

# HOUSE BILL 240

E2

(PRE-FILED)

11r1436  
CF SB 187

---

By: **Delegate Shetty**

Requested: October 30, 2020

Introduced and read first time: January 13, 2021

Assigned to: Judiciary

---

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 8, 2021

---

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

1 AN ACT concerning

2 **Criminal Procedure – Forensic Genetic Genealogical DNA Analysis, Searching,**  
3 **Regulation, and Oversight**

4 FOR the purpose of establishing that a certain forensic genetic genealogical DNA analysis  
5 and search may not be initiated without certifying certain information before a court  
6 and obtaining a certain authorization; requiring a court to authorize the initiation of  
7 a certain forensic genetic genealogical DNA analysis and search if certain  
8 information is certified before the court; prohibiting certain biological samples  
9 subjected to certain forensic genetic genealogical profile analysis to be used to  
10 determine certain information about a certain donor; providing that a certain  
11 forensic genetic genealogical DNA analysis and search shall only be conducted under  
12 certain circumstances; requiring that the laboratory conducting certain  
13 single-nucleotide polymorphisms or other sequencing-based testing has a certain  
14 license; requiring certain informed consent in writing to be obtained from a certain  
15 third party under certain circumstances; requiring that a person obtaining a certain  
16 informed consent have certain training within a certain period of time; requiring that  
17 a third party be informed of certain information before giving certain informed  
18 consent; prohibiting law enforcement from collecting a certain DNA sample if a third  
19 party does not consent to providing the DNA sample; providing that if investigators  
20 determine that certain persons may be certain putative perpetrators then a certain  
21 DNA sample shall be collected under certain circumstances; providing that on the  
22 completion of a certain investigation, certain criminal sentencing, or certain  
23 prosecution the court shall issue a certain order; requiring a certain genetic  
24 genealogist to turn over certain records to the investigator in a certain case;

---

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.



1 prohibiting a certain genetic genealogist from maintaining certain records; requiring  
 2 the prosecutor in a certain case to maintain and disclose certain records and  
 3 materials under certain circumstances; prohibiting the disclosure of certain data,  
 4 profiles, and samples under certain circumstances; establishing penalties for certain  
 5 violations of this Act; prohibiting a person from willfully failing to destroy certain  
 6 data, profiles, or samples; providing that if certain information, profiles, or samples  
 7 relating to a person are wrongfully disclosed, collected, or maintained a person may  
 8 bring a certain cause of action; authorizing a prosecutor in a certain case to file a  
 9 certain appeal under certain circumstances; providing that a certain defendant may  
 10 seek judicial authorization for a certain forensic genetic genealogical DNA analysis  
 11 and search by filing a certain affidavit; providing that certain provisions of this Act  
 12 apply to any forensic genetic genealogical DNA analysis and search conducted under  
 13 certain circumstances; providing that a court considering an application for a certain  
 14 forensic genetic genealogical DNA analysis and search from a certain defendant shall  
 15 issue a certain order under certain circumstances; providing that a certain court  
 16 order issued under this Act shall contain certain information; requiring the Office of  
 17 Health Care Quality to establish certain ~~criteria to satisfy certain requirements;~~  
 18 licensing programs; requiring the Office of Health Care Quality to develop a certain  
 19 training program and identify and approve one or more genetic counselors to  
 20 administer certain training; requiring the Maryland Forensic Laboratory Advisory  
 21 Committee to establish certain best practices and recommend certain regulations;  
 22 prohibiting any restrictions from being placed on a certain laboratory or genetic  
 23 genealogist prior to the establishment of a certain licensing program; requiring that  
 24 certain laboratories and genetic genealogists apply for a certain license within a  
 25 certain time; requiring the ~~Department of Public Safety and Correctional Services~~  
 26 Governor's Office of Crime Prevention, Youth, and Victim Services to produce a  
 27 certain annual report; requiring a certain panel with certain members to review a  
 28 certain annual report and make policy recommendations; defining certain terms; and  
 29 generally relating to forensic genetic genealogical DNA.

30 BY adding to

31 Article – Criminal Procedure

32 Section 17–101 through 17–105 to be under the new title “Title 17. Forensic  
33 Genealogy”

34 Annotated Code of Maryland

35 (2018 Replacement Volume and 2020 Supplement)

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

38 **Article – Criminal Procedure**

39 **TITLE 17. FORENSIC GENEALOGY.**

40 **17–101.**

41 **(A) IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS**

1 INDICATED.

2 (B) "CODIS" HAS THE MEANING STATED IN § 2-501 OF THE PUBLIC SAFETY  
3 ARTICLE.

4 (C) "DIRECT-TO-CONSUMER GENETIC GENEALOGY SERVICES" MEANS  
5 GENETIC GENEALOGY SERVICES THAT ARE OFFERED BY PRIVATE COMPANIES  
6 DIRECTLY TO ~~CONSUMERS~~ MEMBERS OF THE PUBLIC AND LAW ENFORCEMENT  
7 AGENCIES RATHER THAN THROUGH CLINICAL HEALTH CARE PROVIDERS,  
8 TYPICALLY VIA CUSTOMER ACCESS TO SECURE ONLINE WEBSITES.

9 (D) "FGG PROFILE" MEANS A GENETIC PROFILE USING SNPs OR OTHER  
10 SEQUENCING METHODS GENERATED FROM A FORENSIC OR REFERENCE SAMPLE BY  
11 A LABORATORY FOR THE PURPOSE OF CONDUCTING ~~A~~ AN FGGS.

12 (E) "FORENSIC GENETIC GENEALOGICAL DNA ANALYSIS AND SEARCH" OR  
13 "FGGS" MEANS:

14 (1) THE FORENSIC GENETIC GENEALOGICAL DNA ANALYSIS ~~OF A~~  
15 ~~FORENSIC OR REFERENCE SAMPLE~~ OF BIOLOGICAL MATERIAL USING SNP OR  
16 OTHER SEQUENCING TECHNIQUES TO DEVELOP ~~A~~ AN FGG PROFILE;

17 (2) A SUBSEQUENT SEARCH USING THE FGG PROFILE IN A PUBLICLY  
18 AVAILABLE OPEN-DATA PERSONAL GENOMICS DATABASE, OR A  
19 DIRECT-TO-CONSUMER GENETIC GENEALOGY SERVICE TO FIND INDIVIDUALS  
20 RELATED TO THE SOURCE OF THE FGG PROFILE ~~AND;~~ AND

21 (3) A GENEALOGICAL SEARCH USING PUBLIC RECORDS AND OTHER  
22 LAWFUL MEANS TO OBTAIN INFORMATION IN ACCORDANCE WITH ~~THE REGULATIONS~~  
23 ~~UNDER~~ THIS TITLE.

