Unofficial Copy E4 2002 Regular Session 2lr1167 CF 2lr1168

By: Senator McFadden (Baltimore City Administration) and Senator Pinsky (Prince George's County Administration) and Senator Forehand

Introduced and read first time: February 1, 2002

Assigned to: Judicial Proceedings

A BILL ENTITLED

	/A N	A 1 " I "	concorning
	Δ	ΔC_{\perp}	CONCERNING
_			concerning

2 DNA Testing - Felony Convictions - DNA Technology Fund

3 I	FOR	the purpose of	of altering	provisions	of la	w relating to	DNA	testing of	certain
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- 4 persons convicted of certain crimes by providing that any person convicted of a
- felony on or before a certain date shall submit a DNA sample to the Department
- 6 of State Police; making conforming changes; providing for the application of this
- Act; establishing a DNA Technology Fund to assist the Department of State
- 8 Police and local law enforcement agencies in acquiring DNA technology
- 9 equipment needed for DNA testing; defining certain terms; requiring the
- 10 Executive Director of the Governor's Office of Crime Control and Prevention to
- establish application procedures and administer the grants; requiring the
- Department of State Police and local law enforcement agencies to provide
- certain information to the Executive Director; requiring the Executive Director
- 14 to consider certain criteria in determining the amount of the grants; requiring
- the Department of State Police and local law enforcement agencies to submit
- 16 proof of appropriate expenditure; and generally relating to DNA testing and the
- 17 DNA Technology Fund.

18 BY repealing and reenacting, with amendments,

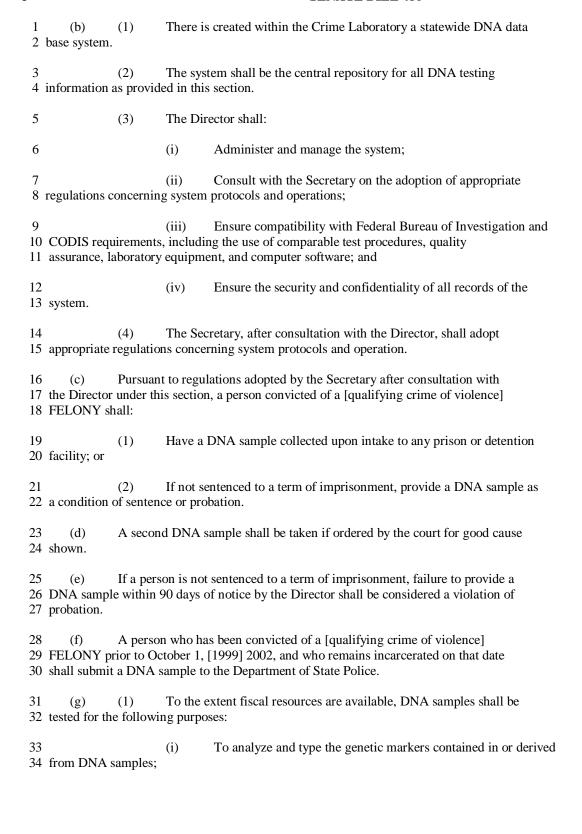
- 19 Article 88B Department of State Police
- 20 Section 12A
- 21 Annotated Code of Maryland
- 22 (1998 Replacement Volume and 2001 Supplement)
- 23 BY adding to
- 24 Article 41 Governor Executive and Administrative Departments
- 25 Section 4-301 to be under the new subtitle "Subtitle 3. DNA Technology Fund"
- 26 Annotated Code of Maryland
- 27 (1997 Replacement Volume and 2001 Supplement)

