

Department of Legislative Services
Maryland General Assembly
2006 Session

FISCAL AND POLICY NOTE

House Bill 274

(Chairman, Judiciary Committee)

(By Request – Departmental – State Police)

Judiciary

Judicial Proceedings

Criminal Procedure - Evidence - Admissibility of DNA Profiles

This departmental bill changes the definition of “DNA profile” to mean an analysis of genetic loci that has been validated according to national quality assurance standards issued by the Director of the Federal Bureau of Investigation (FBI). The same changes also apply to the standards testing laboratories must meet in order for their DNA profiles to be admissible as evidence in a criminal proceeding.

Fiscal Summary

State Effect: None. The change is technical in nature and would not directly affect governmental finances.

Local Effect: None. The change is technical in nature and would not directly affect local governmental finances.

Small Business Effect: The Department of State Police has determined that this bill has minimal or no impact on small business (attached). Legislative Services concurs with this assessment.

Analysis

Current Law: The evidence of a DNA profile is admissible in a criminal proceeding to prove or disprove the identity of any person, so long as the party seeking to introduce the evidence provides certain information to the opponent on request. An analysis of genetic loci qualifies as a DNA profile if it is validated according to standards issued by (1) the Technical Working Group on DNA Analysis Methods (TWGDAM); or (2) the DNA

Advisory Board. A statement from the testing laboratory stating that its genetic analysis has been validated using the above mentioned standards is sufficient to admit a DNA profile.

Background: TWGDAM was a group of federal, state, and local scientists convened by the FBI in the 1980s to develop standard quality assurance protocols for DNA analysis. TWGDAM's guidelines were adopted by practically all of the laboratories performing forensic DNA analysis.

The DNA Identification Act of 1994, 42 U.S.C. § 14131, required the director of the FBI to appoint an advisory board on DNA quality assurance methods. The Act specifically stated that the TWGDAM guidelines be used as national quality standards until the FBI director issued his standards. The DNA Advisory Board suggested the adoption of two sets of quality assurance standards. The FBI director approved the *Quality Assurance Standards for Forensic DNA Testing Laboratories* (effective October 1998) and *Quality Assurance Standards for Convicted Offender DNA Databasing Laboratories* (effective April 1999). The DNA Advisory Board was terminated in December 2000. TWGDAM's name was changed to the Scientific Working Group on DNA Analysis Methods (SWGAM).

Because the FBI director has issued his DNA quality assurance standards, and TWGDAM and the DNA Advisory Board no longer exist, the current statutory terminology does not meet current practice and standards. The Department of State Police advises that the changes are technical in nature and do not change the standards for admissibility in court.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): State's Attorneys' Association; Judiciary (Administrative Office of the Courts); Office of the Public Defender; Department of State Police; Testimony of Dwight E. Adams, Assistant Director, Laboratory Division, FBI, Before the United States Senate Judiciary Committee, Subcommittee on Crime and Drugs, May 14, 2002, *The FBI's CODIS Program*; United States Department of Justice, Office of the Inspector General, *The FBI DNA Laboratory: A Review of Protocol and Practice Vulnerabilities*, May 2004; Department of Legislative Services

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