



Maryland
Hospital Association

HB 372 - Evidence - Chain of Custody of DNA

Position: *Support*

Bill Summary

HB 372 would establish that a certain report signed by the DNA analyst is prima facie evidence of certain matters for a certain purpose under certain circumstances; provide that a certain DNA profile may be established without the necessity for the DNA analyst to personally appear in court under certain circumstances; provide that certain provisions of law do not preclude the right of any party to introduce any evidence supporting or contradicting certain evidence or presumptions; etc.

MHA Position

The Maryland Hospital Association has served as a member of the Maryland Sexual Assault Evidence Kit & Funding Committee (SAEK Committee) since the committee's establishment. The committee is comprised of representatives from a broad range of stakeholders, including victim advocates and representatives from the state laboratory. In its 2017 report, the SAEK Committee recommended enactment of a "notice and demand" statute. This legislation would allow the state to establish chain of custody by providing logs that document the chain of custody, instead of requiring a witness, such as a lab technician, to testify in person in court. Maryland's hospitals support this effort to ensure that the court process is efficient as possible while also preventing hospital employees from being called into court unnecessarily.

In Maryland, sexual assault forensic exams (SAFEs) are performed by forensic nurse examiners, specially trained registered nurses. In addition to their trauma-informed medical training, forensic nurse examiners are trained to collect evidence and follow strict chain of custody protocols. There are 23 hospital-based SAFE programs throughout the state, each with a protocol in place to ensure that the chain of custody is always maintained, thus preserving the integrity of the evidence.

The bill would allow under a report signed by a specified DNA analyst that evidence substance was properly tested and was of the nature described in the report for establishing a DNA profile in a criminal or civil proceeding. If the requirements are met, a DNA profile may be established without the necessity for the analyst to personally appear in court. In a criminal proceeding, on written demand of the defendant that is filed in the proceedings at least 10 days prior to trial, the prosecution must require the presence of the analyst or any person in the chain of custody as a prosecution witness.

This legislation therefore streamlines the judicial process and at the same time continues to allow defendants the opportunity to request that a lab technician or other similar analyst testify in person if requested.

For these reasons, we urge you to give **HB 372** a *favorable* report.