIRCUIT COURT--FROM--DISTRICT--COURT,--ANOTHER--SUBPOENA--MUST--BE--FILED--AT LEAST--30--DAYS--BEFORE--THE--TRIAL--IN--THE--CIRCUIT--COURT--

(III)--IF--A--TRIAL--DATE--IS--POSTPONED--FOR--ANY REASON,--THE--DEFENDANT--MUST--FILE--A--NEW--SUBPOENA--FOR--THE TOXICOLOGIST--

(IV)--IN--ADDITION--TO--THE--REQUIREMENTS--OF--RULE 4-265,--THE--SUBPOENA--SHALL--CONTAIN--THE--NAME,--ADDRESS,--AND TELEPHONE--NUMBER--OF--THE--DEFENDANT--AND--THE--DEFENDANT'S--ATTORNEY AND--THE--NATURE--OF--THE--EXPECTED--TESTIMONY--

(3)--A--SUBPOENA--FOR--THE--TOXICOLOGIST--SHALL--BE--QUASHED IF--A--DEFENDANT--FAILS--TO--MAKE--A--TIMELY--AND--PROPER--REQUEST--UNDER THIS--SECTION--OR--RULE--4-265--

(4)-(1)--A--MOTION--TO--QUASH--A--DEFENDANT'S--SUBPOENA--MAY BE--FILED--BY--ANY--PARTY--OR--BY--THE--ATTORNEY--GENERAL--UPON--SUCH--A MOTION,--THE--DEFENDANT--HAS--THE--BURDEN--OF--SHOWING--THAT--THE TOXICOLOGIST'S--PRESENCE--AT--TRIAL--AND--TESTIMONY--IS--NECESSARY--AND MATERIAL--TO--THE--DEFENSE--

(II)--IF--A--SUBPOENA--IS--GRANTED,--THE--DEFENDANT SHALL--PAY--REASONABLE--WITNESS--FEES--FOR--ALL--THE--TIME--THE TOXICOLOGIST--OR--HIS--STAFF--SPENDS--IN--CONNECTION--WITH--THE--CASE, INCLUDING--ALL--REASONABLE--COSTS--CONNECTED--WITH--TRAVELING--TO--AND FROM--COURT--

(5)--AT--ANY--TIME--BEFORE--OR--DURING--THE--TRIAL,--IF--THE TRIAL--COURT--FINDS--THAT--THE--DEFENDANT'S--REQUEST--TO--SUBPOENA--THE TOXICOLOGIST--WAS--FRIVOLOUS--OR--WAS--FILED--TO--ANNOY--OR--HARASS--THE TOXICOLOGIST,--THE--COURT--SHALL--ORDER--THE--DEFENDANT--TO--PAY--ANY WITNESS--FEES--ACCUMULATED--TO--THAT--POINT--AS--WELL--AS--REASONABLE ATTORNEYS'-FEES--OWED--FOR--THE--TIME--EXPENDED--BY--THE--OFFICE--OF--THE STATE'S--ATTORNEY--AND--THE--OFFICE--OF--THE--ATTORNEY--GENERAL--