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1999 Regular Session 9lr0156

By: Chairman, Judiciary Committee (Departmental - State Police, Dept. of)

Introduced and read first time: February 25, 1999 Assigned to: Rules and Executive Nominations

A BILL ENTITLED

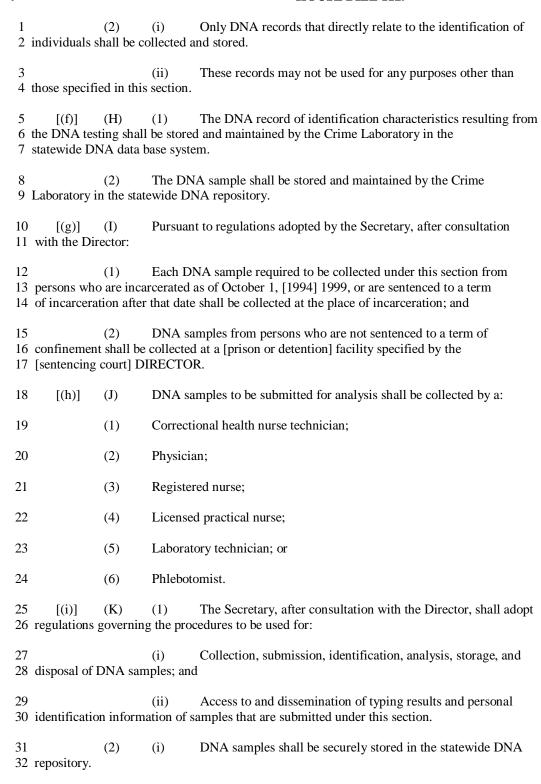
1 AN ACT concerning

2 State Police - DNA Testing

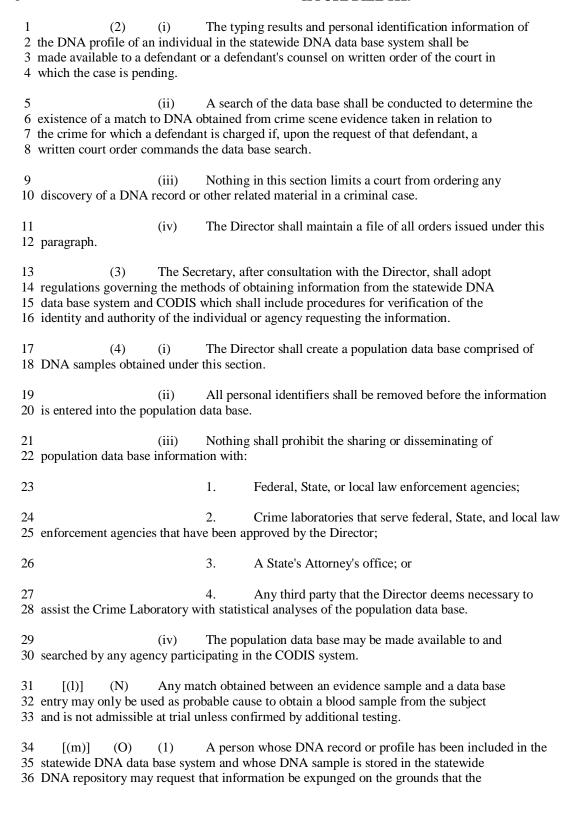
- 3 FOR the purpose of specifying additional crimes in the definition of "crime of
- 4 violence"; requiring that certain persons convicted of certain crimes of violence
- 5 provide a DNA sample under certain circumstances; establishing that failure to
- 6 provide a DNA sample is a violation of probation; altering the date establishing,
- 7 upon conviction, as to who is required to submit a DNA sample; allowing the
- 8 Director of the Crime Laboratory Division of the Department of State Police to
- 9 specify which facility will collect a DNA sample from certain persons who are
- 10 not sentenced to a term of incarceration; and generally relating to DNA testing
- of certain persons convicted of certain crimes.
- 12 BY repealing and reenacting, with amendments,
- 13 Article 88B Department of State Police
- 14 Section 12A
- 15 Annotated Code of Maryland
- 16 (1998 Replacement Volume)
- 17 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
- 18 MARYLAND, That the Laws of Maryland read as follows:
- 19 Article 88B Department of State Police
- 20 12A.
- 21 (a) (1) In this section the following words have the meanings indicated.
- 22 "CODIS" means the Federal Bureau of Investigation's "Combined
- 23 DNA Index System" that allows the storage and exchange of DNA records submitted
- 24 by state and local forensic DNA laboratories.
- 25 (3) "Crime Laboratory" means the Crime Laboratory Division of the
- 26 Department of State Police.
- 27 (4) "Director" means the Director of the Crime Laboratory or the
- 28 Director's designee.

