

MCPA-MSA_HB 259-Statewide DNA Database-SUPPORT.pdf

Uploaded by: Andrea Mansfield

Position: FAV



Maryland Chiefs of Police Association

Maryland Sheriffs' Association



MEMORANDUM

TO: The Honorable Luke Clippinger, Chair and
Members of the Judiciary Committee

FROM: Darren Popkin, Executive Director, MCPA-MSA Joint Legislative Committee
Andrea Mansfield, Representative, MCPA-MSA Joint Legislative Committee
Samira Jackson, Representative, MCPA-MSA Joint Legislative Committee

DATE: January 28, 2025

RE: **HB 259 – Public Safety – Statewide DNA Database System, DNA Collection, and Penalties - Alterations**

POSITION: SUPPORT

The Maryland Chiefs of Police Association (MCPA) and the Maryland Sheriffs' Association (MSA) **SUPPORT HB 259**. This bill addresses issues associated with the DNA database statute.

The Maryland Department of State Police's Forensic Sciences Division oversees the statewide DNA database. This database 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. MCPA and MSA believe this bill will close loopholes in the statute making the database an even more valuable tool in solving crimes.

In addition, the bill provides for the protection of employees who may find themselves in situations where individuals refuse to provide a sample. Should this occur, employees who attempt to take samples will be deemed as meeting their charge. Any individual who refuses to submit a DNA sample will then be referred to the State's Attorney's Office for prosecution. As several Sheriffs oversee local detention facilities, this language is very important to protect the men and women who serve as officers in these facilities.

MCPA and MSA support all efforts for operational improvements to make the DNA database more effective and appreciates the employee protection language for circumstances where individuals may refuse to provide samples.

For these reasons, MCPA and MSA **SUPPORT HB 259** and urge a **FAVORABLE** Committee report.

HB259_FAV.pdf

Uploaded by: Carisa Hatfield

Position: FAV



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Attorney General

January 28, 2025

TO: The Honorable Luke Clippinger
Chair, Judiciary Committee

FROM: Carisa A. Hatfield, Esq.
Assistant Attorney General
Counsel, Maryland Sexual Assault Evidence Kit Policy and Funding
Committee

RE: HB259 - Public Safety - Statewide DNA Database System, DNA
Collection, and Penalties - Alterations

The Office of the Attorney General (OAG), on behalf of the Maryland Sexual Assault Evidence Kit (SAEK) Policy and Funding Committee, urges a favorable report of House Bill 259.

By way of background, the SAEK Policy and Funding Committee was created by the General Assembly in 2017 to create effective statewide policies regarding the collection, testing, and retention of medical forensic evidence in sexual assault cases and increase access to justice for sexual assault victims. This includes working with forensic nurse examiners (FNEs), Maryland State Police, and other law enforcement agencies across the State of Maryland to ensure the proper collection, testing, and retention of sexual assault evidence kits (SAEKs) and the uploading of collected samples against collected DNA samples into the Combined DNA Index System (CODIS) in an attempt to obtain a DNA hit. These DNA hits are an important component in the prosecution of sexual assault cases, particularly those whose original leads have since gone cold.

HB259 seeks to ensure that any DNA collected and entered into CODIS is collected and retained in a timely manner consistent with best practices in forensic science. It dictates when, where, and by whom samples must be collected. It also for the first time codifies requirements for the collection of DNA samples from registered sex offenders upon their registration.

The bill's mandate to collect DNA samples from eligible individuals before they are released ensures that those DNA samples are not missed and that any DNA uploaded into CODIS, such as those collected in a SAEK, will have a greater pool of samples to be compared against. The legislation also ensures that eligible samples are promptly uploaded into CODIS and that ineligible samples are not entered into CODIS and disposed of properly.

Regulation on the collection of DNA from sex offenders is long overdue. According to a study conducted by the Medical University of South Carolina in 2011, mandated sex offender registration "had no effect on the rate of sex crime recidivism."¹ A study conducted in 2003 found that the overall rate of sexual recidivism for sex offenders was four times higher than for other offenders released from incarceration.² Mandating the collection of DNA from registered sexual offenders at the time of their registration ensures that their DNA is in CODIS and increases access to justice for victims of sexual assault.

In consideration of the above, the SAEK Committee requests a favorable report on HB259.

This bill letter is a statement of the Office of Attorney General's policy position on the referenced pending legislation. For a legal or constitutional analysis of the bill, Members of the House and Senate should consult with the Counsel to the General Assembly, Sandy Brantley. She can be reached at 410-946-5600 or sbrantley@oag.state.md.us.

¹ Elizabeth J. Letourneau, Ph.D., et al. "Executive Summary: Evaluating the Effectiveness of Sex Offender Registration and Notification Policies for Reducing Sexual Violence against Women." Published June 2011. <https://www.nsvrc.org/sites/default/files/2012-03/Evaluating%20the%20Effectiveness%20of%20Sex%20Offender.pdf>.

² "Recidivism of Adult Sexual Offenders." Sex Offender Management Assessment and Planning Initiative, Office of Justice Programs. Published July 2015. <https://smart.ojp.gov/sites/g/files/xyckuh231/files/media/document/recidivismofadultsexualoffenders.pdf>

DNA - house testimony - 2025 - HB259 FAV.pdf

Uploaded by: Lisae C Jordan

Position: FAV



Working to end sexual violence in Maryland

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Testimony Supporting House Bill 259
Lisae C. Jordan, Executive Director & Counsel
January 28, 2025

The Maryland Coalition Against Sexual Assault (MCASA) is a non-profit membership organization that includes the State's seventeen rape crisis centers, law enforcement, mental health and health care providers, attorneys, educators, survivors of sexual violence and other concerned individuals. MCASA includes the Sexual Assault Legal Institute (SALI), a statewide legal services provider for survivors of sexual assault. MCASA represents the unified voice and combined energy of all of its members working to eliminate sexual violence. We urge the Judiciary Committee to report favorably on House Bill 259.

