



State of Maryland
Department of State Police
Government Affairs Unit
Annapolis Office (410) 260-6100

POSITION ON PROPOSED LEGISLATION

DATE: January 28, 2025

BILL NUMBER: House Bill 259

POSITION: Support

BILL TITLE: Public Safety – Statewide DNA Database System, DNA Collection, and Penalties - Alterations

REVIEW AND ANALYSIS:

This legislation seeks to clarify when a DNA sample is required to be collected, and who is responsible for collecting the DNA sample as it relates to collection of arrestee and convicted offender samples for entry into the Statewide DNA Database System. Additionally, this legislation repeals a requirement that a DNA sample cannot be tested and placed into the Statewide DNA Database System until after the first scheduled arraignment date. Furthermore, this legislation allows arrestee DNA Database samples held by the Maryland Department of State Police Forensic Sciences Division, and not tested after a period of time, to be expunged.

Under current law, DNA Database samples must be collected for an arrest of a qualifying crime or a conviction for a qualifying crime. Upon conviction, the sample can immediately be tested and uploaded into the Statewide DNA Database. Alternatively, an arrestee sample taken as authorized under the law, may not be tested until after the first scheduled arraignment date.

Since the provisions allowing for the collection of DNA from arrestees were first enacted in 2008, Maryland State Police has discovered a gap in the statutory scheme that has left thousands of DNA samples in a sort of limbo. This gap is due to the use of the word “arraignment.” There may be circumstances under which the statutory trigger for testing (i.e., “the first scheduled arraignment date”) never occurs, but neither do any of the possible statutory triggers for the destruction of the sample (i.e., a finding of no probable cause or the lack of a conviction in the criminal action “relating to the crime”). There are at least 16,279 samples, that do not meet either trigger and are therefore deemed to be “in limbo”.

House Bill 259 addresses these issues. The bill ensures that moving forward all samples that should be collected are collected and that all collected samples have clear and achievable triggers for testing and expungement. To that end, this bill does the following:

- 1 - clarifies accountability for the collection of DNA Database samples
- 2 - imposes a monetary penalty for qualifying individuals who refuse to provide a sample,
- 3 - requires refusals to be referred to the State’s Attorney’s office,

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4 - repeals language that uses the term “arraignment” and replaces it with appropriate language in accordance with the Maryland rules, and

5 - establishes an expungement process for samples not tested due to the arraignment language.

Regarding the “in limbo” arrestee DNA database samples, House Bill 259 specifies that the samples collected prior to the enactment of this bill, are to be held for an additional period of time, then expunged if they fail to meet the law in effect prior to the enactment of the legislation. This bill is not retroactive and it does not add or remove any additional crimes requiring a DNA sample to be collected.

The 2008 amendments to the Maryland Act (SB211), which first provided for taking DNA samples at time of charging, were intended to permanently expand the DNA database as a crime-solving tool. Before the 2008, Maryland law already authorized the collection and testing of DNA samples from individuals who were convicted of certain qualifying crimes.

The Maryland Statewide DNA Database System has been an incredibly successful tool over the years, assisting investigators to implicate perpetrators, exonerate the falsely accused, and link serial crimes in Maryland and across state lines. Maryland has had over 12,390 hits associated with the Maryland DNA Database since its inception. There is potential for the DNA Database System to be even more productive if the changes proposed in HB 259 are implemented. Moreover, by fixing the language that has led to the “in limbo” samples along with expunging all previous “in limbo” samples, the State will correct an unintended flaw in the existing law.

House Bill 259 brings a necessary update to Maryland’s DNA database system. It ensures clarity, efficiency, and fairness in the DNA testing process. It corrects unintended flaws in State law, and it addresses procedural gaps for collection, testing, and expungement of DNA samples. This legislation strengthens public safety while respecting individual rights.

For these reasons, the Maryland Department of State Police urges the Committee to give House Bill 259 a favorable report.