
By: **Chairman, Judiciary Committee (By Request - Departmental - State Police)**

Introduced and read first time: February 12, 2003

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **DNA Testing - Felony Convictions**

3 FOR the purpose of requiring the collection of DNA samples from certain persons;
4 identifying where DNA samples shall be collected; requiring the Director of the
5 State Police Crime Laboratory to provide for liaison with certain criminal justice
6 agencies relating to the State's participation in certain DNA data bases;
7 providing for the effect of including by mistake certain information in the
8 statewide DNA data base; identifying the standards that are to be used in
9 validating certain DNA tests; providing for the admissibility of certain evidence;
10 altering a certain definition; repealing a certain termination date; and generally
11 relating to DNA testing.

12 BY repealing and reenacting, with amendments,
13 Article - Public Safety
14 Section 2-501, 2-502, 2-504, 2-505, and 2-510
15 Annotated Code of Maryland
16 (As enacted by Chapter _____ (S.B. 1) of the Acts of the General Assembly of
17 2003)

18 BY repealing and reenacting, with amendments,
19 Article - Courts and Judicial Proceedings
20 Section 10-915(a) and (b)
21 Annotated Code of Maryland
22 (2002 Replacement Volume)

23 BY repealing and reenacting, with amendments,
24 Chapter 465 of the Acts of the General Assembly of 2002
25 Section 5

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

1 **Article - Public Safety**

2 Subtitle 5. Statewide DNA Data Base System.

3 2-501.

4 (a) In this subtitle the following words have the meanings indicated.

5 (b) (1) "CODIS" means the Federal Bureau of Investigation's "Combined
6 DNA Index System" that allows the storage and exchange of DNA records submitted
7 by FEDERAL, [state] STATE, and local forensic DNA laboratories.8 (2) "CODIS" INCLUDES THE NATIONAL DNA IDENTIFICATION INDEX
9 ADMINISTERED AND OPERATED BY THE FEDERAL BUREAU OF INVESTIGATION.10 (c) "Crime Laboratory" means the Crime Laboratory Division of the
11 Department.

12 [(d) "Crime of violence" means:

13 (1) sexual abuse of a minor under § 3-602 of the Criminal Law Article;

14 (2) rape in any degree;

15 (3) a sexual offense in the first, second, or third degree;

16 (4) murder;

17 (5) robbery under § 3-402 or § 3-403 of the Criminal Law Article;

18 (6) first degree assault; or

19 (7) attempts to commit the offenses listed in items (1) through (6) of this
20 subsection.]21 [(e) (D) "Director" means the Director of the Crime Laboratory or the
22 Director's designee.

23 [(f) (E) "DNA" means deoxyribonucleic acid.

24 [(g) (F) (1) "DNA record" means DNA information stored in CODIS or the
25 statewide DNA data base system.26 (2) "DNA record" includes the information commonly referred to as a
27 DNA profile.

28 [(h) (G) "DNA sample" means a body fluid or tissue sample that is:

29 (1) provided by an individual [who is convicted of a crime of violence as
30 defined in this section] WHO IS CONVICTED OF A FELONY OR A VIOLATION OF § 6-205
31 OR § 6-206 OF THE CRIMINAL LAW ARTICLE; or

1 (2) submitted to the statewide DNA data base system for analysis as
2 part of a criminal investigation.

3 [(i)] (H) "Statewide DNA data base system" means the DNA record system
4 administered by the Department for identification purposes.

5 [(j)] (I) "Statewide DNA repository" means the State repository of DNA
6 samples collected under this subtitle.

7 2-502.

8 (a) There is a statewide DNA data base system in the Crime Laboratory.

9 (b) The statewide DNA data base system is the central repository for all DNA
10 testing information as provided in this subtitle.

11 (c) The Director shall:

12 (1) administer and manage the statewide DNA data base system;

13 (2) consult with the Secretary on the adoption of appropriate regulations
14 for protocols and operations of the statewide DNA data base system;

15 (3) ensure compatibility with Federal Bureau of Investigation and
16 CODIS requirements, including the use of comparable test procedures, quality
17 assurance, laboratory equipment, and computer software; [and]

18 (4) ensure the security and confidentiality of all records in the statewide
19 DNA data base system; AND

20 (5) PROVIDE FOR A LIAISON WITH THE FEDERAL BUREAU OF
21 INVESTIGATION AND OTHER CRIMINAL JUSTICE AGENCIES RELATED TO THE STATE'S
22 PARTICIPATION IN CODIS OR AN ANY DNA DATA BASE DESIGNATED BY THE
23 DEPARTMENT.

24 (d) The Crime Laboratory shall:

25 (1) receive DNA samples for analysis, classification, [and] storage, AND
26 DISPOSAL;

27 (2) file the DNA record of identification characteristic profiles of DNA
28 samples submitted to the Crime Laboratory; and

29 (3) make information that relates to DNA samples and DNA records
30 available to other agencies and individuals as authorized by this subtitle.

31 (e) The Director may contract with a qualified DNA laboratory to complete
32 DNA typing analyses if the laboratory meets the guidelines established by the
33 Director.

1 (f) Subject to § 2-511 of this subtitle, records of testing shall be permanently
2 retained on file at the Crime Laboratory.

3 2-504.

