

HOUSE BILL 370

E4

8lr0250
CF SB 211

By: **The Speaker (By Request – Administration) and Delegates Jameson, Kramer, Ali, Anderson, Barkley, Barnes, Bates, Bohanan, Branch, Bronrott, Busch, G. Clagett, DeBoy, Dwyer, Eckardt, Elmore, Feldman, Gaines, George, Gilchrist, Guzzone, Haddaway, Hammen, Haynes, Heller, James, Jones, Kelly, King, Kipke, Krebs, Kullen, Levi, Levy, Love, Malone, Mathias, McHale, McIntosh, Murphy, O'Donnell, Olszewski, Reznik, Rice, Rosenberg, Ross, Schuh, Shank, Simmons, Sophocleus, Stocksdales, Weldon, and Wood**

Introduced and read first time: January 25, 2008

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Public Safety – Statewide DNA Data Base System – Crimes of Violence,**
3 **Burglary, and Breaking and Entering a Motor Vehicle – Sample Collections**
4 **on Arrest**

5 FOR the purpose of requiring the collection of a DNA sample from a certain individual
6 arrested for or charged with certain criminal offenses in accordance with certain
7 regulations; requiring a certain DNA sample to be collected by a certain person
8 at the facility where a certain arrest is processed; altering certain requirements
9 for expungement of certain DNA samples in the statewide DNA data base
10 system; requiring certain documentation to be sent to certain persons; requiring
11 the Director of the Crime Laboratory to adopt certain procedures; altering
12 certain definitions; defining certain terms; providing for a delayed effective
13 date; and generally relating to the statewide DNA data base system.

14 BY repealing and reenacting, with amendments,
15 Article – Public Safety
16 Section 2–501, 2–504, and 2–511
17 Annotated Code of Maryland
18 (2003 Volume and 2007 Supplement)

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

21 **Article – Public Safety**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 2-501.

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

3 (B) **“BURGLARY” INCLUDES THE CRIMES ENUMERATED IN §§ 6-202,**
4 **6-203, 6-204, AND 6-205.**

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

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

10 [(c)] (D) “Crime Laboratory” means the [Crime Laboratory] **FORENSIC**
11 **SCIENCES** Division of the Department.

12 (E) **“CRIME OF VIOLENCE” HAS THE MEANING STATED IN § 14-101 OF**
13 **THE CRIMINAL LAW ARTICLE.**

14 [(d)] (F) “Director” means the Director of the Crime Laboratory or the
15 Director’s designee.

16 [(e)] (G) “DNA” means deoxyribonucleic acid.

17 [(f)] (H) (1) “DNA record” means DNA information stored in CODIS or
18 the statewide DNA data base system.

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

21 [(g)] (I) “DNA sample” means a body fluid or tissue sample that is:

22 (1) provided by an individual who is convicted of a felony or a violation
23 of § 6-205 or § 6-206 of the Criminal Law Article; [or]

24 (2) **PROVIDED BY AN INDIVIDUAL WHO IS ARRESTED FOR OR**
25 **CHARGED WITH:**

26 (I) **A CRIME OF VIOLENCE OR AN ATTEMPT TO COMMIT A**
27 **CRIME OF VIOLENCE;**

28 (II) **BURGLARY OR AN ATTEMPT TO COMMIT BURGLARY; OR**

1 (III) A VIOLATION OF § 6-206 OF THE CRIMINAL LAW
2 ARTICLE; OR

3 [(2)] (3) submitted to the statewide DNA data base system for
4 analysis as part of a criminal investigation.

5 [(h)] (J) “Statewide DNA data base system” means the DNA record system
6 administered by the Department for identification purposes.

7 [(i)] (K) “Statewide DNA repository” means the State repository of DNA
8 samples collected under this subtitle.

9 2-504.

10 (a) (1) In accordance with regulations adopted under this subtitle, an
11 individual who is convicted of a felony or a violation of § 6-205 or § 6-206 of the
12 Criminal Law Article shall:

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

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

18 (2) An individual who was convicted of a felony or a violation of §
19 6-205 or § 6-206 of the Criminal Law Article on or before October 1, 2003 and who
20 remains confined in a correctional facility on or after October 1, 1999, shall submit a
21 DNA sample to the Department.

22 (3) IN ACCORDANCE WITH REGULATIONS ADOPTED UNDER THIS
23 SUBTITLE, A DNA SAMPLE SHALL BE COLLECTED FROM AN INDIVIDUAL WHO IS
24 ARRESTED FOR OR CHARGED WITH:

25 (I) A CRIME OF VIOLENCE OR AN ATTEMPT TO COMMIT A
26 CRIME OF VIOLENCE;

27 (II) BURGLARY OR AN ATTEMPT TO COMMIT BURGLARY; OR

28 (III) A VIOLATION OF § 6-206 OF THE CRIMINAL LAW
29 ARTICLE.

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

1 (1) **AT THE FACILITY WHERE THE ARREST OF THE INDIVIDUAL IS**
2 **PROCESSED BY:**

3 (1) **THE ARRESTING AGENCY; OR**

4 (II) **THE BOOKING FACILITY RESPONSIBLE FOR**
5 **PROCESSING THE ARREST;**

6 [(1)] (2) at the correctional facility where the individual is confined,
7 if the individual is confined in a correctional facility on or after October 1, 2003, or is
8 sentenced to a term of imprisonment on or after October 1, 2003;

9 [(2)] (3) at a facility specified by the Director, if the individual is on
10 probation or is not sentenced to a term of imprisonment; or

11 [(3)] (4) at a suitable location in a circuit court following the
12 imposition of sentence.

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

14 (1) designated by the Director; and

15 (2) trained in the collection procedures that the Crime Laboratory
16 uses.

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

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

23 2-511.

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

29 (b) Expungement proceedings shall be conducted in accordance with §
30 10-105 or § 10-106 of the Criminal Procedure Article.

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

4 (1) ON RECEIVING AN ORDER OF EXPUNGEMENT FOR AN
5 INDIVIDUAL WHOSE DNA SAMPLE HAS BEEN INCLUDED IN THE STATEWIDE
6 DNA DATA BASE SYSTEM, THE DNA SAMPLE SHALL BE EXPUNGED EXCEPT
7 THAT THE ORDER MAY NOT APPLY TO OTHER OFFENSES COMMITTED BY THE
8 INDIVIDUAL WHO QUALIFIES FOR INCLUSION IN THE STATEWIDE DNA DATA
9 BASE SYSTEM.

10 (2) A LETTER DOCUMENTING EXPUNGEMENT OF THE DNA
11 SAMPLE AND DESTRUCTION OF THE DNA SAMPLE SHALL BE SENT BY THE
12 DIRECTOR TO THE DEFENDANT AND THE DEFENDANT'S ATTORNEY AT THE
13 ADDRESS SPECIFIED BY THE COURT IN THE ORDER OF EXPUNGEMENT.

14 (3) THE DIRECTOR SHALL ADOPT PROCEDURES TO COMPLY WITH
15 THIS SUBSECTION.

16 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
17 January 1, 2009.