1	(5)	"DNA" means deoxyribonucleic acid.					
	(6) "DNA record" means DNA information stored in the statewide DNA data base system of the Department of State Police or CODIS and includes that information commonly referred to as a DNA profile.						
7	(7) "DNA sample" means a body fluid or tissue sample provided by any person convicted of a qualifying crime of violence or any body fluid or tissue sample submitted to the statewide DNA data base system for analysis pursuant to a criminal investigation.						
9	(8)	"Qualifying crime of violence" means:					
10 11	abuse;	(i)	A violation of Article 27, § 35C of the Code that involves sexual				
12		(ii)	Rape in any degree; [or]				
13		(iii)	A sexual offense in the first, second, or third degree;				
14		(IV)	MURDER IN ANY DEGREE;				
15		(V)	ROBBERY IN ANY DEGREE;				
16		(VI)	FIRST DEGREE ASSAULT; OR				
17		(VII)	ATTEMPTS TO COMMIT THESE OFFENSES.				
18 19	(9) "Statewide DNA data base system" means the DNA record system administered by the Department of State Police for identification purposes.						
20 21	(10) "Statewide DNA repository" means the State repository of DNA samples collected under this section.						
22 23	(b) (1) base system.						
24 25	(2) The system shall be the central repository for all DNA testing information as provided in this section.						
26	(3)	The Director shall:					
27		(i)	Administer and manage the system;				
28 29	regulations concerning	(ii) g system	Consult with the Secretary on the adoption of appropriate protocols and operations;				
			Ensure compatibility with Federal Bureau of Investigation and ag the use of comparable test procedures, quality ent, and computer software; and				

1 2	system.	(iv)	Ensure th	e security and confidentiality of all records of the		
3	(4) appropriate regulation			er consultation with the Director, shall adopt m protocols and operation.		
		t to regulations adopted by the Secretary after consultation with s section, a person convicted of a qualifying crime of violence				
8 9	facility; or	Have a l	a DNA sample collected upon intake to any prison or detention			
10 11	` /	If not sentenced to a term of imprisonment, [be ordered by the court ample as a condition of sentence.				
	(D) EACH PERSON CONVICTED OF A QUALIFYING CRIME OF VIOLENCE SHALL BE REQUIRED TO HAVE ONE DNA SAMPLE COLLECTED, EXCEPT THAT A SECOND SAMPLE SHALL BE TAKEN IF ORDERED BY THE COURT.					
15 16	(E) FAILURE TO PROVIDE A DNA SAMPLE WITHIN 90 DAYS OF NOTICE BY THE DIRECTOR SHALL BE CONSIDERED A VIOLATION OF PROBATION.					
19	[(d)] (F) A person who has been convicted of a qualifying crime of violence prior to October 1, [1994] 1999, and who remains incarcerated on that date shall submit a DNA sample to the [Department of Public Safety and Correctional Services] DEPARTMENT OF STATE POLICE.					
21 22	[(e)] (G) be tested for the follow	(1) owing pur		tent fiscal resources are available, DNA samples shall		
23 24	from DNA samples;	(i)	To analyz	ze and type the genetic markers contained in or derived		
25 26	offense;	(ii)	In the fur	therance of an official investigation into a criminal		
27		(iii)	To assist	in the identification of human remains;		
28		(iv)	To assist	in the identification of missing persons; and		
29		(v)	For resea	rch and administrative purposes, including:		
30 31	identifying informati	on is rem		Development of a population data base after personal		
32 33	development of forer	ısic DNA		Support of identification research and protocol methods; and		
34			3.	Quality control purposes.		



