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By: **Delegates Morhaim, Hutchins, Eckardt, Goldwater, Lee, Madaleno,  
Nathan-Pulliam, O'Donnell, Owings, Petzold, and Zirkin**

Introduced and read first time: January 29, 2003

Assigned to: Judiciary

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A BILL ENTITLED

1 AN ACT concerning

2 **Drunk and Drugged Driving - Evidence - Certified Statement by Qualified**  
3 **Medical Person**

4 FOR the purpose of providing for the admissibility in evidence of a certified statement  
5 by a qualified medical person, who obtained blood from a defendant charged  
6 with certain alcohol- or drug-related driving offenses, without the presence or  
7 testimony of the person under certain circumstances; providing for certain  
8 exceptions; clarifying that certain evidentiary provisions do not preclude a  
9 defendant from requesting a subpoena for a certain qualified medical person or  
10 introducing certain other evidence; and generally relating to altering certain  
11 evidentiary provisions concerning the admissibility of a certain certified  
12 statement by a qualified medical person under certain circumstances.

13 BY repealing and reenacting, without amendments,  
14 Article - Courts and Judicial Proceedings  
15 Section 10-304(a)(1) and (2)  
16 Annotated Code of Maryland  
17 (2002 Replacement Volume)

18 BY repealing and reenacting, with amendments,  
19 Article - Courts and Judicial Proceedings  
20 Section 10-304(c)(1)  
21 Annotated Code of Maryland  
22 (2002 Replacement Volume)

23 BY adding to  
24 Article - Courts and Judicial Proceedings  
25 Section 10-304(g)  
26 Annotated Code of Maryland  
27 (2002 Replacement Volume)

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

3 **Article - Courts and Judicial Proceedings**

4 10-304.

5 (a) (1) In this section the following words have the meanings indicated.

6 (2) "Qualified medical person" means any person permitted by law to  
7 withdraw blood from humans.

8 (c) (1) (i) The blood shall be obtained by a qualified medical person using  
9 equipment approved by the toxicologist under the Postmortem Examiners  
10 Commission acting at the request of a police officer.

11 (ii) A certified statement by the qualified medical person who  
12 obtained the blood [shall]:

13 1. SHALL be prima facie evidence of that person's  
14 qualifications and that the blood was obtained in compliance with this section,  
15 UNLESS THE DEFENDANT ESTABLISHES BY A PREPONDERANCE OF THE EVIDENCE  
16 THAT THE PERSON WAS NOT A QUALIFIED MEDICAL PERSON OR THAT THE BLOOD  
17 WAS NOT OBTAINED IN COMPLIANCE WITH THIS SECTION[.]; AND

18 [(iii) 1. A certified statement that complies with the requirements  
19 of this paragraph is]

20 2. IS admissible as substantive evidence without the  
21 presence or testimony of the qualified medical person who obtained the blood.

22 [2.] (III) If the State decides to offer the certified statement  
23 without the testimony of the qualified medical person, the State shall, at least 30  
24 days before trial, notify the defendant or the defendant's attorney in writing of the  
25 State's intention and deliver to the defendant or the defendant's attorney a copy of the  
26 certified statement to be offered.

27 [3.] (IV) If the District Court is deprived of jurisdiction under  
28 circumstances in which a defendant is entitled to and demands a jury trial, or appeals  
29 from the District Court to a circuit court, the State is not required to file a second  
30 notice.

31 [(iv) 1. If the defendant desires the qualified medical person to be  
32 present and testify at trial, the defendant shall notify the court and the State in  
33 writing no later than 20 days before trial.

34 2. If the District Court is deprived of jurisdiction under  
35 circumstances in which a defendant is entitled to and demands a jury trial, or appeals  
36 from the District Court to a circuit court, the defendant shall notify the circuit court  
37 and the State in writing no later than 20 days before trial.]

1 [3.] (V) [If the timely and proper notice required under this  
2 subparagraph is provided by the defendant] IF THE STATE DOES NOT COMPLY WITH  
3 THE PROVISIONS OF ITEM (III) OF THIS PARAGRAPH, the certified statement is  
4 inadmissible without the testimony of the qualified medical person.

5 [4. Failure to give the timely and proper notice constitutes a  
6 waiver of the defendant's right to the presence and testimony of the qualified medical  
7 person.]

8 (G) NOTHING IN THIS SECTION PRECLUDES A DEFENDANT FROM  
9 REQUESTING A SUBPOENA FOR A QUALIFIED MEDICAL PERSON WHO WITHDREW  
10 BLOOD FROM THE DEFENDANT OR INTRODUCING ANY OTHER COMPETENT  
11 EVIDENCE BEARING ON AN ISSUE AT TRIAL.

12 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take  
13 effect October 1, 2003.