24 (F) (1) "FORENSIC SAMPLE" MEANS BIOLOGICAL MATERIAL  
25 REASONABLY BELIEVED BY INVESTIGATORS TO HAVE BEEN DEPOSITED BY A  
26 PUTATIVE PERPETRATOR AND THAT WAS COLLECTED FROM A CRIME SCENE, OR A  
27 PERSON, AN ITEM, OR A LOCATION CONNECTED TO THE CRIMINAL EVENT.

28 (2) "FORENSIC SAMPLE" INCLUDES ~~THE~~ BIOLOGICAL MATERIAL  
29 FROM UNIDENTIFIED HUMAN REMAINS OF A SUSPECTED HOMICIDE VICTIM.

30 (G) "PUBLICLY AVAILABLE OPEN-DATA PERSONAL GENOMICS DATABASE"  
31 MEANS A DATABASE IN WHICH PERSONS VOLUNTARILY SUBMIT THEIR GENOMICS  
32 DATA OR GENETIC PROFILES, TYPICALLY PROCESSED THROUGH  
33 DIRECT-TO-CONSUMER GENETIC GENEALOGY SERVICES, FOR THE PURPOSES OF  
34 COMPARISON OR SEARCHING AGAINST THE GENETIC PROFILES OF OTHER

1 INDIVIDUALS TO EVALUATE POTENTIAL FAMILIAL RELATIONSHIPS BETWEEN THE  
2 REFERENCE SAMPLE AND OTHER SERVICE USER SAMPLES.

3 (H) "PUTATIVE PERPETRATOR" MEANS ONE OR MORE CRIMINAL ACTORS  
4 REASONABLY BELIEVED BY INVESTIGATORS TO HAVE COMMITTED THE CRIME  
5 UNDER INVESTIGATION AND TO BE THE SOURCE OF, OR A CONTRIBUTOR TO, A  
6 FORENSIC SAMPLE DEPOSITED DURING, OR INCIDENT TO, DURING OR INCIDENT TO  
7 THE COMMISSION OF A CRIME.

8 (I) "REASONABLE INVESTIGATIVE LEADS" MEANS CREDIBLE,  
9 CASE-SPECIFIC FACTS, INFORMATION, OR CIRCUMSTANCES THAT WOULD LEAD A  
10 REASONABLY CAUTIOUS INVESTIGATOR TO BELIEVE THAT THE PURSUIT WOULD  
11 HAVE A FAIR PROBABILITY OF IDENTIFYING A PUTATIVE PERPETRATOR.

12 (J) "REFERENCE SAMPLE" MEANS BIOLOGICAL MATERIAL FROM A KNOWN  
13 SOURCE.

14 (K) (1) "SINGLE-NUCLEOTIDE POLYMORPHISMS" OR "SNPs" MEANS  
15 DNA SEQUENCE VARIATIONS THAT OCCUR WHEN A SINGLE NUCLEOTIDE (A, T, G,  
16 OR C) IN A GENOMIC SEQUENCE ~~IS ALTERED AND VARIES. THESE VARIATIONS~~

17 (2) "SINGLE-NUCLEOTIDE POLYMORPHISMS" INCLUDES VARIATIONS  
18 THAT MAY BE USED TO DISTINGUISH PEOPLE FOR PURPOSES OF BIOLOGICAL  
19 RELATIONSHIP TESTING.

20 (L) "STR DNA PROFILE" MEANS A GENETIC PROFILE THAT EXAMINES  
21 GENETIC LOCATIONS ON THE NON-SEX CHROMOSOMES THAT ARE USED FOR THE  
22 STATEWIDE DNA DATA BASE SYSTEM OR THE NATIONAL DNA DATA BASE SYSTEM.

23 (M) "THIRD PARTY" MEANS A PERSON WHO IS NOT A SUSPECT IN THE  
24 INVESTIGATION.

25 17-102.

26 (A) (1) FGGS MAY NOT BE INITIATED WITHOUT JUDICIAL  
27 AUTHORIZATION AND WITHOUT CERTIFYING BEFORE THE COURT THAT THE  
28 FORENSIC SAMPLE AND THE CRIMINAL CASE SATISFY THE CRITERIA ~~PROVIDED FOR~~  
29 ~~UNDER~~ SET FORTH IN THIS SECTION.

30 (2) IF AN FGGS IS CERTIFIED BEFORE A COURT IN ACCORDANCE  
31 WITH THIS SECTION, THE COURT SHALL AUTHORIZE THE INITIATION OF THE FGGS.

32 (B) A SWORN AFFIDAVIT SHALL BE SUBMITTED BY A LAW ENFORCEMENT  
33 AGENT WITH APPROVAL OF A PROSECUTOR FROM THE RELEVANT JURISDICTION

1 ~~ASSERTING THE FOLLOWING THAT:~~

2 (1) ~~THE CRIME IS A MURDER, FELONY SEXUAL ASSAULT, OR AN~~  
3 ~~ATTEMPT TO COMMIT A VIOLENT CRIME OTHER THAN HOMICIDE OR SEXUAL~~  
4 ~~ASSAULT AND THE CIRCUMSTANCES SURROUNDING THE CRIMINAL ACT OR ACTS~~  
5 ~~PRESENT~~ THE COMMISSION OF, OR THE ATTEMPT TO COMMIT, MURDER, RAPE, A  
6 FELONY SEXUAL OFFENSE, KIDNAPPING, HUMAN TRAFFICKING, OR A CRIMINAL ACT  
7 INVOLVING CIRCUMSTANCES PRESENTING A SUBSTANTIAL AND ONGOING THREAT  
8 TO PUBLIC SAFETY OR NATIONAL SECURITY;

9 (2) THE FORENSIC SAMPLE TO BE SUBJECTED TO THE FGGS IS  
10 BIOLOGICAL MATERIAL REASONABLY BELIEVED BY INVESTIGATORS TO HAVE BEEN  
11 DEPOSITED BY A PUTATIVE PERPETRATOR AND THAT THE FORENSIC SAMPLE WAS  
12 COLLECTED FROM:

13 (I) A CRIME SCENE;

14 (II) A PERSON, AN ITEM, OR A LOCATION CONNECTED TO THE  
15 CRIMINAL EVENT, ~~OR;~~ OR

16 (III) THE UNIDENTIFIED HUMAN REMAINS OF A SUSPECTED  
17 HOMICIDE VICTIM;

18 (3) AN STR DNA PROFILE HAS ALREADY BEEN DEVELOPED FROM  
19 THE FORENSIC SAMPLE, WAS ENTERED INTO THE STATEWIDE DNA DATA BASE  
20 SYSTEM AND THE NATIONAL DNA DATA BASE SYSTEM, AND FAILED TO IDENTIFY A  
21 KNOWN INDIVIDUAL; AND

22 (4) UNLESS THE CRIME BEING INVESTIGATED PRESENTS AN ONGOING  
23 THREAT TO PUBLIC SAFETY OR NATIONAL SECURITY CONCERNS, REASONABLE  
24 INVESTIGATIVE LEADS HAVE BEEN ~~TRIED~~ PURSUED AND FAILED TO IDENTIFY THE  
25 PERPETRATOR.