House Bill 259 – Statewide DNA Database System – Fixing Bureaucratic Obstacles

This bill corrects language in the current statute and makes changes to help the state DNA database work effectively. Current law provides for collecting DNA evidence from people arrested for crimes of violence or burglary, including from people involved in sexual crimes. Unfortunately, incorrect language and process problems have created barriers to implementation of the law. SB206 fixes these issues and would allow the law to work as intended.

Collection of DNA evidence is of particular importance to survivors of rape and other sexual assault crimes. Rape survivors voluntarily submit to extensive, intrusive evidence collection in the hopes of stopping a sex offender and obtaining justice. It is vital that the state database have information available to compare with the evidence collected from survivors' bodies. Maryland currently has a backlog of over 16,000 DNA samples waiting to be uploaded into the state database. Among that group of samples, there is undoubtedly evidence that will help solve sexual assault cases. House Bill 206 does not create a new investigatory tool or burden on arrestees. It merely makes the current law effective.

**The Maryland Coalition Against Sexual Assault urges the
Judiciary Committee to
report favorably on House Bill 259**

Late Testimony in support

Uploaded by: Owen Traynor

Position: FAV



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.

HB0259 FAIR UNF.pdf

Uploaded by: Brenda Jones

Position: UNF

Unfavorable Response to HB0259

Public Safety – Statewide DNA Database System, DNA Collection, and Penalties – Alterations

Families Advocating Intelligent Registries (FAIR) seeks rational, constitutional sexual offense laws and policies for persons accused and convicted of sexual offenses. We feel the new language suggested for the Criminal Law Article is unclear and will create confusion. We are recommending a modest amendment to the proposed language for the reasons stated below.

We are concerned that the current language does not make clear that a DNA sample is required from registrants only once. Individuals required to register (1) likely would have already submitted a DNA sample in connection with their underlying prosecution or conviction, either in Maryland or another jurisdiction, and (2) must report in person to Maryland authorities every 3 or 6 months for as long as they remain on the Registry. Anyone homeless reports/re-registers weekly.

The proposed Sections 2-504(a)(4) and 2-504(b)(2)(iii) should be amended to make clear that DNA sample collection is required only at the time of initial registration (unless results from DNA sampling are already available to the Supervising Authority), and not at the time of periodic reporting/re-registration. While the sponsors may argue that “where initially required to register” is clear enough, sadly there are persons in local offices that enjoy making a registrant's life harder who could decide to interpret it as EVERY time the person registers at that place of initial registration. We would like to avoid this.

Our proposed changes to the language are on the next page.

Sincerely,



Brenda V. Jones, Executive Director
Families Advocating Intelligent Registries

2-504(a)(4) – AN INDIVIDUAL REQUIRED TO REGISTER AS A SEX OFFENDER UNDER SECTION 11-704 OF THE CRIMINAL PROCEDURE ARTICLE SHALL HAVE A DNA SAMPLE COLLECTED BY THE SUPERVISING AUTHORITY WHERE **AND AT THE TIME** THE INDIVIDUAL IS INITIALLY REQUIRED TO REGISTER

2-504(b)(2)(III) - AT THE TIME OF **INITIAL** REGISTRATION AS A SEX OFFENDER UNDER § 11-704 OF THE CRIMINAL PROCEDURE ARTICLE, BY THE SUPERVISING AUTHORITY WHERE THE INDIVIDUAL IS INITIALLY REQUIRED TO REGISTER.

1 28 2025 hb 279 DNA Changes MOPD Oppose.pdf

Uploaded by: Elizabeth Hilliard

Position: UNF



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POSITION ON PROPOSED LEGISLATION

BILL: HB 259 Public Safety - Statewide DNA Database System, DNA Collection, and Penalties

FROM: Maryland Office of the Public Defender

POSITION: Unfavorable

DATE: January 28, 2025

The Maryland Office of the Public Defender respectfully requests that the Committee issue an unfavorable report on House Bill 259.

House Bill 259 makes a number of changes to the processes surrounding DNA collection and creates concerning consequences for individuals involved in the criminal legal system prior to any adjudication.

The primary concern of the Office of the Public Defender is that it moves up the date on which the initial testing of a DNA sample is permitted. While the current law allows collection of a DNA sample upon arrest, the Maryland State Police (MSP) cannot test the DNA or place the profile in the DNA database prior to the scheduled arraignment date of an individual who is charged with a qualifying crime. Under the proposed changes, it appears that the DNA could be tested as early as when a commissioner makes a probable cause determination and before the first scheduled arraignment date. Testing the DNA sample *before* the first scheduled arraignment date would undermine due process, as a person merely needs to be charged with such a crime and survive a minimal probable cause determination before an individual's DNA sample is tested. Requiring an actual arraignment date on a qualifying offense, makes the consequential step of testing the DNA of a legally innocent person more thoughtful and deliberate, as it should be. Testing a DNA sample is an irreversible invasion of an individual's privacy and should only be done with due deliberation, particularly before an individual has been convicted of any crime.

Another concern is that the bill makes refusal to give a DNA sample a crime. (Page 5 line 29-page 6 line 3). This is an incredibly coercive circumstance to put an individual in and if there are issues with individuals to be easily addressed with contempt of court rather than additional criminal penalties.

For these reasons, the Maryland Office of the Public Defender urges this Committee to issue an unfavorable report on House Bill 259.

Submitted by: Maryland Office of the Public Defender, Government Relations Division.