

HOUSE BILL 946

E4

71r1642

By: **Delegate Walkup**

Introduced and read first time: February 9, 2007

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Public Safety – Statewide DNA Data Base System – Sample Collection on**
3 **Arrest**

4 FOR the purpose of requiring the collection of a DNA sample from an individual under
5 arrest for a felony or certain burglary offenses; altering a certain definition;
6 requiring a DNA sample to be collected at the facility where a certain arrest is
7 processed; requiring an individual who was arrested before a certain date and
8 convicted on or after a certain date to submit a DNA sample; and generally
9 relating to the collection of DNA samples.

10 BY repealing and reenacting, with amendments,
11 Article – Public Safety
12 Section 2–501, 2–504, and 2–511
13 Annotated Code of Maryland
14 (2003 Volume and 2006 Supplement)

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

17 **Article – Public Safety**

18 2–501.

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (b) (1) “CODIS” means the Federal Bureau of Investigation’s “Combined
2 DNA Index System” that allows the storage and exchange of DNA records submitted
3 by federal, state and local forensic DNA laboratories.

4 (2) “CODIS” includes the national DNA index administered and
5 operated by the Federal Bureau of Investigation.

6 (c) “Crime Laboratory” means the Crime Laboratory Division of the
7 Department.

8 (d) “Director” means the Director of the Crime Laboratory or the Director’s
9 designee.

10 (e) “DNA” means deoxyribonucleic acid.

11 (f) (1) “DNA record” means DNA information stored in CODIS or the
12 statewide DNA data base system.

13 (2) “DNA record” includes the information commonly referred to as a
14 DNA profile.

15 (g) “DNA sample” means a body fluid or tissue sample that is:

16 (1) provided by an individual who is **ARRESTED FOR OR** convicted of
17 a felony or a violation of § 6–205 or § 6–206 of the Criminal Law Article; or

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

20 (h) “Statewide DNA data base system” means the DNA record system
21 administered by the Department for identification purposes.

22 (i) “Statewide DNA repository” means the State repository of DNA samples
23 collected under this subtitle.

24 2–504.

25 (a) (1) In accordance with regulations adopted under this subtitle, an
26 individual who is [convicted of] **ARRESTED FOR** a felony or a violation of § 6–205 or §
27 6–206 of the Criminal Law Article shall[:

1 (i) have a DNA sample collected either at the time of sentence
2 or on intake to a correctional facility, if the individual is sentenced to a term of
3 imprisonment; or

4 (ii) provide a DNA sample as a condition of sentence or
5 probation, if the individual is not sentenced to a term of imprisonment.] **HAVE A DNA**
6 **SAMPLE COLLECTED ON ARREST.**

7 (2) An individual who was convicted of a felony or a violation of §
8 6–205 or § 6–206 of the Criminal Law Article on or before October 1, 2003 and who
9 remains confined in a correctional facility on or after October 1, 1999, shall submit a
10 DNA sample to the Department.

11 **(3) AN INDIVIDUAL WHO WAS ARRESTED FOR A FELONY OR A**
12 **VIOLATION OF § 6–205 OR § 6–206 OF THE CRIMINAL LAW ARTICLE BEFORE**
13 **OCTOBER 1, 2007, AND WHO IS CONVICTED OF THE OFFENSE ON OR AFTER**
14 **OCTOBER 1, 2007, SHALL SUBMIT A DNA SAMPLE TO THE DEPARTMENT.**

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

17 **(1) AT THE FACILITY WHERE THE ARREST OF THE INDIVIDUAL IS**
18 **PROCESSED;**

19 ~~[(1)]~~ **(2)** at the correctional facility where the individual is confined,
20 if the individual is confined in a correctional facility on or after October 1, 2003, or is
21 sentenced to a term of imprisonment on or after October 1, 2003;

22 ~~[(2)]~~ **(3)** at a facility specified by the Director, if the individual is on
23 probation or is not sentenced to a term of imprisonment; or

24 ~~[(3)]~~ **(4)** at a suitable location in a circuit court following the
25 imposition of sentence.

26 (c) A DNA sample shall be collected by an individual who is:

27 (1) designated by the Director; and

28 (2) trained in the collection procedures that the Crime Laboratory
29 uses.

1 (d) A second DNA sample shall be taken if needed to obtain sufficient DNA
2 for the statewide DNA 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
4 to provide a DNA sample within 90 days after notice by the Director is a violation of
5 probation.

6 2-511.

7 (a) An individual whose DNA record or profile is included in the statewide
8 DNA data base system and whose DNA sample is stored in the statewide DNA
9 repository may request that information be expunged on the grounds that the **ARREST**
10 **OR** conviction that resulted in the inclusion meets the expungement criteria specified
11 in § 10-105 or § 10-106 of the Criminal Procedure Article.

12 (b) Expungement proceedings shall be conducted in accordance with §
13 10-105 or § 10-106 of the Criminal Procedure Article.

14 (c) On receipt of an order of expungement, the Director shall purge any DNA
15 record, DNA sample, or other identifiable information covered by the order from the
16 statewide DNA data base system and the statewide DNA repository.

17 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
18 October 1, 2007.