

HOUSE BILL 1074

E4, E2

8lr2887

By: **Delegate Conaway**

Introduced and read first time: February 7, 2008

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Public Safety – DNA Sample Collection on Arrest – Undocumented Aliens**

3 FOR the purpose of requiring the collection of a DNA sample from an individual under
4 arrest and determined to be an undocumented alien; altering a certain
5 definition; requiring a DNA sample to be collected at the facility where a certain
6 arrest is processed; providing that a certain DNA record may be expunged
7 under certain circumstances; and generally relating to the collection of DNA
8 samples.

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

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

16 **Article – Public Safety**

17 2–501.

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

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

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (c) "Crime Laboratory" means the Crime Laboratory Division of the
2 Department.

3 (d) "Director" means the Director of the Crime Laboratory or the Director's
4 designee.

5 (e) "DNA" means deoxyribonucleic acid.

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

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

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

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

13 (2) submitted to the statewide DNA data base system for analysis as
14 part of a criminal investigation; **OR**

15 **(3) PROVIDED BY AN INDIVIDUAL WHO HAS BEEN ARRESTED BY A**
16 **LAW ENFORCEMENT OFFICER AND WHO HAS BEEN DETERMINED TO BE AN**
17 **UNDOCUMENTED ALIEN.**

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

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

22 2–504.

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

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

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

31 (2) An individual who was convicted of a felony or a violation of §
32 6–205 or § 6–206 of the Criminal Law Article on or before October 1, 2003 and who

1 remains confined in a correctional facility on or after October 1, 1999, shall submit a
2 DNA sample to the Department.

3 **(3) AN INDIVIDUAL WHO HAS BEEN ARRESTED BY A LAW**
4 **ENFORCEMENT OFFICER AND WHO HAS BEEN DETERMINED TO BE AN**
5 **UNDOCUMENTED ALIEN SHALL SUBMIT A DNA SAMPLE TO THE DEPARTMENT.**

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

8 **(1) AT THE FACILITY WHERE THE ARREST OF THE INDIVIDUAL IS**
9 **PROCESSED;**

10 ~~[(1)]~~ **(2)** at the correctional facility where the individual is confined,
11 if the individual is confined in a correctional facility on or after October 1, 2003, or is
12 sentenced to a term of imprisonment on or after October 1, 2003;

13 ~~[(2)]~~ **(3)** at a facility specified by the Director, if the individual is on
14 probation or is not sentenced to a term of imprisonment; or

15 ~~[(3)]~~ **(4)** at a suitable location in a circuit court following the
16 imposition of sentence.

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

18 (1) designated by the Director; and

19 (2) trained in the collection procedures that the Crime Laboratory
20 uses.

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

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

26 2-511.

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

32 (b) Expungement proceedings shall be conducted in accordance with §
33 10-105 or § 10-106 of the Criminal Procedure Article.

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

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