
By: **Delegates Rosenberg, Montague, Cole, Zirkin, and Grosfeld**
Introduced and read first time: January 30, 2002
Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure - DNA Evidence - Preservation of Scientific**
3 **Identification Evidence**

4 FOR the purpose of requiring the State to preserve scientific identification evidence
5 without regard to the State's knowledge that the evidence contains DNA;
6 altering the period of time that the State must preserve certain evidence; and
7 generally relating to the preservation of scientific identification evidence.

8 BY repealing and reenacting, with amendments,
9 Article - Criminal Procedure
10 Section 8-201(i)
11 Annotated Code of Maryland
12 (2001 Volume)

13 **Preamble**

14 WHEREAS, The Court of Appeals has adopted a change to the Maryland Rules
15 effective January 1, 2002, allowing a motion for a new trial to be "filed at any time if
16 the motion is based on DNA identification testing or other generally accepted
17 scientific techniques the results of which, if proven, would show that the defendant is
18 innocent of the crime of which the defendant was convicted"; and

19 WHEREAS, Current law requires the State to preserve DNA evidence
20 generally only for 3 years after sentence; and

21 WHEREAS, To allow the destruction of evidence while allowing the defendant
22 the right to a new trial would make the right virtually meaningless 3 years after the
23 sentence was imposed; now, therefore,

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

1

Article - Criminal Procedure

2 8-201.

- 3 (i) (1) The State shall preserve scientific identification evidence that:
- 4 (i) [the State has reason to know] contains DNA material; and
- 5 (ii) is secured in connection with an offense described in subsection
- 6 (b) of this section.

7 (2) The State shall preserve scientific identification evidence described

8 in paragraph (1) of this subsection for[:

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

16 (3) The State shall make the scientific identification evidence available

17 to parties in the case under terms that are mutually agreed on between them.

18 (4) If an agreement cannot be reached, the party requesting the testing

19 may file an application in the circuit court that entered the judgment for an order

20 setting the terms under which the evidence will be made available for testing.

21 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect

22 October 1, 2002.