1 2	data base system.	(ii)	Typing results shall be securely stored in the statewide DNA					
5	(3) (i) Any procedure adopted by the Director shall include quality assurance guidelines to ensure that DNA identification records meet standards and audit requirements for laboratories that submit DNA records for inclusion in the statewide DNA data base system and CODIS.							
9	7 (ii) The Crime Laboratory and each analyst performing DNA 8 analyses at the Crime Laboratory shall undergo, at regular intervals not exceeding 9 180 days, external proficiency testing, including at least one external blind test, by a 10 DNA proficiency testing program that meets the standards issued:							
11 12	1994; or		1. Under § 1003 of the federal DNA Identification Act of					
13 14	2. Under the guidelines for a quality assurance program for DNA analysis (known as the "TWGDAM" guidelines).							
15 16	15 (4) Subject to subsection [(m)] (O) of this section, records of testing shall 16 be permanently retained on file at the Crime Laboratory.							
17	[(j)] (L)	(1)	The Crime Laboratory shall:					
18		(i)	Receive DNA samples for analysis, classification, and storage;					
19 20	DNA samples subm	(ii) itted to the	File the DNA record of identification characteristic profiles of e laboratory; and					
21 22	available to other ag	(iii) encies and	Make information relating to DNA samples and DNA records dindividuals as authorized by this section.					
23 24	The Director may contract with a qualified DNA laboratory that meets the guidelines established by the Director to complete DNA typing analyses.							
27 28 29	[(k)] (M) (1) The typing results and personal identification information of the DNA profile of an individual in the statewide DNA data base system may be made available to the following agencies or persons upon written or electronic request after verification by the Director that a match has been made in the population data base and the request is in the furtherance of any of the purposes set forth in subsection [(e)] (G) of this section:							
31		(i)	Federal, State, and local law enforcement agencies;					
32 33	enforcement agencie	(ii) es that hav	Crime laboratories that serve federal, State, and local law re been approved by the Director;					
34		(iii)	A State's Attorney's office or other prosecutorial office; and					
35 36	data base informatio	(iv) n may be	Any person participating in a judicial proceeding in which the offered as evidence.					



- 1 conviction which resulted in the inclusion of the person's DNA record or profile in the
- 2 statewide DNA data base system or the inclusion of the person's DNA sample in the
- 3 statewide DNA repository meets the expungement criteria specified in Article 27, §
- 4 737 of the Code.
- 5 (2) Expungement proceedings shall be conducted in accordance with 6 Article 27, § 737 of the Code.
- 7 Upon receipt of an order of expungement, the Director shall purge
- 8 any DNA record, DNA sample, or other identifiable information covered by the order
- 9 from the statewide DNA data base system and the statewide DNA repository.
- 10 [(n)] (P) (1) A person who, by virtue of employment or official position, has
- 11 possession of or access to individually identifiable DNA information contained in the
- 12 statewide DNA data base system or statewide DNA repository and who willfully
- 13 discloses that information in any manner to any person or agency not entitled to
- 14 receive that information is guilty of a misdemeanor and on conviction is subject to a
- 15 fine not exceeding \$1,000 or imprisonment not exceeding 3 years or both.
- 16 (2) A person who, without authorization, willfully obtains individually
- 17 identifiable DNA information from the statewide DNA data base system or repository
- 18 is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$1,000
- 19 or imprisonment not exceeding 3 years or both.
- 20 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take
- 21 effect October 1, 1999.