26 (C) BIOLOGICAL SAMPLES SUBJECTED TO FGG DNA ANALYSIS, ~~EITHER~~  
27 WHETHER THE FORENSIC SAMPLE OR THIRD PARTY REFERENCE SAMPLES, MAY NOT  
28 BE USED TO DETERMINE THE SAMPLE DONOR'S GENETIC PREDISPOSITION FOR  
29 DISEASE OR ANY OTHER MEDICAL CONDITION OR PSYCHOLOGICAL TRAIT.

30 (D) FGGS MAY ONLY BE CONDUCTED USING A DIRECT-TO-CONSUMER OR  
31 PUBLICLY AVAILABLE OPEN-DATA PERSONAL GENOMICS DATABASE THAT:

32 (1) PROVIDES EXPLICIT NOTICE TO ITS SERVICE USERS AND THE  
33 PUBLIC THAT LAW ENFORCEMENT MAY USE ITS SERVICE SITES TO INVESTIGATE  
34 CRIMES OR TO IDENTIFY ~~UNIDENTIFIED~~ HUMAN REMAINS; AND

1           **(2) SEEKS ACKNOWLEDGMENT AND CONSENT FROM ITS SERVICE**  
2 **USERS REGARDING THE SUBSTANCE OF THE NOTICE DESCRIBED IN ITEM (1) OF THIS**  
3 **SUBSECTION.**

4           **(E) THE LABORATORY CONDUCTING SNP OR OTHER SEQUENCING-BASED**  
5 **TESTING AND THE GENETIC GENEALOGIST PARTICIPATING IN ~~THE~~ FGGS SHALL BE**  
6 **LICENSED BY THE OFFICE OF HEALTH CARE QUALITY IN ACCORDANCE WITH §**  
7 **17-104 OF THIS SUBTITLE.**

8           **(F) (1) ~~(I) INFORMED~~ SUBJECT TO SUBPARAGRAPH (II) OF THIS**  
9 **PARAGRAPH, INFORMED CONSENT IN WRITING SHALL BE OBTAINED FROM ANY**  
10 **THIRD PARTY WHOSE DNA SAMPLE IS SOUGHT FOR THE PURPOSE OF ASSISTING A**  
11 **FGGS AND ALL STATEMENTS MADE IN OBTAINING THE INFORMED CONSENT SHALL**  
12 **BE DOCUMENTED FROM BEGINNING TO END BY VIDEO OR AUDIO RECORDING.**

13                   **(II) IF THE USE OF INFORMED CONSENT WILL COMPROMISE THE**  
14 **INVESTIGATION AS DEMONSTRATED UNDER SUBSECTION (G)(1)(II) OF THIS**  
15 **SECTION AND THE THIRD PARTY HAS NOT ALREADY REFUSED TO CONSENT,**  
16 **INVESTIGATORS MAY SEEK AUTHORIZATION TO COVERTLY COLLECT A DNA SAMPLE**  
17 **IN ACCORDANCE WITH SUBSECTION (G) OF THIS SECTION.**

18           **(2) THE PERSON OBTAINING THE INFORMED CONSENT SHALL HAVE**  
19 **TRAINING FROM A ~~BIOETHICIST~~ GENETIC COUNSELOR APPROVED BY THE OFFICE**  
20 **OF HEALTH CARE QUALITY UNDER § 17-104 OF THIS SUBTITLE WITHIN 1 YEAR**  
21 **AFTER THE OFFICE OF HEALTH CARE QUALITY HAS IDENTIFIED AND APPROVED A**  
22 **GENETIC COUNSELOR OR WITHIN 1 YEAR AFTER THE PERSON JOINS THE**  
23 **INVESTIGATIVE UNIT CONDUCTING THE INVESTIGATION, WHICHEVER IS LATER.**

24           **(3) THE THIRD PARTY SHALL BE INFORMED, AT A MINIMUM, OF THE**  
25 **FOLLOWING BEFORE GIVING INFORMED CONSENT IN WRITING:**

26                   **(I) THE INVESTIGATION INVOLVES A CRIME SPECIFIED UNDER**  
27 **SUBSECTION (B)(1) OF THIS SECTION;**

28                   **(II) THE THIRD PARTY IS NOT A SUSPECT IN THE INVESTIGATION**  
29 **AND HAS THE RIGHT TO REFUSE TO CONSENT TO THE COLLECTION OF A DNA**  
30 **SAMPLE;**

31                   **(III) THE LAW PROHIBITS THE COVERT COLLECTION OF A DNA**  
32 **SAMPLE IF THE THIRD PARTY REFUSES TO CONSENT TO THE COLLECTION OF A DNA**  
33 **SAMPLE;**

34                   ~~(III)~~ **(IV) THE THIRD PARTY HAS BEEN IDENTIFIED THROUGH A**

1 SEARCH OF A DIRECT-TO-CONSUMER OR PUBLICLY AVAILABLE OPEN-DATA  
2 PERSONAL GENOMICS DATABASE AS A POTENTIAL RELATIVE OF AN INDIVIDUAL  
3 BELIEVED TO HAVE COMMITTED A CRIME SPECIFIED UNDER SUBSECTION (B)(1) OF  
4 THIS SECTION;

5 ~~(IV)~~ (V) INVESTIGATORS ARE SEEKING THE THIRD PARTY'S  
6 DNA TO ASSIST IN IDENTIFYING THE PERSON OR PERSONS WHO COMMITTED THE  
7 CRIME, OR TO IDENTIFY THE VICTIM OF A HOMICIDE, AND FOR NO OTHER PURPOSE;  
8 AND

9 ~~(V)~~ (VI) 1. THE THIRD PARTY'S DNA SAMPLE AND ANY  
10 INFORMATION OBTAINED FROM ITS ANALYSIS WILL BE KEPT CONFIDENTIAL IN  
11 ACCORDANCE WITH A COURT ORDER DURING THE COURSE OF THE INVESTIGATION;

12 2. THE DNA SAMPLE AND ANY DATA OBTAINED FROM IT  
13 WILL BE DESTROYED WHEN THE INVESTIGATION OR ANY CRIMINAL CASE ARISING  
14 FROM THE INVESTIGATION ENDS; AND

15 3. IN ACCORDANCE WITH A COURT ORDER, THE THIRD  
16 PARTY WILL RECEIVE NOTICE BY CERTIFIED DELIVERY THAT THE DESTRUCTION  
17 HAS OCCURRED.

