

BY: Judicial Proceedings Committee

AMENDMENTS TO SENATE BILL NO. 486

(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in the sponsor line, strike “Senator Forehand” and substitute “Senators Forehand, Kelley, Conway, Currie, Della, Dorman, Exum, Frosh, Hughes, Jacobs, Lawlah, Mitchell, Ruben, Sfikas, Stone, Teitelbaum, and Van Hollen”; in line 2, after “Fund” insert “- Preservation of Scientific Identification Evidence”; in line 16, after “expenditure;” insert “altering the period of time that the State must preserve certain scientific identification evidence; declaring that the provisions of this Act are not severable; making this Act subject to a certain contingency; providing for the termination of this Act;”; in the same line, after “testing” insert “, the preservation of scientific identification evidence,”; 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 lines 15 and 17, in each instance, after “fluid” insert “SAMPLE, INCLUDING BLOOD OR SALIVA,”; and in lines 16 and 17, strike “OR BREAKING AND ENTERING MISDEMEANOR”.

On page 7, in line 13, strike “meets” and substitute “:

(I) MEETS”;

in line 14, after “Article” insert “; OR

(Over)

(II) IS REVERSED OR VACATED ON APPEAL”;

and in line 15, after “proceedings” insert “FOR AN EXPUNGEMENT UNDER PARAGRAPH (1)(I) OF THIS SUBSECTION”.

On page 8, in lines 16 and 17, strike “APPROPRIATED IN THE STATE BUDGET” and substitute “GRANTED BY 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,”.

On page 9, strike in their entirety lines 5 through 7, inclusive; in line 8, strike “(G)” and substitute “(F)”; in line 13, strike “(H)” and substitute “(G)”; and 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[: ] THE PERIOD OF THE ORIGINAL SENTENCE FOR THE OFFENSE FOR WHICH THE SCIENTIFIC IDENTIFICATION EVIDENCE WAS SECURED.

(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.]

(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.”.

On page 9, strike in their entirety lines 22 and 23 and substitute:

“SECTION 3. AND BE IT FURTHER ENACTED, That, notwithstanding the provisions of Article 1, § 23 of the Annotated Code of Maryland, the provisions of this Act are not severable, and 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, no other provision or application of this Act may be given effect.

SECTION 4. AND BE IT FURTHER ENACTED, That this Act is contingent on the receipt by the Department of State Police of a binding written award of a grant from any private entity or federal agency by September 1, 2002, of at least \$4,500,000 to be used to implement the provisions of this Act during the period between October 1, 2002 and September 30, 2005. If the Department of State Police does not receive a binding written award by September 1, 2002 as provided in this Section, this Act, with no further action required by the General Assembly, shall be null and void and of no force and effect. If the Department of State Police receives a binding written award by September 1, 2002, the Department shall forward 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, subject to Section 4 of this Act, this Act shall take effect October 1, 2002. It shall remain effective for a period of 3 years and, at the end of September 30, 2005, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.”.