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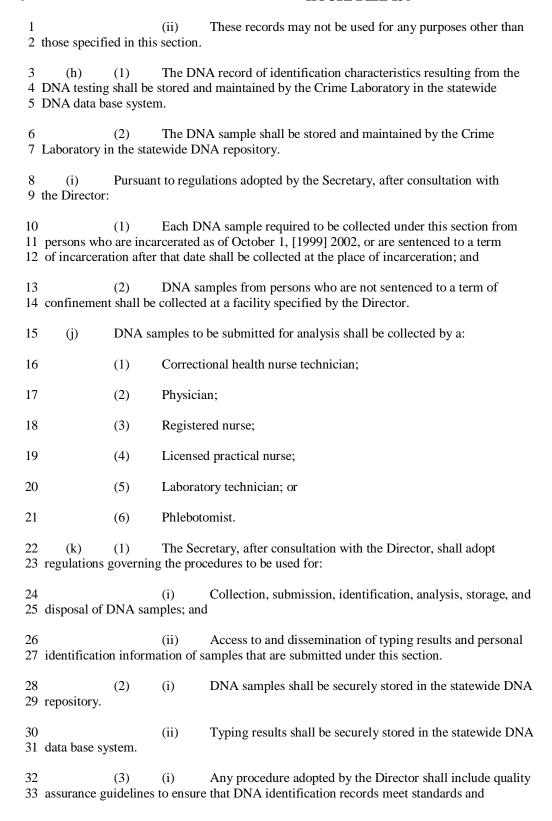
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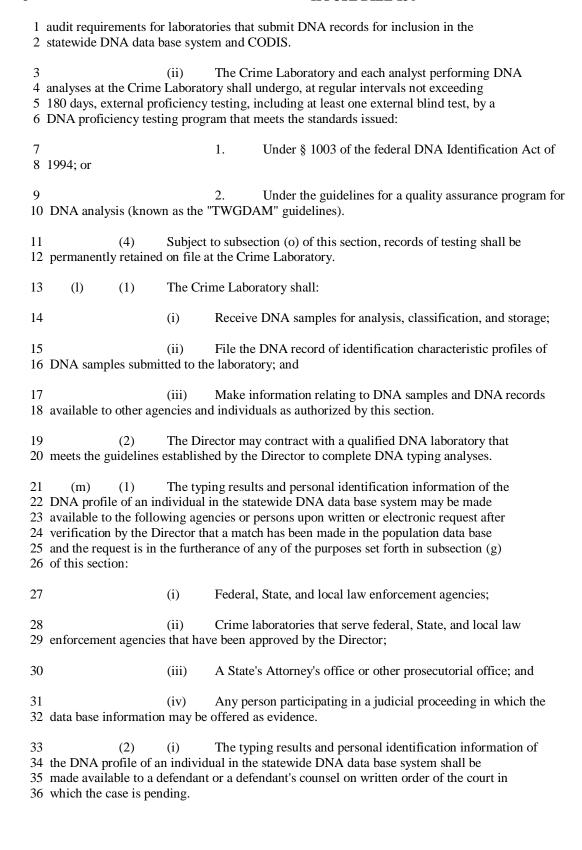
By: Delegates Kelly, Boschert, Petzold, and Dembrow Introduced and read first time: January 16, 2002 Assigned to: Judiciary A BILL ENTITLED 1 AN ACT concerning 2 **Public Safety - DNA Testing - Felony Convictions** 3 FOR the purpose of altering provisions of law relating to DNA testing of certain persons convicted of certain crimes by providing that any person convicted of a 4 5 felony on or before a certain date shall submit a DNA sample to the Department 6 of State Police; providing for the application of this Act; making certain conforming changes; and generally relating to DNA testing. 7 8 BY repealing and reenacting, with amendments, Article 88B - Department of State Police 10 Section 12A 11 Annotated Code of Maryland 12 (1998 Replacement Volume and 2001 Supplement) SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF 13 14 MARYLAND, That the Laws of Maryland read as follows: 15 **Article 88B - Department of State Police** 16 12A. 17 In this section the following words have the meanings indicated. (a) (1) "CODIS" means the Federal Bureau of Investigation's "Combined (2)19 DNA Index System" that allows the storage and exchange of DNA records submitted 20 by state and local forensic DNA laboratories. "Crime Laboratory" means the Crime Laboratory Division of the 21 (3) 22 Department of State Police. 23 (4) "Director" means the Director of the Crime Laboratory or the 24 Director's designee.

"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.							
6	(7) "DNA sample" means a body fluid or tissue sample provided by any person convicted of a [qualifying crime of violence] FELONY or any body fluid or tissue sample submitted to the statewide DNA data base system for analysis pursuant to a criminal investigation.							
8	[(8)	"Qualify	ring crime of violence" means:					
9 10	abuse;	(i)	A violation of Article 27, § 35C of the Code that involves sexual					
11		(ii)	Rape in any degree;					
12		(iii)	A sexual offense in the first, second, or third degree;					
13		(iv)	Murder;					
14		(v)	Robbery under Article 27, § 486 or § 487 of the Code;					
15		(vi)	First degree assault; or					
16		(vii)	Attempts to commit these offenses.]					
17 18	[(9)] system administered	(8) by the De	"Statewide DNA data base system" means the DNA record epartment of State Police for identification purposes.					
19 20	[(10)] samples collected un	(9) der this se	"Statewide DNA repository" means the State repository of DNA ection.					
21 22	(b) (1) base system.	There is created within the Crime Laboratory a statewide DNA data						
23 24	The system shall be the central repository for all DNA testing information as provided in this section.							
25	(3)	The Dire	ector shall:					
26		(i)	Administer and manage the system;					
27 28	regulations concerning	(ii) ng system	Consult with the Secretary on the adoption of appropriate protocols and operations;					
			Ensure compatibility with Federal Bureau of Investigation and g the use of comparable test procedures, quality nt, and computer software; and					
32 33	system.	(iv)	Ensure the security and confidentiality of all records of the					