18 (4) IF THE THIRD PARTY DOES NOT CONSENT TO PROVIDING A  
19 REFERENCE SAMPLE FOR A AN FGGS INVESTIGATION, LAW ENFORCEMENT MAY  
20 NOT COLLECT A COVERT REFERENCE SAMPLE FROM THE INDIVIDUAL.

21 (G) (1) IF INVESTIGATORS DETERMINE THAT ONE OR MORE PERSONS  
22 ~~MAY BE ARE~~ PUTATIVE PERPETRATORS OF THE CRIME UNDER INVESTIGATION AND  
23 IT IS NECESSARY TO COLLECT A COVERT DNA SAMPLE FROM THE ~~PERSON, THE~~  
24 ~~FOLLOWING CRITERIA SHALL BE SATISFIED~~ PUTATIVE PERPETRATOR OR A THIRD  
25 PARTY:

26 ~~(1)~~ (1) THE AUTHORIZING COURT SHALL BE NOTIFIED PRIOR TO  
27 THE COVERT COLLECTION OF THE PUTATIVE PERPETRATOR'S OR THE THIRD  
28 PARTY'S REFERENCE SAMPLE;

29 ~~(2)~~ (II) ~~A SHOWING SHALL BE MADE TO THE SATISFACTION OF THE~~  
30 ~~COURT TO DEMONSTRATE WHY A COVERT COLLECTION IS NECESSARY~~ SUBJECT TO  
31 PARAGRAPH (2) OF THIS SUBSECTION, FOR A COVERT COLLECTION OF A DNA  
32 SAMPLE OF A THIRD PARTY, INVESTIGATIVE AUTHORITIES SHALL PROVIDE AN  
33 AFFIDAVIT TO THE COURT DEMONSTRATING THAT SEEKING INFORMED CONSENT  
34 FROM A THIRD PARTY CREATES SUBSTANTIAL RISK THAT A PUTATIVE  
35 PERPETRATOR WILL FLEE, THAT ESSENTIAL EVIDENCE WILL BE DESTROYED, OR  
36 THAT OTHER IMMINENT OR IRREVERSIBLE HARM TO THE INVESTIGATION WILL

1 OCCUR;

2 ~~(3)~~ (III) INVESTIGATIVE AUTHORITIES SHALL MAKE A PROFFER TO  
3 THE COURT EXPLAINING HOW THEY PLAN TO CONDUCT THE COVERT COLLECTION  
4 IN A MANNER THAT AVOIDS UNDULY INTRUSIVE SURVEILLANCE OF INDIVIDUALS OR  
5 INVASIONS TO THEIR PRIVACY AND FOLLOWS THE LAWS OF THE STATE;

6 ~~(4)~~ (IV) FOR A COVERT COLLECTION OF A DNA SAMPLE OF A  
7 PUTATIVE PERPETRATOR, ANY PUTATIVE PERPETRATOR DNA SAMPLE THAT IS  
8 COLLECTED COVERTLY MAY ONLY BE SUBJECTED TO AN STR TEST TO SEE IF IT  
9 MATCHES ~~A~~ AN STR DNA PROFILE OBTAINED FROM A FORENSIC SAMPLE;

10 ~~(5)~~ (V) ANY COVERTLY COLLECTED DNA SAMPLE, INCLUDING  
11 SNPs AND OTHER GENETIC PROFILES OR RELATED INFORMATION, THAT DOES NOT  
12 MATCH THE STR DNA PROFILE OBTAINED FROM A FORENSIC SAMPLE SHALL BE  
13 DESTROYED AND MAY NOT BE UPLOADED TO ANY DNA DATABASE, INCLUDING  
14 LOCAL, STATE, OR FEDERAL DNA DATABASES WITHIN CODIS, OR ANY DNA  
15 DATABASE NOT AUTHORIZED BY LOCAL, STATE, OR FEDERAL STATUTE; AND

16 ~~(6)~~ (VI) ~~(H)~~ 1. THE LAW ENFORCEMENT OFFICER CONDUCTING THE  
17 COVERT COLLECTION ~~FROM A PUTATIVE PERPETRATOR~~ SHALL REPORT BACK TO  
18 THE AUTHORIZING COURT EVERY 30 DAYS ABOUT THE PROGRESS OF THE COVERT  
19 COLLECTION AND SHALL MAKE A PROFFER ABOUT FUTURE PLANS IN ACCORDANCE  
20 WITH ~~PARAGRAPH (3) OF THIS SUBSECTION~~ ITEM (III) OF THIS PARAGRAPH; AND

21 ~~(H)~~ 2. WITHOUT GOOD CAUSE SHOWN, COVERT COLLECTION  
22 EFFORTS TO OBTAIN A SAMPLE ~~FROM A PUTATIVE PERPETRATOR~~ SHALL CEASE  
23 AFTER 6 MONTHS.

24 (2) THE FEAR THAT A THIRD PARTY WILL REFUSE INFORMED  
25 CONSENT MAY NOT CONSTITUTE A BASIS FOR SEEKING COVERT COLLECTION OF A  
26 DNA SAMPLE FROM THE THIRD PARTY.

27 (H) (1) ~~ON THE COMPLETION OF THE FGGS INVESTIGATION~~

28 (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS  
29 PARAGRAPH, ON COMPLETION OF AN FGGS INVESTIGATION THAT DOES NOT  
30 RESULT IN A PROSECUTION OR RESULTS IN AN ACQUITTAL, OR ON COMPLETION OF  
31 A SENTENCE AND POSTCONVICTION LITIGATION ASSOCIATED WITH A CONVICTION  
32 OBTAINED THROUGH THE USE OF FGGS, OR ON COMPLETION OF ANY CRIMINAL  
33 PROSECUTION THAT MAY ARISE FROM THE FGGS, THE AUTHORIZING COURT, OR  
34 ANY COURT THAT ULTIMATELY HAS JURISDICTION OVER ANY CRIMINAL CASE THAT  
35 AROSE FROM THE FGGS, SHALL ISSUE ORDERS TO ~~ENSURE THAT~~ ALL PERSONS IN  
36 POSSESSION OF DNA SAMPLES GATHERED IN THE FGGS AND ALL GENETIC



1 GENEALOGY INFORMATION DERIVED FROM THE FGG ANALYSIS OF THOSE SAMPLES  
2 ~~ARE DESTROYED~~ TO DESTROY THE SAMPLES AND INFORMATION.

