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POSITION ON PROPOSED LEGISLATION

BILL: SB 678 – Criminal Procedure – Forensic Genetic Genealogical DNA Analysis and Search - Affidavit for Judicial Authorization

FROM: Maryland Office of the Public Defender

POSITION: Unfavorable

DATE: March 6, 2026

The Maryland Office of the Public Defender respectfully requests an **unfavorable report** on Senate Bill 678. As currently drafted, the bill would effectively eliminate meaningful standards governing the quality of DNA that may be searched using forensic genetic genealogy (FGG), thereby creating significant risks to the privacy of innocent individuals.

DNA evidence is often perceived as definitive proof of identity. While DNA can be a powerful investigative tool, that perception is not always warranted. In many cases, DNA evidence may be degraded, consist of mixtures from multiple contributors, or exist in such small quantities that little reliable information can be drawn about its source. Recognizing that DNA evidence can vary significantly in quality, the Federal Bureau of Investigation has established minimum standards for DNA profiles before they may be uploaded to the Combined DNA Index System (CODIS) for databank searches. These safeguards exist because poor-quality or incomplete profiles increase the likelihood of adventitious or coincidental matches, requiring investigators to sift through large numbers of irrelevant leads.

Under current Maryland law, law enforcement must first conduct a search of CODIS databases and fail to obtain a hit before turning to forensic genetic genealogy. This requirement serves as an important safeguard to ensure that FGG—an intrusive and far-reaching investigative technique—is used only when traditional forensic database searches have been exhausted.

Senate Bill 678 would eliminate this safeguard and instead allow any DNA deemed “suitable for direct comparison” to be searched using FGG. The bill does not define the phrase “suitable for direct comparison,” leaving the determination to the subjective judgment of investigators. Without clear standards, this language could permit the use of partial, degraded, or mixed DNA profiles in genealogical searches.

The consequences of such an approach are significant. Partial or mixed DNA profiles can be consistent with large numbers of individuals who have no connection to the crime under investigation. When such profiles are used in genealogical searches, they may generate investigative leads involving numerous innocent individuals, unnecessarily exposing their genetic information and familial connections to law enforcement scrutiny.

Before the government is granted broad access to the highly personal genetic information contained in genealogical databases, the law should establish clear, objective, and scientifically grounded standards governing when such searches are permitted. Without these protections, many innocent individuals could have their private genetic information scrutinized without any legitimate investigative basis.

The Maryland Office of the Public Defender urges the legislature to adopt narrowly defined and carefully crafted standards governing the quality and type of DNA eligible for genealogical searches. At a time when surveillance technologies are expanding rapidly, the General Assembly should be mindful of the need to safeguard personal privacy—not inadvertently broaden government access to deeply personal genetic data.

For these reasons, the Maryland Office of the Public Defender respectfully requests an **unfavorable report on SB 678**.