

# HOUSE BILL 773

R3

(6lr2699)

## ENROLLED BILL

— Judiciary/Judicial Proceedings —

Introduced by **Delegates Valentino-Smith, Atterbeary, and B. Wilson**

Read and Examined by Proofreaders:

\_\_\_\_\_  
Proofreader.

\_\_\_\_\_  
Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

\_\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ o'clock, \_\_\_\_\_ M.

\_\_\_\_\_  
Speaker.

### CHAPTER \_\_\_\_\_

1 AN ACT concerning

#### 2 **Drunk and Drugged Driving – Evidence of Blood Test**

3 FOR the purpose of providing that, if a law enforcement officer testifies that the officer  
4 witnessed the taking of a blood specimen by a person who the officer reasonably  
5 believed was a qualified medical person, the officer’s testimony shall be sufficient  
6 evidence that the person was a qualified medical person *and that the blood was*  
7 *obtained in compliance with certain provisions* without testimony by the person who  
8 obtained the blood specimen; repealing certain procedures relating to the  
9 admissibility of evidence of a blood test in a prosecution for certain drunk or drugged  
10 driving offenses; altering a certain definition; and generally relating to the  
11 admissibility of evidence of a blood test in a prosecution for certain drunk or drugged  
12 driving offenses.

13 BY repealing and reenacting, without amendments,  
14 Article – Courts and Judicial Proceedings

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#### EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

*Italics indicate opposite chamber/conference committee amendments.*



1 Section 10–304(a)(1)  
2 Annotated Code of Maryland  
3 (2013 Replacement Volume and 2015 Supplement)

4 BY repealing and reenacting, with amendments,  
5 Article – Courts and Judicial Proceedings  
6 Section 10–304(a)(2) and (c)(1)  
7 Annotated Code of Maryland  
8 (2013 Replacement Volume and 2015 Supplement)

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

11 **Article – Courts and Judicial Proceedings**

12 10–304.

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

14 (2) “Qualified medical person” means [any] A person permitted [by law] to  
15 withdraw blood from [humans] A HUMAN.

16 (c) (1) (i) The blood shall be obtained by a qualified medical person using  
17 equipment approved by the toxicologist under the Postmortem Examiners Commission  
18 acting at the request of a police officer.

19 [(ii) A certified statement by the qualified medical person who  
20 obtained the blood shall be prima facie evidence of that person’s qualifications and that the  
21 blood was obtained in compliance with this section.

22 (iii) 1. A certified statement that complies with the requirements  
23 of this paragraph is admissible as substantive evidence without the presence or testimony  
24 of the qualified medical person who obtained the blood.

25 2. If the State decides to offer the certified statement without  
26 the testimony of the qualified medical person, the State shall, at least 30 days before trial,  
27 notify the defendant or the defendant’s attorney in writing of the State’s intention and  
28 deliver to the defendant or the defendant’s attorney a copy of the certified statement to be  
29 offered.

30 3. If the District Court is deprived of jurisdiction under  
31 circumstances in which a defendant is entitled to and demands a jury trial, or appeals from  
32 the District Court to a circuit court, the State is not required to file a second notice.

1 (iv) 1. If the defendant desires the qualified medical person to be  
2 present and testify at trial, the defendant shall notify the court and the State in writing no  
3 later than 20 days before trial.

4 2. If the District Court is deprived of jurisdiction under  
5 circumstances in which a defendant is entitled to and demands a jury trial, or appeals from  
6 the District Court to a circuit court, the defendant shall notify the circuit court and the  
7 State in writing no later than 20 days before trial.

8 3. If the timely and proper notice required under this  
9 subparagraph is provided by the defendant, the certified statement is inadmissible without  
10 the testimony of the qualified medical person.

11 4. Failure to give the timely and proper notice constitutes a  
12 waiver of the defendant's right to the presence and testimony of the qualified medical  
13 person.]

14 (II) IF A LAW ENFORCEMENT OFFICER TESTIFIES THAT THE  
15 OFFICER WITNESSED THE TAKING OF A BLOOD SPECIMEN BY A PERSON WHO THE  
16 OFFICER REASONABLY BELIEVED WAS A QUALIFIED MEDICAL PERSON, THE  
17 OFFICER'S TESTIMONY SHALL BE SUFFICIENT EVIDENCE THAT THE PERSON WAS A  
18 QUALIFIED MEDICAL PERSON AND THAT THE BLOOD WAS OBTAINED IN COMPLIANCE  
19 WITH THIS SECTION, WITHOUT TESTIMONY FROM THE PERSON WHO OBTAINED THE  
20 BLOOD SPECIMEN.

21 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
22 October 1, 2016.

Approved:

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Governor.

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Speaker of the House of Delegates.

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President of the Senate.