

Department of Legislative Services  
Maryland General Assembly  
2005 Session

FISCAL AND POLICY NOTE

House Bill 859

(Delegate Rosenberg)

Judiciary

Judicial Proceedings

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Public Safety - Statewide DNA Data Base System - Use of Match as Probable Cause

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This bill alters the use as probable cause of a match obtained between a DNA evidence sample and an entry in the statewide DNA database system by repealing the language stating that it may only be used as probable cause to obtain an additional DNA sample from the subject.

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Fiscal Summary

**State Effect:** None. The bill clarifies current law.

**Local Effect:** None – see above.

**Small Business Effect:** None.

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Analysis

**Current Law:** A match obtained between an evidence sample of DNA and a database entry may only be used as probable cause to obtain an additional DNA sample and is not admissible at trial unless confirmed by additional testing.

DNA evidence is generally admissible in criminal proceedings to prove identity.

**Background:** In November 2004, the Attorney General issued an opinion, 89 *Opinions of the Attorney General* 189, concerning the use of a DNA database match to establish probable cause for arrest. The Attorney General advised that DNA evidence may be used

to establish probable cause for arrest, but recommended that the General Assembly amend the statute to clarify the law.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** State' Attorneys' Association, Judiciary (Administrative Office of the Courts), Office of Public Defender, Department of State Police, Department of Legislative Services

**Fiscal Note History:** First Reader - February 24, 2005  
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