

HOUSE BILL 107

E4

8lr0479

CF 8lr0480

By: **Delegates Kramer, Anderson, Barkley, Barnes, Dwyer, Frank, Heller, Ivey, Kelly, Lee, Levi, Manno, McComas, McConkey, Shank, Simmons, and Valderrama**

Introduced and read first time: January 16, 2008

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

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

3 FOR the purpose of requiring the collection of a DNA sample from an individual under
4 arrest for a felony or certain burglary offenses; altering a certain definition;
5 requiring a DNA sample to be collected at the facility where a certain arrest is
6 processed; requiring an individual who was arrested before a certain date and
7 convicted on or after a certain date to submit a DNA sample; authorizing a
8 certain individual to request expungement of certain DNA–related information
9 if the individual’s arrest meets certain criteria; clarifying language; and
10 generally relating to the collection of DNA samples.

11 BY repealing and reenacting, with amendments,
12 Article – Public Safety
13 Section 2–501, 2–504, and 2–511
14 Annotated Code of Maryland
15 (2003 Volume and 2007 Supplement)

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

18 **Article – Public Safety**

19 2–501.

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

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (2) "CODIS" includes the national DNA index administered and
2 operated by the Federal Bureau of Investigation.

3 (c) "Crime Laboratory" means the Crime Laboratory Division of the
4 Department.

5 (d) "Director" means the Director of the Crime Laboratory or the Director's
6 designee.

7 (e) "DNA" means deoxyribonucleic acid.

8 (f) (1) "DNA record" means DNA information stored in CODIS or the
9 statewide DNA data base system.

10 (2) "DNA record" includes the information commonly referred to as a
11 DNA profile.

12 (g) "DNA sample" means a body fluid or tissue sample that is:

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

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

17 (h) "Statewide DNA data base system" means the DNA record system
18 administered by the Department for identification purposes.

19 (i) "Statewide DNA repository" means the State repository of DNA samples
20 collected under this subtitle.

21 2–504.

22 (a) (1) In accordance with regulations adopted under this subtitle, an
23 individual who is [convicted of] **ARRESTED FOR** a felony or a violation of § 6–205 or §
24 6–206 of the Criminal Law Article shall[:

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

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

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

5 **(3) AN INDIVIDUAL WHO WAS ARRESTED FOR A FELONY OR A**
6 **VIOLATION OF § 6–205 OR § 6–206 OF THE CRIMINAL LAW ARTICLE BEFORE**
7 **OCTOBER 1, 2008, AND WHO IS CONVICTED OF THE OFFENSE ON OR AFTER**
8 **OCTOBER 1, 2008, SHALL SUBMIT A DNA SAMPLE TO THE DEPARTMENT.**

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

11 **(1) AT THE FACILITY WHERE THE ARREST OF THE INDIVIDUAL IS**
12 **PROCESSED;**

13 [(1)] **(2)** at the correctional facility where the individual is confined,
14 if the individual is confined in a correctional facility on or after October 1, 2003, or is
15 sentenced to a term of imprisonment on or after October 1, 2003;

16 [(2)] **(3)** at a facility specified by the Director, if the individual is on
17 probation or is not sentenced to a term of imprisonment; or

18 [(3)] **(4)** at a suitable location in a circuit court following the
19 imposition of sentence.

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

21 (1) designated by the Director; and

22 (2) trained in the collection procedures that the Crime Laboratory
23 uses.

24 (d) A second DNA sample shall be taken if needed to obtain sufficient DNA
25 for the statewide DNA data base or if ordered by the court for good cause shown.

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

29 2–511.

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

1 (b) Expungement proceedings shall be conducted in accordance with
2 § 10–105 or § 10–106 of the Criminal Procedure Article.

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

6 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
7 October 1, 2008.