

# SENATE BILL 51

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By: **Senators Stone, Brochin, Della, Haines, Jacobs, and Klausmeier**

Introduced and read first time: January 11, 2008

Assigned to: Judicial Proceedings

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## A BILL ENTITLED

1 AN ACT concerning

2 **Public Safety – Statewide DNA Data Base System – Sample Collection on**  
3 **Arrest – First and Second Degree Rape**

4 FOR the purpose of requiring the collection of a DNA sample from an individual under  
5 arrest for first or second degree rape; altering a certain definition; requiring a  
6 DNA sample to be collected at the facility where a certain arrest is processed;  
7 authorizing a certain individual to request expungement of certain  
8 DNA-related information if the individual’s arrest meets certain criteria; and  
9 generally 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 2007 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.

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

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

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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:

12 (I) **ARRESTED FOR A VIOLATION OF § 3-303 OR § 3-304 OF**  
13 **THE CRIMINAL LAW ARTICLE;**

14 (II) convicted of a [felony] **FELONY**; or

15 (III) **CONVICTED OF** a violation of § 6-205 or § 6-206 of the  
16 Criminal Law Article; or

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

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

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

23 2-504.

24 (a) (1) **IN ACCORDANCE WITH REGULATIONS ADOPTED UNDER THIS**  
25 **SUBTITLE, AN INDIVIDUAL WHO IS ARRESTED FOR A VIOLATION OF § 3-303 OR §**  
26 **3-304 OF THE CRIMINAL LAW ARTICLE SHALL HAVE A DNA SAMPLE**  
27 **COLLECTED ON ARREST.**

28 [(1)] (2) In accordance with regulations adopted under this subtitle,  
29 an individual who is convicted of a felony or a violation of § 6-205 or § 6-206 of the  
30 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.

6 [(2)] (3) An individual who was convicted of a felony or a violation of  
7 § 6–205 or § 6–206 of the Criminal Law Article on or before October 1, 2003 and who  
8 remains confined in a correctional facility on or after October 1, 1999, shall submit a  
9 DNA sample to the Department.

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

12 (1) **AT THE FACILITY WHERE THE ARREST OF THE INDIVIDUAL IS**  
13 **PROCESSED, IF THE INDIVIDUAL IS ARRESTED FOR A VIOLATION OF § 3–303 OR**  
14 **§ 3–304 OF THE CRIMINAL LAW ARTICLE ON OR AFTER OCTOBER 1, 2008;**

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

18 [(2)] (3) at a facility specified by the Director, if the individual is on  
19 probation or is not sentenced to a term of imprisonment; or

20 [(3)] (4) at a suitable location in a circuit court following the  
21 imposition of sentence.

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

23 (1) designated by the Director; and

24 (2) trained in the collection procedures that the Crime Laboratory  
25 uses.

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

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

31 2–511.

32 (a) An individual whose DNA record or profile is included in the statewide  
33 DNA data base system and whose DNA sample is stored in the statewide DNA

1 repository may request that information be expunged on the grounds that the **ARREST**  
2 **OR** conviction that resulted in the inclusion meets the expungement criteria specified  
3 in § 10–105 or § 10–106 of the Criminal Procedure Article.

4 (b) Expungement proceedings shall be conducted in accordance with §  
5 10–105 or § 10–106 of the Criminal Procedure Article.

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

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