Department of Legislative Services

Maryland General Assembly
2019 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 30 (Delegate Sydnor)
Judiciary

Public Safety – DNA Analysis – Search of Data Base

This bill prohibits a person from performing a search of any DNA or genealogical databases for the purpose of identification of an offender in connection with a crime for which the offender may be a biological relative of the individual from whom the DNA sample was acquired.

Fiscal Summary

State Effect: None. There is no penalty associated with the bill's prohibition.

Local Effect: None. There is no penalty associated with the bill's prohibition.

Small Business Effect: None.

Analysis

Current Law: The statewide DNA database system consists of DNA samples collected from individuals convicted of a felony, fourth-degree burglary, or breaking and entering a vehicle. DNA samples for individuals charged with a "crime of violence" or felony burglary or an attempt to commit those crimes are also included within the statewide database. State law defines a "crime of violence" to include several specific crimes, including abduction, arson, kidnapping, manslaughter, murder, rape, carjacking, first- or second-degree sexual offense, and various types of assault.

The State Police Crime Laboratory is required to store and maintain each DNA identification record in the statewide DNA database. Matches between evidence samples

and database entries may only be used as probable cause and are not admissible at trial unless confirmed by additional testing.

A person is prohibited from performing a search of the statewide database for the purpose of the identification of an offender in connection with a crime for which the offender may be a biological relative of the individual from whom the DNA sample was acquired.

A person may not willfully test a DNA sample for information that does not relate to the authorized identification of an individual, as specified. A violation is punishable by up to five years imprisonment and/or a $5,000 fine. In addition, a person is prohibited from willfully failing to destroy a DNA sample for which notification has been sent stating that the DNA sample has been destroyed or for which destruction has been ordered. Violators are subject to imprisonment of up to one year or a maximum fine of $1,000.

Background: Genealogy databases such as GEDmatch, Ancestry.com, and 23andme allow users to research information about their ancestry and genetic background by matching their DNA against publicly available DNA profiles. However, recently, due to the cutting edge combination of DNA and genetic genealogy, the public genealogy databases have also been used to help solve criminal cases. Through genetic genealogy, detectives can cast a wide net, searching distant relatives of an unknown suspect by analyzing the DNA submitted voluntarily to a genetic genealogy database. This allows police to create a much larger family tree than using law enforcement databases such as the Combined DNA Index System (CODIS), in which an exact match is needed in most states. This practice by law enforcement has raised questions about the use of such databases.

While genealogy databases have been used to solve a number of cold cases, the "Golden State Killer" case has received the most attention. The Golden State Killer, also known as the East Area Rapist and the Original Night Stalker, was believed to have committed 12 murders, at least 50 rapes, and multiple home burglaries throughout California in the 1970s and 1980s. His last known crime was in 1986.

Although police had the unknown killer's DNA from multiple crime scenes, the Golden State Killer cases went unsolved until 2018, when investigators entered the mystery killer's DNA into the GEDmatch genealogy database. Based on the pool of people on the genealogy website, investigators were able to build a family tree of the unknown killer's relatives, who had voluntarily submitted their DNA to the database. Investigators narrowed the search based on age, location, and other characteristics, leading them to 72-year-old Joseph DeAngelo.

As a result of the profile, investigators surveilled Mr. DeAngelo and collected his DNA from a tissue left in the trash. Investigators entered his discarded DNA back into the genealogy database and found a match, linking Mr. DeAngelo's DNA to the DNA gathered

at multiple crime scenes. Mr. DeAngelo has been charged with 12 counts of murder spanning several counties in California.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Charles and Frederick counties; City of Havre de Grace; Judiciary (Administrative Office of the Courts); Office of the Public Defender; Department of State Police; ABC News; CNN; Department of Legislative Services

Fiscal Note History: First Reader - January 17, 2019
an/lgc

Analysis by: Shirleen M. E. Pilgrim

Direct Inquiries to:
(410) 946-5510
(301) 970-5510