1 2	appropriate reg				ter consultation with the Director, shall adopt em protocols and operation.			
	(c) Pursuant to regulations adopted by the Secretary after consultation with the Director under this section, a person convicted of a [qualifying crime of violence] FELONY shall:							
6 7	(1 facility; or	.)	Have a I	ONA sam	aple collected upon intake to any prison or detention			
8 9	a condition of s				o a term of imprisonment, provide a DNA sample as			
10 11	(d) A shown.	secon	d DNA s	ample sh	all be taken if ordered by the court for good cause			
	` '				d to a term of imprisonment, failure to provide a by the Director shall be considered a violation of			
	FELONY prior	r to Oc	tober 1, [1999] 20	nvicted of a [qualifying crime of violence] 02, and who remains incarcerated on that date artment of State Police.			
18 19	(g) (1 tested for the f				al resources are available, DNA samples shall be			
20 21	from DNA san	nples;	(i)	To analy	ze and type the genetic markers contained in or derived			
22 23	offense;		(ii)	In the fu	rtherance of an official investigation into a criminal			
24			(iii)	To assis	t in the identification of human remains;			
25			(iv)	To assis	t in the identification of missing persons; and			
26			(v)	For rese	arch and administrative purposes, including:			
27 28	identifying info	ormatio	on is rem	1. oved;	Development of a population data base after personal			
29 30	development o	f foren	sic DNA	2. analysis	Support of identification research and protocol methods; and			
31				3.	Quality control purposes.			
32 33	(2 individuals sha	/	(i) ollected a		NA records that directly relate to the identification of d.			





3	(ii) A search of the data base shall be conducted to determine the existence of a match to DNA obtained from crime scene evidence taken in relation to the crime for which a defendant is charged if, upon the request of that defendant, a written court order commands the data base search.							
5 6	(iii) Nothing in this section limits a court from ordering any discovery of a DNA record or other related material in a criminal case.							
7 8	(iv) The Director shall maintain a file of all orders issued under this paragraph.							
11	(3) The Secretary, after consultation with the Director, shall adopt regulations governing the methods of obtaining information from the statewide DNA data base system and CODIS which shall include procedures for verification of the identity and authority of the individual or agency requesting the information.							
13 14	3 (4) (i) The Director shall create a population data base comprised of 4 DNA samples obtained under this section.							
15 16	(ii) All personal identifiers shall be removed before the information is entered into the population data base.							
17 18	7 (iii) Nothing shall prohibit the sharing or disseminating of 8 population data base information with:							
19	1. Federal, State, or local law enforcement agencies;							
20 21	2. Crime laboratories that serve federal, State, and local law enforcement agencies that have been approved by the Director;							
22	3. A State's Attorney's office; or							
23 24	4. Any third party that the Director deems necessary to assist the Crime Laboratory with statistical analyses of the population data base.							
25 26	(iv) The population data base may be made available to and searched by any agency participating in the CODIS system.							
	7 (n) Any match obtained between an evidence sample and a data base entry 8 may only be used as probable cause to obtain a blood sample from the subject and is 9 not admissible at trial unless confirmed by additional testing.							
32 33 34 35	(o) (1) A person whose DNA record or profile has been included in the statewide DNA data base system and whose DNA sample is stored in the statewide DNA repository may request that information be expunged on the grounds that the conviction that resulted in the inclusion of the person's DNA record or profile in the statewide DNA data base system or the inclusion of the person's DNA sample in the statewide DNA repository meets the expungement criteria specified in § 10-105 or § 10-106 of the Criminal Procedure Article.							

- 1 (2) Expungement proceedings shall be conducted in accordance with § 2 10-105 or § 10-106 of the Criminal Procedure Article.
- 3 (3) Upon receipt of an order of expungement, the Director shall purge 4 any DNA record, DNA sample, or other identifiable information covered by the order
- $5\,$ from the statewide DNA data base system and the statewide DNA repository.
- 6 (p) (1) A person who, by virtue of employment or official position, has 7 possession of or access to individually identifiable DNA information contained in the
- 8 statewide DNA data base system or statewide DNA repository and who willfully
- 9 discloses that information in any manner to any person or agency not entitled to
- 10 receive that information is guilty of a misdemeanor and on conviction is subject to a
- 11 fine not exceeding \$1,000 or imprisonment not exceeding 3 years or both.
- 12 (2) A person who, without authorization, willfully obtains individually
- 13 identifiable DNA information from the statewide DNA data base system or repository
- 14 is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$1,000
- 15 or imprisonment not exceeding 3 years or both.
- 16 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
- 17 construed to apply retroactively and shall be applied to and interpreted to affect any
- 18 person convicted of a felony before the effective date of this Act and incarcerated for a
- 19 felony on or after the effective date of this Act.
- 20 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
- 21 October 1, 2002.