28 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF

29 MARYLAND, That the Laws of Maryland read as follows:

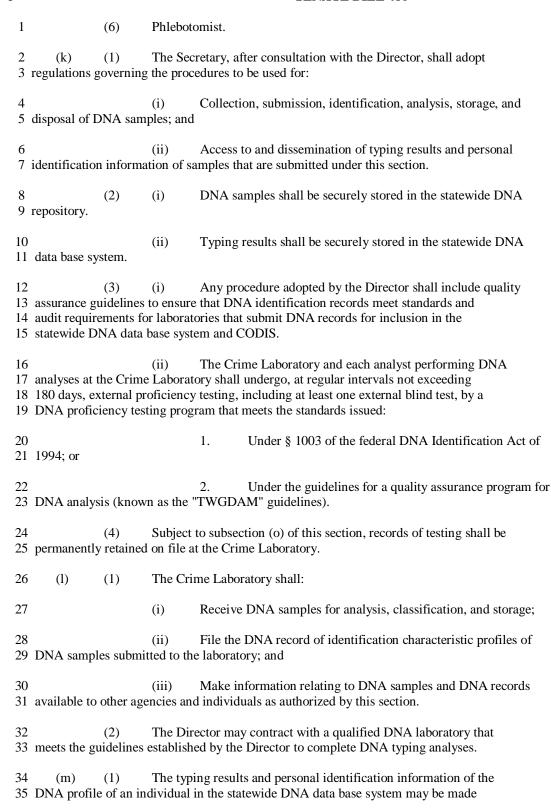
1 **Article 88B - Department of State Police** 2 12A. 3 (a) (1) In this section the following words have the meanings indicated. 4 "CODIS" means the Federal Bureau of Investigation's "Combined (2) 5 DNA Index System" that allows the storage and exchange of DNA records submitted 6 by state and local forensic DNA laboratories. "Crime Laboratory" means the Crime Laboratory Division of the 7 8 Department of State Police. (4) 9 "Director" means the Director of the Crime Laboratory or the 10 Director's designee. 11 (5) "DNA" means deoxyribonucleic acid. 12 "DNA record" means DNA information stored in the statewide DNA (6)13 data base system of the Department of State Police or CODIS and includes that 14 information commonly referred to as a DNA profile. 15 "DNA sample" means a body fluid or tissue sample provided by any (7) person convicted of a [qualifying crime of violence] FELONY OR BREAKING AND 17 ENTERING MISDEMEANOR or any body fluid or tissue sample submitted to the 18 statewide DNA data base system for analysis pursuant to a criminal investigation. 19 "Qualifying crime of violence" means: [(8)]20 (i) A violation of Article 27, § 35C of the Code that involves sexual 21 abuse; 22 (ii) Rape in any degree; 23 A sexual offense in the first, second, or third degree; (iii) 24 (iv) Murder; Robbery under Article 27, § 486 or § 487 of the Code; 25 (v) 26 (vi) First degree assault; or 27 (vii) Attempts to commit these offenses.] [(9)] 28 (8) "Statewide DNA data base system" means the DNA record 29 system administered by the Department of State Police for identification purposes. 30 [(10)]"Statewide DNA repository" means the State repository of 31 DNA samples collected under this section.

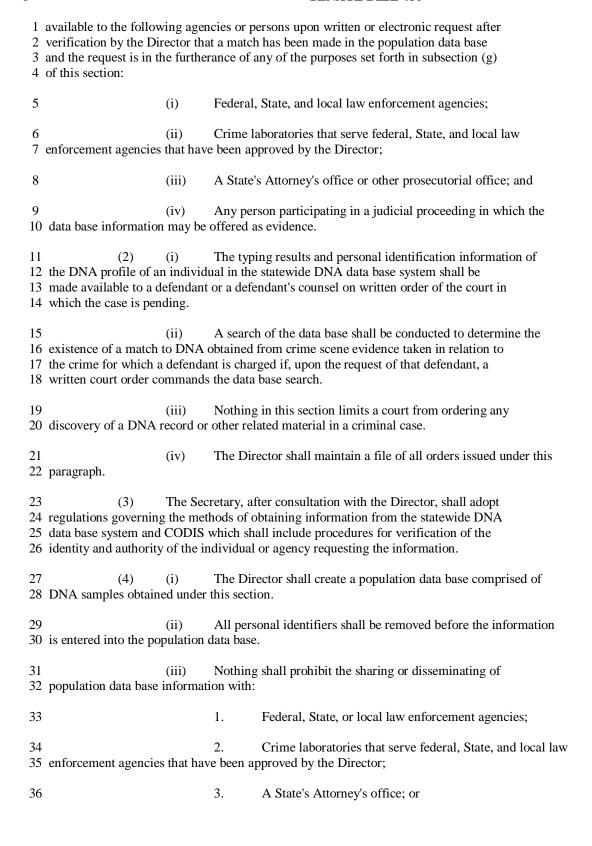
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1 2	offense;		(ii)	In the furtherance of an official investigation into a criminal		
3			(iii)	To assist in the identification of human remains;		
4			(iv)	To assist in the identification of missing persons; and		
5			(v)	For research and administrative purposes, including:		
6 7	identifying in	formatio	on is remo	1. Development of a population data base after personal oved;		
8 9	development	of foren	sic DNA	2. Support of identification research and protocol analysis methods; and		
10				3. Quality control purposes.		
11 12	individuals sl	(2) hall be c	(i) collected a	Only DNA records that directly relate to the identification of and stored.		
13 14	those specifie	ed in thi	(ii) s section.	These records may not be used for any purposes other than		
	(h) (1) The DNA record of identification characteristics resulting from the DNA testing shall be stored and maintained by the Crime Laboratory in the statewide DNA data base system.					
18 19		(2) n the sta		A sample shall be stored and maintained by the Crime NA repository.		
20 21	(i) the Director:		t to regul	ations adopted by the Secretary, after consultation with		
	persons who		rcerated a	NA sample required to be collected under this section from as of October 1, [1999] 2002, or are sentenced to a term shall be collected at the place of incarceration; and		
25 26		(2) shall be	DNA sa	mples from persons who are not sentenced to a term of at a facility specified by the Director.		
27	(j)	DNA sa	mples to	be submitted for analysis shall be collected by a:		
28		(1)	Correcti	onal health nurse technician;		
29		(2)	Physicia	nn;		
30		(3)	Register	red nurse;		
31		(4)	Licensed	d practical nurse;		
32		(5)	Laborate	ory technician; or		