3 (II) 1. ON THE COMPLETION OF AN FGGS INVESTIGATION,  
4 THE GENETIC GENEALOGIST PARTICIPATING IN THE FGGS SHALL TURN OVER TO  
5 THE INVESTIGATOR ALL RECORDS AND MATERIALS COLLECTED IN THE COURSE OF  
6 THE FGGS, INCLUDING MATERIAL SOURCED FROM PUBLIC RECORDS, FAMILY  
7 TREES CONSTRUCTED, AND ANY OTHER GENETIC OR NONGENETIC DATA  
8 COLLECTED IN THE FGGS.

9 2. THE GENETIC GENEALOGIST MAY NOT KEEP ANY  
10 RECORDS OR MATERIALS IN ANY FORM, INCLUDING DIGITAL OR HARD COPY  
11 RECORDS.

12 3. THE GENETIC GENEALOGIST SHALL ENSURE THAT  
13 ALL RECORDS DESCRIBED UNDER THIS SUBPARAGRAPH HAVE BEEN DELETED OR  
14 REMOVED FROM ANY FGG WEBSITE.

15 4. THE PROSECUTOR SHALL RETAIN AND DISCLOSE ANY  
16 RECORDS OR MATERIALS AS REQUIRED UNDER THE MARYLAND CONSTITUTION OR  
17 THE UNITED STATES CONSTITUTION AND THE RULES OF DISCOVERY AS PROVIDED  
18 IN MARYLAND RULES 4-262 AND 4-263, BUT MAY NOT OTHERWISE USE OR SHARE  
19 THE RECORDS OR MATERIALS.

20 (2) THE COURT ORDERS SHALL INCLUDE THE REMOVAL AND  
21 DESTRUCTION OF ANY FGG PROFILES PREVIOUSLY UPLOADED TO  
22 DIRECT-TO-CONSUMER OR PUBLICLY AVAILABLE OPEN-DATA PERSONAL  
23 GENOMICS DATABASES.

24 (3) ALL INDIVIDUALS WHO WERE NOT THE SOURCE OF THE STR DNA  
25 PROFILE OBTAINED FROM THE FORENSIC SAMPLE AND WHOSE DNA WAS  
26 COLLECTED THROUGH INFORMED CONSENT OR COVERTLY DURING THE COURSE OF  
27 THE FGGS SHALL RECEIVE NOTICE OF THAT DESTRUCTION BY CERTIFIED  
28 DELIVERY.

29 (I) (1) A PERSON MAY NOT DISCLOSE GENETIC GENEALOGY DATA, FGG  
30 PROFILES, OR DNA SAMPLES NOT AUTHORIZED BY A COURT ORDER IN THE COURSE  
31 OF ~~A~~ AN FGGS, OR IN THE COURSE OF ANY CRIMINAL PROCEEDING THAT ARISES  
32 FROM ~~A~~ AN FGGS.

33 (2) A PERSON WHO VIOLATES THIS SUBSECTION IS GUILTY OF A  
34 MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT  
35 EXCEEDING 5 YEARS OR A FINE NOT EXCEEDING \$5,000, OR BOTH, ~~IN ACCORDANCE~~  
36 ~~WITH § 2-512 OF THE PUBLIC SAFETY ARTICLE.~~

1 (J) (1) A PERSON MAY NOT WILLFULLY FAIL TO DESTROY GENETIC  
 2 GENEALOGY INFORMATION, FGG PROFILES, OR DNA SAMPLES THAT ARE  
 3 REQUIRED TO BE DESTROYED IN ACCORDANCE WITH SUBSECTION (H) OF THIS  
 4 SECTION.

5 (2) A PERSON WHO VIOLATES THIS SUBSECTION IS GUILTY OF A  
 6 MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT  
 7 EXCEEDING 1 YEAR OR A FINE NOT EXCEEDING \$1,000 OR BOTH, ~~IN ACCORDANCE~~  
 8 ~~WITH § 2-512 OF THE PUBLIC SAFETY ARTICLE.~~

9 (K) A PERSON WHOSE GENETIC GENEALOGY INFORMATION, FGG PROFILE,  
 10 OR DNA SAMPLE IS WRONGFULLY DISCLOSED, COLLECTED, OR MAINTAINED IN  
 11 VIOLATION OF THIS SUBTITLE HAS A PRIVATE RIGHT OF ACTION UNDER RELEVANT  
 12 STATE LAW GUIDING TORT CLAIMS, AND IS ENTITLED TO MINIMUM LIQUIDATED  
 13 DAMAGES OF \$5,000 FOR A VIOLATION.

14 (L) A PROSECUTOR IN A CRIMINAL CASE THAT INVOLVES AN FGGS  
 15 INVESTIGATION MAY FILE WITH THE COURT OF SPECIAL APPEALS AN APPEAL FROM  
 16 AN INTERLOCUTORY ORDER BY A COURT THAT EXCLUDES OR SUPPRESSES  
 17 EVIDENCE IN THE FORM OF AN STR DNA PROFILE OBTAINED FROM THE FGGS.

18 17-103.

19 (A) A DEFENDANT IN A CRIMINAL CASE CHARGED WITH A CRIME OF  
 20 VIOLENCE UNDER § 14-101 OF THE CRIMINAL LAW ARTICLE OR A DEFENDANT  
 21 CONVICTED OF A CRIME OF VIOLENCE UNDER § 14-101 OF THE CRIMINAL LAW  
 22 ARTICLE AND SEEKING POSTCONVICTION DNA TESTING IS ENTITLED TO SEEK  
 23 JUDICIAL AUTHORIZATION FOR ~~A AN~~ FGGS BY FILING AN AFFIDAVIT WITH A TRIAL  
 24 COURT OR POSTCONVICTION COURT CERTIFYING THAT ~~THE FORENSIC SAMPLE AND~~  
 25 ~~THE CRIMINAL CASE SATISFY THE FOLLOWING CRITERIA:~~

26 (1) THE FORENSIC SAMPLE TO BE SUBJECTED TO THE FGGS IS  
 27 BIOLOGICAL MATERIAL REASONABLY BELIEVED TO HAVE BEEN DEPOSITED BY A  
 28 PUTATIVE PERPETRATOR AND COLLECTED FROM:

