

HOUSE BILL 729

E4

8lr1583

By: **Delegates Jameson, Lee, Ali, Barkley, Beitzel, Bohanan, Boteler, Bronrott, G. Clagett, V. Clagett, DeBoy, Doory, Elmore, Feldman, Frank, George, Haddaway, Healey, Hecht, Heller, Impallaria, James, Jennings, Kach, Kelly, King, Kramer, Krebs, Krysiak, Kullen, Levy, Love, Malone, Mathias, McDonough, McKee, Miller, Minnick, Montgomery, Murphy, Myers, O'Donnell, Olszewski, Riley, Ross, Schuh, Shank, Sossi, Stein, Stocksdale, Stull, Vaughn, Weir, and Wood**

Introduced and read first time: February 4, 2008

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Public Safety – Statewide DNA Database System – Sexual Offenses and**
3 **Kidnapping – Sample Collection on Arrest**

4 FOR the purpose of requiring the collection of a DNA sample from an individual who
5 is arrested for certain sexual offenses or kidnappings; adding the facility where
6 a certain arrest is processed as a location where a DNA sample shall be
7 collected; requiring an individual who was arrested before a certain date and
8 convicted on or after a certain date to submit a DNA sample; providing for the
9 expungement, under certain circumstances, of certain DNA information
10 collected due to an arrest; altering a certain definition; defining a certain term;
11 and generally relating to the collection of DNA samples.

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

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

19 **Article – Public Safety**

20 2–501.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

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

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

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

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

11 (e) “DNA” means deoxyribonucleic acid.

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

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

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

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

19 **(2) PROVIDED BY AN INDIVIDUAL WHO IS ARRESTED FOR OR**
20 **CONVICTED OF AN OFFENSE; OR**

21 **[(2)] (3)** submitted to the statewide DNA data base system for
22 analysis as part of a criminal investigation.

23 **(H) “OFFENSE” MEANS AN ALLEGED CRIME UNDER TITLE 3, SUBTITLE**
24 **3 OR § 3–502, § 3–503, OR § 3–602 OF THE CRIMINAL LAW ARTICLE.**

25 **[(h)] (I)** “Statewide DNA data base system” means the DNA record system
26 administered by the Department for identification purposes.

27 **[(i)] (J)** “Statewide DNA repository” means the State repository of DNA
28 samples collected under this subtitle.

29 2–504.

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

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

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

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

13 **(3) AN INDIVIDUAL WHO IS ARRESTED FOR AN OFFENSE SHALL**
14 **HAVE A DNA SAMPLE COLLECTED ON ARREST.**

15 **(4) AN INDIVIDUAL WHO WAS ARRESTED FOR AN OFFENSE**
16 **BEFORE OCTOBER 1, 2008, AND WHO IS CONVICTED OF THE OFFENSE ON OR**
17 **AFTER OCTOBER 1, 2008, SHALL SUBMIT A DNA SAMPLE TO THE DEPARTMENT.**

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

20 **(1) AT THE FACILITY WHERE THE ARREST OF THE INDIVIDUAL IS**
21 **PROCESSED;**

22 ~~[(1)]~~ **(2)** at the correctional facility where the individual is confined,
23 if the individual is confined in a correctional facility on or after October 1, 2003, or is
24 sentenced to a term of imprisonment on or after October 1, 2003;

25 ~~[(2)]~~ **(3)** at a facility specified by the Director, if the individual is on
26 probation or is not sentenced to a term of imprisonment; or

27 ~~[(3)]~~ **(4)** at a suitable location in a circuit court following the
28 imposition of sentence.

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

30 (1) designated by the Director; and

31 (2) trained in the collection procedures that the Crime Laboratory
32 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] **TITLE 10, SUBTITLE 1** of the Criminal Procedure Article.

12 (b) Expungement proceedings shall be conducted in accordance with [§
13 10-105 or § 10-106] **TITLE 10, SUBTITLE 1** 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, 2008.