

HOUSE BILL 1125

D3, E2

8lr2928

By: **Delegate Hettleman**

Introduced and read first time: February 8, 2018

Assigned to: Judiciary

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 12, 2018

CHAPTER _____

1 AN ACT concerning

2 **Evidence – Chain of Custody – DNA Profile**

3 FOR the purpose of establishing that a certain report signed by a certain individual is
4 prima facie evidence of certain matters for a certain purpose under certain
5 circumstances; providing that a certain DNA profile may be established without the
6 necessity for a certain individual to personally appear in court under certain
7 circumstances; providing that certain provisions of law do not preclude the right of
8 any party to introduce any evidence supporting or contradicting certain evidence or
9 presumptions; providing that a certain statement is prima facie evidence that a
10 certain person had custody and made a certain delivery for a certain purpose;
11 requiring a certain statement to contain a certain description of certain material and
12 to state that certain material was delivered in a certain condition; authorizing a
13 certain statement to be placed on a certain document; requiring the prosecution, in
14 a criminal proceeding, to require the presence of a ~~certain chemist, analyst,~~ DNA
15 analyst or other person as a certain witness under certain circumstances; providing
16 that certain provisions of law do not apply to certain testimony; providing that
17 certain provisions of law are applicable in a criminal proceeding only under certain
18 circumstances; providing that certain provisions of law do not prevent a certain
19 defendant from summoning a certain witness; defining certain terms; and generally
20 relating to the chain of custody of DNA evidence.

21 BY adding to

22 Article – Courts and Judicial Proceedings

23 Section 10–1007 through 10–1010 to be under the new part “Part III. DNA Evidence”

24 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



(2013 Replacement Volume and 2017 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

Article – Courts and Judicial Proceedings

10–1005. RESERVED.

10–1006. RESERVED.

PART III. DNA EVIDENCE.

10–1007.

(A) IN THIS PART THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) “CHAIN OF CUSTODY” HAS THE MEANING STATED IN § 10–1002 OF THIS SUBTITLE.

(C) “DEOXYRIBONUCLEIC ACID” OR “DNA” HAS THE MEANING STATED IN § 10–915 OF THIS TITLE.

(D) “DNA ANALYST” MEANS A CHEMIST OR AN ANALYST WHO PERFORMS A TEST OR TESTS FOR THE PURPOSE OF DETERMINING A DNA PROFILE.

(E) “DNA PROFILE” HAS THE MEANING STATED IN § 10–915 OF THIS TITLE.

10–1008.

(A) FOR THE PURPOSE OF ESTABLISHING A DNA PROFILE IN A CRIMINAL OR CIVIL PROCEEDING, A REPORT SIGNED BY THE ~~CHEMIST OR~~ DNA ANALYST WHO PERFORMED THE TEST OR TESTS AS TO ITS NATURE IS PRIMA FACIE EVIDENCE THAT THE MATERIAL DELIVERED TO THE ~~CHEMIST OR~~ DNA ANALYST WAS PROPERLY TESTED UNDER PROCEDURES APPROVED BY THE SCIENTIFIC WORKING GROUP ON DNA ANALYSIS METHODS OR CONSISTENT WITH THE FEDERAL BUREAU OF INVESTIGATION’S QUALITY ASSURANCE STANDARDS FOR FORENSIC DNA TESTING LABORATORIES AND DNA DATABASING LABORATORIES, THAT THOSE PROCEDURES ARE LEGALLY RELIABLE, THAT THE MATERIAL WAS DELIVERED TO THE ~~CHEMIST OR~~ DNA ANALYST BY THE OFFICER OR PERSON STATED IN THE REPORT, AND THAT THE MATERIAL WAS OR CONTAINED THE SUBSTANCE STATED IN THE REPORT, IF THE REPORT:

1 (1) IDENTIFIES THE ~~CHEMIST OR~~ DNA ANALYST AS AN INDIVIDUAL
2 QUALIFIED UNDER STANDARDS APPROVED BY THE MARYLAND DEPARTMENT OF
3 HEALTH TO ANALYZE DNA;

4 (2) STATES THAT THE ~~CHEMIST OR~~ DNA ANALYST MADE AN
5 ANALYSIS OF THE MATERIAL UNDER PROCEDURES APPROVED BY THE MARYLAND
6 DEPARTMENT OF HEALTH; AND

7 (3) STATES THAT THE SUBSTANCE, IN THE OPINION OF THE ~~CHEMIST~~
8 ~~OR~~ DNA ANALYST, IS OR CONTAINS THE PARTICULAR DNA PROFILE SPECIFIED.