4 (a) (1) In accordance with regulations adopted under this subtitle, an
5 individual who is convicted of a [crime of violence, as defined in § 2-501 of this
6 subtitle,] FELONY OR A VIOLATION OF § 6-205 OR § 6-206 OF THE CRIMINAL LAW
7 ARTICLE shall:

8 (i) have a DNA sample collected on intake to a correctional facility,
9 if the individual is sentenced to a term of imprisonment; or

10 (ii) provide a DNA sample as a condition of sentence or probation, if
11 the individual is not sentenced to a term of imprisonment.

12 (2) An individual who was convicted of a [crime of violence, as defined in
13 § 2-501 of this subtitle,] FELONY OR A VIOLATION OF § 6-205 OR § 6-206 OF THE
14 CRIMINAL LAW ARTICLE ON OR before October 1, [1999] 2003, and who remains
15 confined in a correctional facility [on or after October 1, 1999], shall submit a DNA
16 sample to the Department.

17 (b) In accordance with regulations adopted under this subtitle, each DNA
18 sample required to be collected under this section shall be collected:

19 (1) at the correctional facility where the individual is confined, if the
20 individual is confined in a correctional facility on or after October 1, [1999] 2003 or is
21 sentenced to a term of imprisonment on or after October 1, [1999] 2003; or

22 (2) at a facility specified by the Director, if the individual is ON
23 PROBATION OR IS not sentenced to a term of imprisonment.

24 (c) [Each DNA sample shall be collected by:

25 (1) a correctional health nurse technician;

26 (2) a physician;

27 (3) a registered nurse;

28 (4) a licensed practical nurse;

29 (5) a laboratory technician; or

30 (6) a phlebotomist.] A DNA SAMPLE SHALL BE COLLECTED BY AN
31 INDIVIDUAL WHO IS:

32 (1) APPOINTED BY THE DIRECTOR; AND

33 (2) TRAINED IN THE COLLECTION PROCEDURES THAT THE CRIME
34 LABORATORY USES.

1 (d) A second DNA sample shall be taken IF NEEDED TO OBTAIN SUFFICIENT
2 DNA FOR THE STATE DATA BASE OR if ordered by the court for good cause shown.

3 (e) Failure of an individual who is not sentenced to a term of imprisonment to
4 provide a DNA sample within 90 days after notice by the Director is a violation of
5 probation.

6 2-505.

7 (a) To the extent fiscal resources are available, DNA samples shall be
8 COLLECTED AND tested:

9 (1) to analyze and type the genetic markers contained in or derived from
10 the DNA samples;

11 (2) as part of an official investigation into a crime;

12 (3) to help identify human remains;

13 (4) to help identify missing individuals; and

14 (5) for research and administrative purposes, including:

15 (i) development of a population data base after personal
16 identifying information is removed;

17 (ii) support of identification research and protocol development of
18 forensic DNA analysis methods; and

19 (iii) quality control.

20 (b) (1) Only DNA records that directly relate to the identification of
21 individuals shall be collected and stored.

22 (2) DNA records may not be used for any purposes other than those
23 specified in this subtitle.

24 2-510.

25 (A) A match obtained between an evidence sample and a data base entry may
26 only be used as probable cause to obtain [a blood sample] AN ADDITIONAL DNA
27 SAMPLE from the subject and is not admissible at trial unless confirmed by additional
28 testing.

29 (B) (1) A FINDING THAT A DNA RECORD OR PROFILE WAS INCLUDED IN THE
30 STATEWIDE DNA DATA BASE SYSTEM BY MISTAKE DOES NOT INVALIDATE:

31 (I) A DATA BASE MATCH; OR

32 (II) THE DETENTION, ARREST, OR CONVICTION OF A PERSON
33 BASED ON A DATA BASE MATCH.

1 (2) INFORMATION IN THE STATEWIDE DNA DATA BASE SYSTEM IS NOT
2 INVALIDATED BECAUSE A SAMPLE WAS OBTAINED OR PLACED IN THE DATA BASE BY
3 MISTAKE.

4 **Article - Courts and Judicial Proceedings**

5 10-915.

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

7 (2) "Deoxyribonucleic acid (DNA)" means the molecules in all cellular
8 forms that contain genetic information in a chemical structure of each individual.

9 (3) "DNA profile" means an analysis of genetic loci that have been
10 validated according to [standards established by:

11 (i) The Technical Working Group on DNA Analysis Methods
12 (TWGDAM); or

13 (ii) The DNA Advisory Board of the Federal Bureau of
14 Investigation] THE QUALITY ASSURANCE STANDARDS FOR FORENSIC DNA TESTING
15 LABORATORIES OF THE FEDERAL BUREAU OF INVESTIGATION.

16 (b) A statement IS SUFFICIENT TO ADMIT A DNA PROFILE UNDER THIS
17 SECTION IF THE STATEMENT:

18 (1) IS from [the] A testing laboratory; AND

19 (2) [setting] SETS forth that the analysis of genetic loci has been
20 validated by [standards established by TWGDAM or the DNA Advisory Board] THE
21 QUALITY ASSURANCE STANDARDS FOR FORENSIC DNA TESTING LABORATORIES OF
22 THE FEDERAL BUREAU OF INVESTIGATION [is sufficient to admit a DNA profile
23 under this section].

24 **Chapter 465 of the Acts of 2002**

25 SECTION 5. AND BE IT FURTHER ENACTED, That, subject to Section 4 of
26 this Act, this Act shall take effect October 1, 2002. [It shall remain effective for a
27 period of 1 year and, at the end of September 30, 2003, with no further action required
28 by the General Assembly, this Act shall be abrogated and of no further force and
29 effect.]

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