

HOUSE BILL 1125

D3, E2

8lr2928

By: **Delegate Hettleman**

Introduced and read first time: February 8, 2018

Assigned to: Judiciary

A BILL ENTITLED

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, or other
15 person as a certain witness under certain circumstances; providing that certain
16 provisions of law do not apply to certain testimony; providing that certain provisions
17 of law are applicable in a criminal proceeding only under certain circumstances;
18 providing that certain provisions of law do not prevent a certain defendant from
19 summoning a certain witness; defining certain terms; and generally relating to the
20 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

25 (2013 Replacement Volume and 2017 Supplement)

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

28 **Article – Courts and Judicial Proceedings**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 10-1005. RESERVED.

2 10-1006. RESERVED.

3 PART III. DNA EVIDENCE.

4 10-1007.

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

7 (B) "CHAIN OF CUSTODY" HAS THE MEANING STATED IN § 10-1002 OF THIS
8 SUBTITLE.

9 (C) "DEOXYRIBONUCLEIC ACID" OR "DNA" HAS THE MEANING STATED IN §
10 10-915 OF THIS TITLE.

11 (D) "DNA PROFILE" HAS THE MEANING STATED IN § 10-915 OF THIS TITLE.

12 10-1008.

13 (A) FOR THE PURPOSE OF ESTABLISHING A DNA PROFILE IN A CRIMINAL
14 OR CIVIL PROCEEDING, A REPORT SIGNED BY THE CHEMIST OR ANALYST WHO
15 PERFORMED THE TEST OR TESTS AS TO ITS NATURE IS PRIMA FACIE EVIDENCE THAT
16 THE MATERIAL DELIVERED TO THE CHEMIST OR ANALYST WAS PROPERLY TESTED
17 UNDER PROCEDURES APPROVED BY THE SCIENTIFIC WORKING GROUP ON DNA
18 ANALYSIS METHODS OR CONSISTENT WITH THE FEDERAL BUREAU OF
19 INVESTIGATION'S QUALITY ASSURANCE STANDARDS, THAT THOSE PROCEDURES
20 ARE LEGALLY RELIABLE, THAT THE MATERIAL WAS DELIVERED TO THE CHEMIST OR
21 ANALYST BY THE OFFICER OR PERSON STATED IN THE REPORT, AND THAT THE
22 MATERIAL WAS OR CONTAINED THE SUBSTANCE STATED IN THE REPORT, IF THE
23 REPORT:

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

27 (2) STATES THAT THE CHEMIST OR ANALYST MADE AN ANALYSIS OF
28 THE MATERIAL UNDER PROCEDURES APPROVED BY THE MARYLAND DEPARTMENT
29 OF HEALTH; AND

30 (3) STATES THAT THE SUBSTANCE, IN THE OPINION OF THE CHEMIST

1 OR ANALYST, IS OR CONTAINS THE PARTICULAR DNA PROFILE SPECIFIED.

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

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

8 **10-1009.**

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

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

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

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

26 **10-1010.**

27 (A) (1) IN A CRIMINAL PROCEEDING, THE PROSECUTION SHALL, ON
28 WRITTEN DEMAND OF A DEFENDANT FILED IN THE PROCEEDINGS AT LEAST 5 DAYS
29 PRIOR TO A TRIAL IN THE PROCEEDING, REQUIRE THE PRESENCE OF THE CHEMIST,
30 ANALYST, OR ANY PERSON IN THE CHAIN OF CUSTODY AS A PROSECUTION WITNESS.

31 (2) THE PROVISIONS OF §§ 10-1008 AND 10-1009 OF THIS SUBTITLE
32 CONCERNING PRIMA FACIE EVIDENCE DO NOT APPLY TO THE TESTIMONY OF THAT
33 WITNESS.

1 **(3) THE PROVISIONS OF §§ 10–1008 AND 10–1009 OF THIS SUBTITLE**
2 **ARE APPLICABLE IN A CRIMINAL PROCEEDING ONLY WHEN A COPY OF THE REPORT**
3 **OR STATEMENT TO BE INTRODUCED IS MAILED, DELIVERED, OR MADE AVAILABLE**
4 **TO COUNSEL FOR THE DEFENDANT OR TO THE DEFENDANT PERSONALLY WHEN THE**
5 **DEFENDANT IS NOT REPRESENTED BY COUNSEL, AT LEAST 10 DAYS PRIOR TO THE**
6 **INTRODUCTION OF THE REPORT OR STATEMENT AT TRIAL.**

7 **(B) NOTHING CONTAINED IN THIS PART SHALL PREVENT THE DEFENDANT**
8 **FROM SUMMONING A WITNESS MENTIONED IN THIS PART AS A WITNESS FOR THE**
9 **DEFENSE.**

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