29 (I) A CRIME SCENE;

30 (II) A PERSON, AN ITEM, OR A LOCATION CONNECTED TO THE  
 31 CRIMINAL EVENT, ~~OR;~~ OR

32 (III) THE UNIDENTIFIED HUMAN REMAINS OF A SUSPECTED  
 33 HOMICIDE VICTIM;

1           (2) ~~A~~ AN STR DNA PROFILE HAS ALREADY BEEN DEVELOPED FROM  
 2 THE FORENSIC SAMPLE, WAS ENTERED INTO THE STATE DNA DATA BASE SYSTEM  
 3 AND THE NATIONAL DNA DATA BASE SYSTEM, AND FAILED TO IDENTIFY A KNOWN  
 4 INDIVIDUAL;

5           (3) BIOLOGICAL SAMPLES SUBJECTED TO FGG DNA ANALYSIS,  
 6 ~~EITHER WHETHER~~ THE FORENSIC SAMPLE OR THIRD PARTY REFERENCE SAMPLES,  
 7 ~~MAY WILL NOT~~ BE USED TO DETERMINE THE SAMPLE DONOR'S GENETIC  
 8 PREDISPOSITION FOR DISEASE OR ANY OTHER MEDICAL CONDITION OR  
 9 PSYCHOLOGICAL TRAIT:

10           (4) ~~A~~ AN FGGS SHALL ONLY BE CONDUCTED USING A  
 11 DIRECT-TO-CONSUMER OR PUBLICLY AVAILABLE OPEN-DATA PERSONAL  
 12 GENOMICS DATABASE THAT:

13           (I) PROVIDES EXPLICIT NOTICE TO ~~THEIR~~ ITS SERVICE USERS  
 14 AND THE PUBLIC THAT LAW ENFORCEMENT MAY USE ~~THEIR~~ ITS SERVICE SITES TO  
 15 INVESTIGATE CRIMES OR TO IDENTIFY ~~UNIDENTIFIED~~ HUMAN REMAINS; AND

16           (II) SEEKS ACKNOWLEDGMENT AND CONSENT FROM ITS  
 17 SERVICE USERS REGARDING THE SUBSTANCE OF THE NOTICE DESCRIBED IN ITEM  
 18 (I) OF THIS PARAGRAPH;

19           (5) THE LABORATORY CONDUCTING SNP OR OTHER  
 20 SEQUENCING-BASED TESTING, AND THE GENETIC GENEALOGIST PARTICIPATING IN  
 21 THE FGGS, ~~HAS BEEN~~ ARE LICENSED BY THE OFFICE OF HEALTH CARE QUALITY  
 22 IN ACCORDANCE WITH § 17-104 OF THIS TITLE; AND

23           (6) (I) INFORMED CONSENT IN WRITING ~~IS~~ SHALL BE OBTAINED  
 24 FROM ANY THIRD PARTY WHOSE DNA SAMPLE IS SOUGHT FOR THE PURPOSE OF  
 25 ASSISTING ~~A~~ AN FGGS AND ALL REQUIREMENTS DESCRIBED IN ~~§ 17-102(F)~~ §  
 26 17-102(F)(1) THROUGH (3) OF THIS TITLE ARE SATISFIED; AND

27           (II) IF THE THIRD PARTY DOES NOT CONSENT TO PROVIDING A  
 28 REFERENCE SAMPLE FOR ~~A~~ AN FGGS INVESTIGATION, NEITHER DEFENSE NOR  
 29 POSTCONVICTION COUNSEL, ~~OR~~ NOR ANYONE ACTING ON THEIR BEHALF, MAY  
 30 COVERTLY COLLECT A REFERENCE SAMPLE FROM THE THIRD PARTY.

31           (B) (1) IF DEFENSE OR POSTCONVICTION COUNSEL DETERMINES THAT  
 32 ONE OR MORE PERSONS ~~MAY BE~~ ARE PUTATIVE PERPETRATORS OF THE CRIME  
 33 UNDER INVESTIGATION AND IT IS NECESSARY TO COLLECT A COVERT DNA SAMPLE  
 34 FROM THE ~~PERSON~~ PUTATIVE PERPETRATOR OR A THIRD PARTY;

35           ~~(1)~~ (I) THE AUTHORIZING COURT SHALL BE NOTIFIED PRIOR TO

1 THE COVERT COLLECTION OF THE PUTATIVE PERPETRATOR'S OR THE THIRD  
2 PARTY'S REFERENCE SAMPLE;

3 ~~(2)~~ (II) ~~A SHOWING SHALL BE MADE TO THE SATISFACTION OF THE~~  
4 ~~COURT TO DEMONSTRATE WHY A COVERT COLLECTION IS NECESSARY~~ SUBJECT TO  
5 PARAGRAPH (2) OF THIS SUBSECTION, FOR A COVERT COLLECTION OF A DNA  
6 SAMPLE OF A THIRD PARTY, INVESTIGATIVE AUTHORITIES SHALL PROVIDE AN  
7 AFFIDAVIT TO THE COURT DEMONSTRATING THAT SEEKING INFORMED CONSENT  
8 FROM A THIRD PARTY CREATES SUBSTANTIAL RISK THAT A PUTATIVE  
9 PERPETRATOR WILL FLEE, THAT ESSENTIAL EVIDENCE WILL BE DESTROYED, OR  
10 THAT OTHER IMMINENT OR IRREVERSIBLE HARM TO THE INVESTIGATION WILL  
11 OCCUR;

12 ~~(3)~~ (III) COUNSEL SHALL MAKE A PROFFER TO THE COURT  
13 EXPLAINING HOW COUNSEL PLANS TO CONDUCT THE COVERT COLLECTION IN A  
14 MANNER THAT AVOIDS UNDULY INTRUSIVE SURVEILLANCE OF INDIVIDUALS OR  
15 INVASIONS TO THEIR PRIVACY AND FOLLOWS THE LAWS OF THE STATE;

16 ~~(4)~~ (IV) FOR A COVERT COLLECTION OF A DNA SAMPLE OF A  
17 PUTATIVE PERPETRATOR, ANY PUTATIVE PERPETRATOR DNA SAMPLE THAT IS  
18 COLLECTED COVERTLY MAY ONLY BE SUBJECTED TO AN STR TEST TO SEE IF IT  
19 MATCHES AN STR DNA PROFILE OBTAINED FROM A FORENSIC SAMPLE;

