

---

By: **Delegates Shewell, Aumann, Bartlett, Cryor, Elmore, Glassman, Hogan,  
Kohl, Krebs, Mayer, McKee, Miller, Stocksdale, Stull, and Weldon**  
Introduced and read first time: January 19, 2006  
Assigned to: Judiciary

---

A BILL ENTITLED

1 AN ACT concerning

2 **Probation or Work Release - Controlled Dangerous Substance or Alcohol**  
3 **Testing - Chemist or Analyst as Witness**

4 FOR the purpose of repealing a provision subjecting a certain chemist or analyst to  
5 cross-examination in a certain proceeding under certain circumstances;  
6 repealing a requirement that the prosecution require the presence of a certain  
7 chemist, analyst, or other individual in a certain proceeding under certain  
8 circumstances; repealing a provision rendering certain other provisions  
9 inapplicable under certain circumstances; and generally relating to controlled  
10 dangerous substance or alcohol testing of defendants on probation or work  
11 release.

12 BY repealing and reenacting, with amendments,  
13 Article - Courts and Judicial Proceedings  
14 Section 10-914  
15 Annotated Code of Maryland  
16 (2002 Replacement Volume and 2005 Supplement)

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

19 **Article - Courts and Judicial Proceedings**

20 10-914.

21 (a) A laboratory test, performed by a laboratory certified by the Department of  
22 Health and Mental Hygiene and approved by the Division of Parole and Probation of  
23 the Department of Public Safety and Correctional Services, indicating that the  
24 defendant has used a controlled dangerous substance as defined in § 5-101 of the  
25 Criminal Law Article or alcohol in violation of a condition of the defendant's probation  
26 or work release, is sufficiently reliable to justify revocation of the defendant's  
27 probation or work release, without an expert witness from the laboratory testifying in  
28 court to support the contents of a report of the laboratory test.

1 (b) A report of a laboratory test described under this section shall:

2 (1) Identify the chemist or analyst who performed the laboratory test as  
3 an individual qualified, under standards approved by the Department of Health and  
4 Mental Hygiene, to perform the laboratory test;

5 (2) Be signed by the chemist or analyst who performed the laboratory  
6 test; and

7 (3) Contain a statement that:

8 (i) The material delivered to the chemist or analyst who performed  
9 the laboratory test was properly tested under procedures and equipment approved by  
10 the Department of Health and Mental Hygiene;

11 (ii) The procedures of the laboratory test are reliable; and

12 (iii) The laboratory test indicates that the defendant used a  
13 controlled dangerous substance or alcohol.

14 (c) A report of a laboratory test is prima facie evidence of the results of the  
15 laboratory test.

16 (d) Nothing in this section precludes the right of any party to introduce any  
17 evidence that supports or contradicts the evidence contained in or the presumptions  
18 raised by the report of the laboratory test described under subsection (b) of this  
19 section.

20 (e) [Subject to the provisions of subsection (f) of this section, if a laboratory  
21 report or statement is admitted in evidence, the chemist or analyst who performed the  
22 laboratory test is subject to cross-examination by any party to the proceeding.

23 (f) (1) On written demand of a defendant filed in the proceeding at least 5  
24 days before the hearing to revoke a defendant's probation or work release, the  
25 prosecution shall require the presence of the chemist or analyst who performed the  
26 test or any individual in the chain of custody or control as a prosecution witness.

27 (2) The provisions of subsections (a), (b), and (c) of this section  
28 concerning prima facie evidence do not apply to the testimony of a witness whose  
29 presence is required under this subsection.

30 (3) Subsections (a), (b), and (c) of this section apply in a proceeding to  
31 revoke a defendant's probation or work release only when a copy of the report of the  
32 laboratory test or the statement to be introduced is mailed, delivered, or made  
33 available to counsel for the defendant or to the defendant personally when the  
34 defendant is not represented by counsel, at least 10 days prior to the introduction of  
35 the report of the laboratory test or the statement at the hearing.

36 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
37 October 1, 2006.

