

**SB0026/733524/1**

BY: Judiciary Committee

AMENDMENTS TO SENATE BILL 26  
(Third Reading File Bill)

AMENDMENT NO. 1

On page 1, strike line 2 in its entirety and substitute “**Courts – Expert Witness Letter of Exception and Automatic Expungements**”; in line 3, after the first “of” insert “prohibiting a court from requiring a letter of exception for an individual to testify in a criminal proceeding as an expert witness if the individual is reviewing certain data or a certain opinion, interpretation, or conclusion and is not handling any physical evidence.”; in line 6, after “to” insert “letters of exception and”; after line 6, insert:

“BY adding to

Article - Courts and Judicial Proceedings

Section 9-120.1

Annotated Code of Maryland

(2020 Replacement Volume and 2021 Supplement)”;

and after line 11, insert:

“BY repealing and reenacting, without amendments,

Article – Health – General

Section 17-2A-01

Annotated Code of Maryland

(2019 Replacement Volume and 2021 Supplement)”

BY repealing and reenacting, with amendments,

Article – Health – General

Section 17-2A-04

Annotated Code of Maryland

(2019 Replacement Volume and 2021 Supplement)”.

AMENDMENT NO. 2

On page 1, after line 13, insert:

“Article – Courts and Judicial Proceedings

9–120.1.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) “FORENSIC LABORATORY” HAS THE MEANING STATED IN § 17–2A–01 OF THE HEALTH – GENERAL ARTICLE.

(3) “PHYSICAL EVIDENCE” HAS THE MEANING STATED IN § 17–2A–01 OF THE HEALTH – GENERAL ARTICLE.

(B) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A COURT MAY NOT REQUIRE AN INDIVIDUAL TO RECEIVE A LETTER OF EXCEPTION FROM THE SECRETARY OF HEALTH UNDER § 17–2A–04(B) OF THE HEALTH – GENERAL ARTICLE TO TESTIFY AS AN EXPERT WITNESS IN A CRIMINAL PROCEEDING IF THE INDIVIDUAL IS:

(1) REVIEWING THE DATA, OPINION, INTERPRETATION, OR CONCLUSION OF ANOTHER EXPERT WITNESS OR FORENSIC LABORATORY; AND

(2) NOT HANDLING ANY PHYSICAL EVIDENCE.”.

On page 2, after line 16, insert:

“Article – Health – General

17–2A–01.

(a) In this subtitle the following words have the meanings indicated.

**SB0026/733524/01**                      **Judiciary Committee**  
**Amendments to SB 26**  
**Page 3 of 4**

(b) (1) “Forensic analysis” means a medical, chemical, toxicologic, firearms, or other expert examination or test performed on physical evidence, including DNA evidence, for the purpose of determining the connection of the evidence to a criminal act.

(2) “Forensic analysis” includes an examination or test required by a law enforcement agency, prosecutor, criminal suspect or defendant, or court.

(3) “Forensic analysis” does not include:

(i) A test of a specimen of breath or blood to determine alcohol concentration or controlled dangerous substance content;

(ii) Forensic information technology;

(iii) A presumptive test performed at a crime scene;

(iv) A presumptive test performed for the purpose of determining compliance with a term or condition of community supervision or parole and conducted by or under contract with a county department of corrections or the State Department of Public Safety and Correctional Services; or

(v) An expert examination or test conducted principally for the purpose of scientific research, medical practice, civil or administrative litigation, or any other purpose unrelated to determining the connection of physical evidence to a criminal act.

(c) “Forensic information technology” means digital or electronic evidence that is stored or transmitted electronically.

(d) (1) “Forensic laboratory” means a facility, entity, or site that offers or performs forensic analysis.

(2) “Forensic laboratory” includes a laboratory owned or operated by the State, a county or municipal corporation in the State, or another governmental entity.

(3) “Forensic laboratory” does not include:

(i) A forensic laboratory operated by the federal government; or

(Over)

(ii) A laboratory licensed or certified by the Department of Agriculture.

(e) “License” means a permit, letter of exception, certificate, or other document issued by the Secretary granting approval or authority to offer or perform forensic laboratory tests, examinations, or analyses in the State.

(f) “Limited forensic analysis” means a forensic laboratory test or analysis defined in regulations adopted by the Secretary.

(g) “Physical evidence” means any object, thing, or substance relating to a criminal act.

17-2A-04.

(a) [After December 31, 2011, a] A forensic laboratory shall hold a license issued by the Secretary before the forensic laboratory may offer or perform forensic analysis in the State.

(b) The Secretary shall issue a letter of exception to a laboratory that:

(1) Performs only limited forensic analysis; and

(2) Meets the exception requirements in regulations adopted by the Secretary.

(c) The Secretary may grant an out-of-state forensic laboratory a waiver from the licensure requirements of this subtitle with conditions.”.