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1 2	4. Any third party that the Director deems necessary to assist the Crime Laboratory with statistical analyses of the population data base.
3	(iv) The population data base may be made available to and searched by any agency participating in the CODIS system.
	(n) Any match obtained between an evidence sample and a data base entry may only be used as probable cause to obtain a blood sample from the subject and is not admissible at trial unless confirmed by additional testing.
10 11 12 13	(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.
15 16	(2) Expungement proceedings shall be conducted in accordance with § 10-105 or § 10-106 of the Criminal Procedure Article.
	(3) Upon receipt of an order of expungement, the Director shall purge any DNA record, DNA sample, or other identifiable information covered by the order from the statewide DNA data base system and the statewide DNA repository.
22 23 24	(p) (1) A person who, by virtue of employment or official position, has possession of or access to individually identifiable DNA information contained in the statewide DNA data base system or statewide DNA repository and who willfully discloses that information in any manner to any person or agency not entitled to receive that information is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$1,000 or imprisonment not exceeding 3 years or both.
28	(2) A person who, without authorization, willfully obtains individually identifiable DNA information from the statewide DNA data base system or repository is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$1,000 or imprisonment not exceeding 3 years or both.
30	Article 41 - Governor - Executive and Administrative Departments
31	SUBTITLE 3. DNA TECHNOLOGY FUND.
32	4-301.
33 34	(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.
35	(2) "DNA" MEANS DEOXYRIBONUCLEIC ACID.

