

BY: House Judiciary Committee

AMENDMENTS TO HOUSE BILL NO. 1053

(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 16, after “expenditure;” insert “altering the period of time during which the State must preserve certain evidence; making stylistic changes; altering certain time periods and procedures relating to DNA samples and tests; providing for a certain contingency; limiting certain funding for a certain time; providing that the Department of State Police is not required to obtain DNA samples and conduct testing for a certain time if certain funding is not received under certain circumstances; making provisions of this Act severable;”; and after line 27, insert:

“BY repealing and reenacting, with amendments,

Article - Criminal Procedure

Section 8-201(i)

Annotated Code of Maryland

(2001 Volume)”.”.

AMENDMENT NO. 2

On page 2, in line 16, after “FELONY” insert “OR A VIOLATION OF § 6-205 OR § 6-206 OF THE CRIMINAL LAW ARTICLE”.

AMENDMENT NO. 3

On page 3, strike in their entirety lines 23 and 24 and substitute:

“(D) A SECOND DNA SAMPLE MAY BE TAKEN IF NEEDED TO OBTAIN SUFFICIENT DNA FOR THE STATE DATABASE OR IF ORDERED BY THE COURT FOR GOOD CAUSE SHOWN.”.

On page 5, in line 18, strike “180” and substitute “183”; in the same line, strike “, including

(Over)

at least one external blind test,”; and strike in their entirety lines 22 and 23 and substitute:

“2. UNDER THE FEDERAL BUREAU OF INVESTIGATION’S QUALITY ASSURANCE STANDARDS FOR CONVICTED OFFENDER’S DNA DATA BASING AND FORENSIC DNA TESTING LABORATORIES.”.

On page 7, in line 6, strike “a blood” and substitute “AN ADDITIONAL DNA”.

AMENDMENT NO. 4

On page 7, after line 29, insert:

“SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:”.

On page 9, after line 16, insert:

“Article - Criminal Procedure

8-201.

(i) (1) The State shall preserve scientific identification evidence that:

(i) the State has reason to know contains DNA material; and

(ii) is secured in connection with an offense described in subsection (b) of this section.

(2) The State shall preserve scientific identification evidence described in paragraph (1) of this subsection for[:

(i) a period of 3 years after the imposition of sentence; or

(ii) a period beyond 3 years that is required pursuant to an order issued within 3 years after the imposition of sentence by the Court of Appeals or Court of Special Appeals that is specific to a single offense and specific scientific identification evidence relating to that offense] THE TIME OF THE SENTENCE, INCLUDING ANY CONSECUTIVE SENTENCE IMPOSED IN CONNECTION WITH THE OFFENSE.

(3) The State shall make the scientific identification evidence available to parties in the case under terms that are mutually agreed on between them.

(4) If an agreement cannot be reached, the party requesting the testing may file an application in the circuit court that entered the judgment for an order setting the terms under which the evidence will be made available for testing.

AMENDMENT NO. 5

On page 8, in line 16, after "MONEY" insert: ";

(I);

and in line 17, after "BUDGET" insert "; OR

(II) RECEIVED FROM ANY PRIVATE ENTITY OR FEDERAL AGENCY FOR THE PURPOSE OF COLLECTING AND TESTING DNA SAMPLES";

and in line 35, strike "TO THE EXTENT PROVIDED IN THE STATE BUDGET,".

AMENDMENT NO. 6

On page 9, in line 17, strike "2." and substitute "3."; after line 21, insert:

"SECTION 4. AND BE IT FURTHER ENACTED, That:

(a) Section 1 of this Act:

(1) may not be funded during the period October 1, 2002 through September 30, 2003 with State general funds; and

(2) is contingent on the receipt by the Department of State Police of at least \$1,500,000 or a binding written award of a grant from any private entity or federal agency of at least \$1,500,000 to be used to implement the provisions of Section 1 of this Act during the period beginning October 1, 2002 through September 30, 2003.

(Over)

(b) If the Department of State Police does not receive \$1,500,000 or a binding written award on or before September 30, 2003, as provided in this Section, Section 1 of this Act shall take effect October 1, 2003. If the Department of State Police receives funding or a binding written award on or before September 30, 2003, Section 1 of this Act shall take effect on the date the Department receives funding or a binding written award. The Department shall forward notice of the receipt of the funds or a copy of the written award within 5 days of receipt to the Department of Legislative Services, 90 State Circle, Annapolis, Maryland 21401.

SECTION 5. AND BE IT FURTHER ENACTED, That for fiscal year 2004, no more than \$200,000 from State general funds may be appropriated to the DNA Technology Fund.

SECTION 6. AND BE IT FURTHER ENACTED, That for fiscal years 2004 and 2005, the Department of State Police is not required to obtain or test DNA samples from all convicted felons and persons convicted of a violation of § 6-205 or § 6-206 of the Criminal Law Article unless the Department receives funding in fiscal years 2004 and 2005 from the State, the federal government, or any private person to carry out the required sampling and testing. The Department of State Police, in fiscal years 2004 and 2005, shall obtain and test DNA samples from individuals convicted of child abuse involving sexual abuse under § 3-601 of the Criminal Law Article, rape in any degree, sexual offense in the first, second, or third degree, murder, robbery under § 3-402 or § 3-403 of the Criminal Law Article, first degree assault, and attempts to commit these offenses.

SECTION 7. AND BE IT FURTHER ENACTED, That if any provision of this Act or the application thereof to any person or circumstance is held invalid for any reason in a court of competent jurisdiction, the invalidity does not affect other provisions or any other application of this Act which can be given effect without the invalid provision or application, and for this purpose the provisions of this Act are declared severable.”;

in line 22, strike “3.” and substitute “8.”; and in the same line, after “That” insert “, subject to Section 4 of this Act,”.