20 ~~(5)~~ (V) ANY COVERTLY COLLECTED DNA SAMPLE, INCLUDING  
21 SNPs AND OTHER GENETIC PROFILES OR RELATED INFORMATION, THAT DOES NOT  
22 MATCH THE STR DNA PROFILE OBTAINED FROM A FORENSIC SAMPLE SHALL BE  
23 DESTROYED AND MAY NOT BE UPLOADED TO ANY DNA DATABASE, INCLUDING  
24 LOCAL, STATE, OR FEDERAL DNA DATABASES WITHIN CODIS, OR ANY DNA  
25 DATABASE NOT AUTHORIZED BY LOCAL, STATE, OR FEDERAL STATUTE; AND

26 ~~(6)~~ (VI) 1. DEFENSE OR POSTCONVICTION COUNSEL  
27 CONDUCTING THE COVERT COLLECTION ~~FROM A PUTATIVE PERPETRATOR~~ SHALL  
28 REPORT BACK TO THE AUTHORIZING COURT EVERY 30 DAYS ABOUT THE PROGRESS  
29 OF THE COVERT COLLECTION AND SHALL MAKE A PROFFER ABOUT FUTURE PLANS  
30 IN ACCORDANCE WITH ~~§ 17-102(c)(3) OF THIS TITLE~~ ITEM (III) OF THIS PARAGRAPH;  
31 AND

32 ~~(7)~~ 2. WITHOUT GOOD CAUSE SHOWN, COVERT COLLECTION  
33 EFFORTS TO OBTAIN A SAMPLE ~~FROM A PUTATIVE PERPETRATOR~~ SHALL CEASE  
34 AFTER 6 MONTHS.

35 (2) THE FEAR THAT A THIRD PARTY WILL REFUSE INFORMED  
36 CONSENT MAY NOT CONSTITUTE A BASIS FOR SEEKING COVERT COLLECTION OF A  
37 DNA SAMPLE FROM THE THIRD PARTY.

1           **(3) ANY INDIVIDUAL ACTING UNDER COURT SUPERVISION IN**  
2 **ACCORDANCE WITH THIS SUBSECTION SHALL BE TREATED AS AN AGENT OF THE**  
3 **STATE FOR PURPOSES OF ENFORCING STATE AND FEDERAL CONSTITUTIONAL**  
4 **PROTECTIONS.**

5           **(c) (1) THE STATE SHALL BE NOTIFIED THAT AN APPLICATION FOR**  
6 **JUDICIAL AUTHORIZATION TO CONDUCT ~~A~~ AN FGGS HAS BEEN MADE BY DEFENSE**  
7 **OR POSTCONVICTION COUNSEL AND A COPY OF THE APPLICATION SHALL BE SERVED**  
8 **ON THE STATE AT THE TIME THE APPLICATION IS FILED UNLESS THE APPLICANT IS**  
9 **ALSO REQUESTING PERMISSION FROM THE COURT TO REDACT CERTAIN PORTIONS**  
10 **OF THE APPLICATION.**

11           **(2) ONCE A COURT HAS RULED ON THE MOTION FOR REDACTIONS, A**  
12 **COPY OF THE APPLICATION SHALL BE SERVED ON THE STATE WITHIN 5 DAYS OF**  
13 **RECEIPT OF THE COURT ORDER.**

14           **(3) THE AUTHORIZING COURT SHALL ENSURE THAT THE STATE IS**  
15 **INFORMED OF THE PROGRESS OF THE FGGS UNLESS DEFENSE COUNSEL OR**  
16 **POSTCONVICTION COUNSEL CAN SHOW GOOD CAUSE AS TO WHY THAT INFORMATION**  
17 **MAY NOT BE DISCLOSED.**

18           **(D) THE PROVISIONS OF § 17-102(H) THROUGH (K) OF THIS TITLE APPLY TO**  
19 **ANY FGGS CONDUCTED BY DEFENSE OR POSTCONVICTION COUNSEL.**

20           **(E) A COURT CONSIDERING AN APPLICATION FOR ~~A~~ AN FGGS FROM A**  
21 **CRIMINAL DEFENDANT SHALL ISSUE THE ORDER ON A SHOWING THAT TESTING HAS**  
22 **THE SCIENTIFIC POTENTIAL TO PRODUCE EXCULPATORY OR MITIGATING EVIDENCE**  
23 **AND THE DEFENDANT HAS COMPLIED WITH ALL OTHER REQUIREMENTS OF THIS**  
24 **SECTION.**

25           **(F) A COURT ORDER ISSUED IN ACCORDANCE WITH SUBSECTION ~~(K)~~ (E) OF**  
26 **THIS SECTION SHALL INCORPORATE ALL CERTIFICATIONS MADE IN SUBSECTIONS**  
27 **(A) THROUGH (C) OF THIS SECTION AND MAY DESCRIBE THE SPECIFIC ITEMS OF**  
28 **EVIDENCE TO BE TESTED, DESIGNATE THE SPECIFIC LABORATORY FACILITY TO BE**  
29 **USED FOR THE DNA TESTING, AND DESIGNATE THE CONDITIONS UNDER WHICH**  
30 **CONSUMPTIVE TESTING CAN OCCUR.**

31 **17-104.**

32           **(A) THE OFFICE OF HEALTH CARE QUALITY SHALL ESTABLISH ~~THE~~**  
33 **~~CRITERIA THAT MUST BE MET BY DIRECT TO CONSUMER GENETIC GENEALOGY~~**  
34 **~~SERVICES.~~**

1 ~~(B) A CERTIFICATION PROGRAM SHALL BE ESTABLISHED BY THE OFFICE~~  
2 ~~OF HEALTH CARE QUALITY TO:~~

3 ~~(1) LICENSE A LICENSING PROGRAM FOR LABORATORIES MUST~~  
4 ~~BEGIN PERFORMING SNP OR OTHER SEQUENCING BASED TESTING ON EVIDENCE IN~~  
5 ~~SUPPORT OF FGGS ON OR BEFORE OCTOBER 1, 2022; AND~~

6 ~~(2) LICENSE A LICENSING PROGRAM FOR INDIVIDUALS MUST BEGIN~~  
7 ~~PERFORMING GENETIC GENEALOGY ON OR BEFORE OCTOBER 1, 2024.~~

8 (B) THE OFFICE OF HEALTH CARE QUALITY SHALL:

9 (1) DEVELOP A TRAINING PROGRAM ON OBTAINING INFORMED  
10 CONSENT UNDER §§ 17-102 AND 17-103 OF THIS SUBTITLE; AND

11 (2) IDENTIFY AND APPROVE ONE OR MORE GENETIC COUNSELORS TO  
12 ADMINISTER THE TRAINING.