- 1 (3) "DNA TECHNOLOGY EQUIPMENT" MEANS ANY EQUIPMENT USED FOR 2 DNA TESTING PURPOSES INCLUDING THOSE PURPOSES LISTED UNDER ARTICLE 88B, 3 § 12A(G)(1) OF THE CODE.
- 4 (4) "EXECUTIVE DIRECTOR" MEANS THE EXECUTIVE DIRECTOR OF THE 5 GOVERNOR'S OFFICE OF CRIME CONTROL AND PREVENTION.
- 6 (5) "FUND" MEANS THE DNA TECHNOLOGY FUND ESTABLISHED UNDER 7 THIS SECTION.
- 8 (6) "LOCAL LAW ENFORCEMENT AGENCY" MEANS THE AGENCY OF ANY 9 COUNTY OR MUNICIPAL CORPORATION, INCLUDING BALTIMORE CITY, WITHIN THE 10 STATE THAT PERFORMS POLICE PROTECTION FUNCTIONS.
- 11 (B) A DNA TECHNOLOGY FUND IS ESTABLISHED TO ASSIST THE DEPARTMENT 12 OF STATE POLICE AND LOCAL LAW ENFORCEMENT AGENCIES IN ACQUIRING DNA 13 TECHNOLOGY EQUIPMENT NEEDED TO TEST DNA SAMPLES.
- 14 (C) (1) THE EXECUTIVE DIRECTOR SHALL ADMINISTER THE FUND IN 15 ACCORDANCE WITH THIS SECTION AND OTHER APPLICABLE LAW.
- 16 (2) THE FUND SHALL CONSIST OF MONEY APPROPRIATED IN THE STATE 17 BUDGET.
- 18 (3) PAYMENTS OUT OF THE FUND SHALL BE MADE TO THE
 19 DEPARTMENT OF STATE POLICE AND A LOCAL LAW ENFORCEMENT AGENCY BY THE
 20 STATE TREASURER AS AUTHORIZED BY THE EXECUTIVE DIRECTOR.
- 21 (4) (I) THE FUND IS A CONTINUING, NONLAPSING FUND WHICH IS 22 NOT SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.
- 23 (II) THE TREASURER SHALL SEPARATELY HOLD AND THE 24 COMPTROLLER SHALL ACCOUNT FOR THE FUND IN CONJUNCTION WITH THE 25 EXECUTIVE DIRECTOR.
- 26 (III) THE TREASURER MAY INVEST MONEYS IN THE FUND IN THE 27 SAME MANNER AS OTHER STATE MONEY MAY BE INVESTED.
- 28 (D) (1) THE EXECUTIVE DIRECTOR SHALL ESTABLISH APPLICATION 29 PROCEDURES FOR THE DEPARTMENT OF STATE POLICE AND LOCAL LAW 30 ENFORCEMENT AGENCIES TO APPLY FOR AID FROM THE FUND.
- 31 (2) THE DEPARTMENT OF STATE POLICE AND A LOCAL LAW
 32 ENFORCEMENT AGENCY APPLYING FOR AID FROM THE FUND SHALL PROVIDE TO
 33 THE EXECUTIVE DIRECTOR ANY INFORMATION THAT THE EXECUTIVE DIRECTOR
 34 DEEMS NECESSARY IN MAKING AWARDS FOR DNA TECHNOLOGY EQUIPMENT.
- 35 (E) TO THE EXTENT PROVIDED IN THE STATE BUDGET, THE EXECUTIVE 36 DIRECTOR SHALL PROVIDE GRANTS FOR THE PURCHASE OR REPLACEMENT OF DNA 37 TECHNOLOGY EQUIPMENT TO THE DEPARTMENT OF STATE POLICE AND LOCAL LAW

- 1 ENFORCEMENT AGENCIES BASED UPON THE NEEDS OF THE DEPARTMENT OF STATE
- 2 POLICE AND THE COMPARATIVE NEEDS OF EACH LOCAL LAW ENFORCEMENT
- 3 AGENCY AS DETERMINED FROM THE INFORMATION PROVIDED UNDER SUBSECTION
- 4 (D)(2) OF THIS SECTION.
- 5 (F) THE AID DISTRIBUTED UNDER THIS SECTION SHALL BE USED TO
- 6 SUPPLEMENT, NOT SUPPLANT, OTHER STATE AND LOCAL DNA TECHNOLOGY
- 7 FUNDING FOR DNA TECHNOLOGY.
- 8 (G) AFTER THE DEPARTMENT OF STATE POLICE OR A LOCAL LAW
- 9 ENFORCEMENT AGENCY RECEIVES NOTICE OF A GRANT AWARD FROM THE
- 10 EXECUTIVE DIRECTOR, THE DEPARTMENT OF STATE POLICE OR THE LOCAL LAW
- 11 ENFORCEMENT AGENCY SHALL SUBMIT PROOF OF EXPENDITURES ON DNA
- 12 TECHNOLOGY EQUIPMENT TO THE EXECUTIVE DIRECTOR.
- 13 (H) THE EXECUTIVE DIRECTOR SHALL REPORT ANNUALLY BY SEPTEMBER 1
- 14 TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE
- 15 GOVERNMENT ARTICLE, TO THE GENERAL ASSEMBLY AS TO THE DISTRIBUTION OF
- 16 AID PROVIDED UNDER THIS SECTION.
- 17 SECTION 2. AND BE IT FURTHER ENACTED, That Article 88B, § 12A of the
- 18 Code, as enacted by Section 1 of this Act, shall be construed to apply retroactively and
- 19 shall be applied to and interpreted to affect any person convicted of a felony before the
- 20 effective date of this Act and incarcerated for a felony on or after the effective date of
- 21 this Act.
- 22 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
- 23 July 1, 2002.