9 (B) IF THE REQUIREMENTS OF SUBSECTION (A) ARE FULFILLED, A DNA
10 PROFILE MAY BE ESTABLISHED WITHOUT THE NECESSITY FOR THE ~~CHEMIST OR~~
11 DNA ANALYST TO PERSONALLY APPEAR IN COURT.

12 (C) NOTHING IN THIS SECTION PRECLUDES THE RIGHT OF ANY PARTY TO
13 INTRODUCE ANY EVIDENCE SUPPORTING OR CONTRADICTING THE EVIDENCE
14 CONTAINED IN OR THE PRESUMPTIONS RAISED BY THE REPORT.

15 **10-1009.**

16 (A) FOR THE PURPOSE OF ESTABLISHING, IN A CRIMINAL OR CIVIL
17 PROCEEDING, A STATEMENT SIGNED BY EACH SUCCESSIVE PERSON IN THE CHAIN
18 OF PHYSICAL CUSTODY OR CONTROL OF EVIDENCE CONSISTING OF OR CONTAINING
19 A SUBSTANCE TESTED OR ANALYZED TO DETERMINE A DNA PROFILE, THAT THE
20 PERSON DELIVERED IT TO THE OTHER PERSON INDICATED ON OR ABOUT THE DATE
21 STATED IS PRIMA FACIE EVIDENCE THAT THE PERSON HAD CUSTODY AND MADE THE
22 DELIVERY AS STATED, WITHOUT THE NECESSITY OF A PERSONAL APPEARANCE IN
23 COURT BY THE PERSON SIGNING THE STATEMENT.

24 (B) THE STATEMENT SHALL CONTAIN A SUFFICIENT DESCRIPTION OF THE
25 MATERIAL OR ITS CONTAINER SO AS TO DISTINGUISH IT AS THE PARTICULAR ITEM
26 IN QUESTION AND SHALL STATE THAT THE MATERIAL WAS DELIVERED IN
27 ESSENTIALLY THE SAME CONDITION AS RECEIVED.

28 (C) THE STATEMENT MAY BE PLACED ON THE SAME DOCUMENT AS THE
29 REPORT PROVIDED FOR UNDER § 10-1008 OF THIS SUBTITLE.

30 (D) NOTHING IN THIS SECTION PRECLUDES THE RIGHT OF ANY PARTY TO
31 INTRODUCE ANY EVIDENCE SUPPORTING OR CONTRADICTING THE EVIDENCE
32 CONTAINED IN OR THE PRESUMPTION RAISED BY THE STATEMENT.

33 **10-1010.**

1 **(A) (1) IN A CRIMINAL PROCEEDING, THE PROSECUTION SHALL, ON**
2 **WRITTEN DEMAND OF A DEFENDANT FILED IN THE PROCEEDINGS AT LEAST ~~5~~ 10**
3 **DAYS PRIOR TO A TRIAL IN THE PROCEEDING, REQUIRE THE PRESENCE OF THE**
4 **~~CHEMIST, ANALYST,~~ DNA ANALYST OR ANY PERSON IN THE CHAIN OF CUSTODY AS**
5 **A PROSECUTION WITNESS.**

6 **(2) THE PROVISIONS OF §§ 10-1008 AND 10-1009 OF THIS SUBTITLE**
7 **CONCERNING PRIMA FACIE EVIDENCE DO NOT APPLY TO THE TESTIMONY OF THAT**
8 **WITNESS.**

9 **(3) THE PROVISIONS OF §§ 10-1008 AND 10-1009 OF THIS SUBTITLE**
10 **ARE APPLICABLE IN A CRIMINAL PROCEEDING ONLY WHEN A COPY OF THE REPORT**
11 **OR STATEMENT TO BE INTRODUCED IS MAILED, DELIVERED, OR MADE AVAILABLE**
12 **TO COUNSEL FOR THE DEFENDANT OR TO THE DEFENDANT PERSONALLY WHEN THE**
13 **DEFENDANT IS NOT REPRESENTED BY COUNSEL, AT LEAST ~~10~~ 30 DAYS PRIOR TO THE**
14 **INTRODUCTION OF THE REPORT OR STATEMENT AT TRIAL.**

15 **(B) NOTHING CONTAINED IN THIS PART SHALL PREVENT THE DEFENDANT**
16 **FROM SUMMONING A WITNESS MENTIONED IN THIS PART AS A WITNESS FOR THE**
17 **DEFENSE.**

18 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
19 October 1, 2018.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.