13 (C) THE MARYLAND FORENSIC LABORATORY ADVISORY COMMITTEE  
14 SHALL:

15 (1) ESTABLISH BEST PRACTICES FOR LABORATORIES PERFORMING  
16 SNP OR OTHER SEQUENCING BASED METHODS; AND

17 (2) RECOMMEND REGULATIONS THAT ESTABLISH MINIMUM  
18 QUALIFICATIONS FOR INDIVIDUALS PERFORMING GENETIC GENEALOGY.

19 ~~(D) IF A LABORATORY IS APPROVED FOR A LICENSE BY THE OFFICE OF~~  
20 ~~HEALTH CARE QUALITY PRIOR TO THE REGULATIONS ESTABLISHED UNDER THIS~~  
21 ~~SECTION BEING ADOPTED, THE LABORATORY SHALL REAPPLY FOR A LICENSE~~

22 (1) PROHIBITIONS MAY NOT BE PLACED ON ANY LABORATORY  
23 CONDUCTING SNP OR OTHER SEQUENCING-BASED TESTING OR ON GENETIC  
24 GENEALOGISTS PARTICIPATING IN AN FGGS BEFORE THE RELEVANT LICENSING  
25 PROGRAM IS ESTABLISHED UNDER SUBSECTION (A) OF THIS SECTION.

26 (2) WITHIN 1 YEAR AFTER THE OFFICE OF HEALTH CARE QUALITY  
27 ESTABLISHES THE RELEVANT LICENSING PROGRAM UNDER SUBSECTION (A) OF  
28 THIS SECTION, LABORATORIES CONDUCTING SNP OR OTHER SEQUENCING-BASED  
29 TESTING AND GENETIC GENEALOGISTS PARTICIPATING IN AN FGGS SHALL APPLY  
30 FOR THE LICENSE REQUIRED.

31 (E) NEITHER THE LABORATORY CONDUCTING SNP OR OTHER SEQUENCING  
32 BASED TESTING, NOR A LAW ENFORCEMENT OFFICIAL, MAY DISCLOSE GENETIC

1 GENEALOGY INFORMATION WITHOUT AUTHORIZATION.

2 17-105.

3 (A) ~~IN ACCORDANCE WITH § 2-513 OF THE COURTS ARTICLE, THE~~  
4 ~~DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES ON OR BEFORE~~  
5 ~~JUNE 1 ANNUALLY, THE GOVERNOR'S OFFICE OF CRIME PREVENTION, YOUTH, AND~~  
6 ~~VICTIM SERVICES SHALL SUBMIT A PUBLICLY AVAILABLE ANNUAL REPORT TO THE~~  
7 GOVERNOR AND, IN ACCORDANCE WITH § 2-1257 OF THE STATE GOVERNMENT  
8 ARTICLE, THE GENERAL ASSEMBLY, THAT SHALL INCLUDE, FOR THE PRECEDING  
9 CALENDAR YEAR:

10 (1) THE NUMBER OF REQUESTS FOR ~~FCG~~ FGGS ~~AND THE RELATED~~  
11 ~~DOCUMENTATION~~ MADE, BROKEN DOWN BY NUMBER OF REQUESTS MADE BY  
12 PROSECUTORS, PRE-TRIAL DEFENDANTS, AND POSTCONVICTION DEFENDANTS;

13 (2) THE NUMBER OF TIMES ~~FCG~~ FGGS WAS GRANTED AND THE  
14 BASIS OF EACH GRANT OR DENIAL;

15 (3) THE NUMBER OF PUTATIVE PERPETRATORS IDENTIFIED  
16 THROUGH ~~FCG~~ FGGS;

17 (4) THE NUMBER OF COVERT COLLECTIONS OF REFERENCE SAMPLES  
18 FROM PUTATIVE PERPETRATORS, A DESCRIPTION OF THE METHODS USED DURING  
19 THE COVERT COLLECTION, THE TIME PERIOD NEEDED TO PERFORM THE COVERT  
20 COLLECTION, ANY COMPLAINTS FROM INDIVIDUALS SUBJECT TO SURVEILLANCE  
21 DURING THE COVERT COLLECTIONS, AND ANY COMPLAINTS OR SUGGESTIONS FROM  
22 JUDGES SUPERVISING THE COVERT COLLECTIONS;

23 (5) AN EVALUATION OF THE "PURSUED REASONABLE INVESTIGATIVE  
24 LEADS" REQUIREMENT IN ACCORDANCE WITH § 17-102(B)(4) OF THIS TITLE,  
25 INCLUDING SCIENTIFIC, PUBLIC, AND NONFORENSIC;

26 (6) THE COSTS OF THE FGGS PROCEDURES;

27 (7) THE RACE AND AGE OF THOSE IDENTIFIED AS PUTATIVE  
28 PERPETRATORS;

29 (8) THE NUMBER OF TIMES A THIRD PARTY REFERENCE SAMPLE WAS  
30 REQUESTED AND COLLECTED, AND THE RACE AND AGE OF THE THIRD PARTIES;

31 (9) THE NUMBER OF REQUESTS MADE BY DEFENDANTS AND  
32 POSTCONVICTION LAWYERS; AND

1           **(10) ~~WHETHER THE SEARCHES ULTIMATELY RESULTED IN ARRESTS OR~~**  
2 **~~CONVICTIONS OF PEOPLE IDENTIFIED THROUGH THE GENETIC GENEALOGY SEARCH~~**  
3 **THE OUTCOME OF EACH AUTHORIZED SEARCH, INCLUDING WHETHER THE SEARCH**  
4 **RESULTED IN AN ARREST OR A CONVICTION FOR THE TARGET OFFENSE.**

5           **(B) A PANEL COMPRISING JUDGES, PROSECUTORS, DEFENSE ATTORNEYS,**  
6 **PUBLIC DEFENDERS, LAW ENFORCEMENT OFFICIALS, CRIME LABORATORY**  
7 **DIRECTORS, BIOETHICISTS, RACIAL JUSTICE EXPERTS, CRIMINAL JUSTICE**  
8 **RESEARCHERS, CIVIL AND PRIVACY RIGHTS ORGANIZATIONS, AND ORGANIZATIONS**  
9 **REPRESENTING FAMILIES IMPACTED BY THE CRIMINAL JUSTICE SYSTEM, SHALL BE**  
10 **CONVENED TO REVIEW THE ANNUAL REPORT EACH YEAR AND MAKE POLICY**  
11 **RECOMMENDATIONS.**

12           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
13           October 1, 2021.

Approved:

---

Governor.

---

Speaker of the House of Delegates.

---

President of the Senate.