

(PRE-FILED)

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By: **Senator Currie**  
Requested: July 11, 2000  
Introduced and read first time: January 10, 2001  
Assigned to: Judicial Proceedings

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A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure - Postconviction - DNA Testing**

3 FOR the purpose of authorizing certain convicted persons to file a petition for  
4 postconviction DNA testing of certain evidence under certain circumstances;  
5 requiring a judge to make certain findings before issuing a certain order for  
6 DNA testing; requiring certain notification procedures; providing for payment of  
7 the costs of DNA testing under certain circumstances; requiring the court to  
8 take certain actions based on certain results of DNA testing; defining a certain  
9 term; providing for the application of this Act; and generally relating to  
10 authorizing a convicted person to file a petition for postconviction DNA testing  
11 of certain evidence under certain circumstances.

12 BY adding to  
13 Article - Criminal Procedure  
14 Section 8-201 to be under the new subtitle "Subtitle 2. DNA Testing"  
15 Annotated Code of Maryland  
16 (As enacted by Chapter \_\_\_\_ (S.B.\_\_\_\_/H.B.\_\_\_\_) (1r0739) of the Acts of the General  
17 Assembly of 2001)

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

20 **Article - Criminal Procedure**

21 **SUBTITLE 2. DNA TESTING.**

22 8-201.

23 (A) IN THIS SECTION, "DNA" MEANS DEOXYRIBONUCLEIC ACID.

24 (B) NOTWITHSTANDING ANY OTHER LAW GOVERNING POSTCONVICTION  
25 RELIEF, A PERSON WHO WAS CONVICTED OF AND SENTENCED FOR A FELONY MAY  
26 FILE A PETITION FOR THE DNA TESTING OF EVIDENCE THAT THE STATE POSSESSES  
27 AND THAT IS RELATED TO THE JUDGMENT OF CONVICTION.

1 (C) SUBJECT TO SUBSECTION (D) OF THIS SECTION, A COURT SHALL ORDER  
2 DNA TESTING IF THE COURT FINDS THAT:

3 (1) THE EVIDENCE TO BE TESTED WAS NEVER PREVIOUSLY SUBJECTED  
4 TO THE DNA TESTING THAT IS REQUESTED BECAUSE THE TECHNOLOGY FOR SUCH  
5 TESTING WAS NOT AVAILABLE TO THE PETITIONER AT THE TRIAL;

6 (2) THE EVIDENCE CONTAINING DNA WAS SECURED IN RELATION TO  
7 THE CRIME FOR WHICH THE PETITIONER WAS CONVICTED;

8 (3) IDENTITY WAS AN ISSUE IN THE TRIAL THAT RESULTED IN THE  
9 PETITIONER'S CONVICTION; AND

10 (4) A REASONABLE PROBABILITY EXISTS THAT THE DNA TESTING WILL  
11 PRODUCE RESULTS MATERIALLY RELEVANT TO THE PETITIONER'S ASSERTION OF  
12 INNOCENCE.

13 (D) (1) A PETITIONER SHALL NOTIFY THE STATE IN WRITING OF THE FILING  
14 OF A PETITION UNDER THIS SECTION.

15 (2) THE STATE MAY FILE A RESPONSE TO THE PETITION WITHIN 15 DAYS  
16 AFTER NOTICE OF THE FILING OR WITHIN THE TIME THAT THE COURT ORDERS.

17 (E) IF THE COURT DETERMINES THAT THE PETITIONER IS UNABLE TO PAY  
18 FOR DNA TESTING ORDERED UNDER SUBSECTION (C) OF THIS SECTION, THE COURT  
19 SHALL ORDER THE STATE TO PAY THE COSTS OF THE TESTING.

20 (F) (1) IF THE RESULTS OF THE POSTCONVICTION DNA TESTING ARE  
21 UNFAVORABLE TO THE PETITIONER, THE COURT SHALL DISMISS THE PETITION.

22 (2) IF THE RESULTS OF THE POSTCONVICTION DNA TESTING ARE  
23 FAVORABLE TO THE PETITIONER, THE COURT SHALL ORDER A HEARING,  
24 NOTWITHSTANDING ANY LAW BARRING THE HEARING AS UNTIMELY.

25 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be  
26 construed retroactively and shall be applied to and interpreted to affect  
27 postconviction proceedings that arise out of crimes that were committed before the  
28 effective date of this Act.

29 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
30 October 1, 2001.