

Department of Legislative Services  
Maryland General Assembly  
2022 Session

FISCAL AND POLICY NOTE  
Third Reader - Revised

House Bill 863  
Judiciary

(Delegate Terrasa)

Judicial Proceedings

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Courts - Expert Witnesses - Letter of Exception

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This bill prohibits a court from requiring an individual to receive a letter of exception from the Secretary of Health to testify as an expert witness in a criminal proceeding if the individual is (1) reviewing the data, opinion, interpretation, or conclusion of another expert witness or forensic laboratory and (2) not handling physical evidence.

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Fiscal Summary

**State Effect:** The bill is procedural and is not anticipated to materially affect State finances or operations.

**Local Effect:** The bill is procedural and is not anticipated to materially affect local finances or operations.

**Small Business Effect:** None.

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Analysis

**Current Law:** The Secretary of Health must adopt regulations that set standards and requirements for forensic laboratories. Maryland Department of Health regulations must contain the standards and requirements that the Secretary considers necessary to assure the citizens of the State that forensic laboratories provide safe, reliable, and accurate services.

“Forensic laboratory” means a facility, entity, or site that offers or performs forensic analysis. This includes a laboratory owned or operated by the State, a county or municipality in the State, or another governmental entity. A forensic laboratory does not

include a forensic laboratory operated by the federal government or a laboratory licensed or certified by the Maryland Department of Agriculture.

“Forensic analysis” means, subject to specified inclusions and exclusions, a medical, chemical, toxicologic, firearms, or other expert examination or test performed on physical evidence, including DNA evidence, for the purpose of determining the connection of the evidence to a criminal act. “Physical evidence” means any object, thing, or substance relating to a criminal act.

A forensic laboratory must hold a license issued by the Secretary of Health before the forensic laboratory may offer or perform forensic analysis in the State. “License” means a permit, letter of exception, certificate, or other document issued by the Secretary of Health granting approval or authority to offer or perform forensic laboratory tests, examinations, or analyses in the State. To qualify for a license, an applicant must provide evidence to satisfy the Secretary of Health that the forensic laboratory and its personnel meet statutory standards and requirements.

The Secretary of Health may grant an out-of-state forensic laboratory a waiver from the licensure requirements with conditions. The Secretary of Health must issue a letter of exception to a laboratory that performs only limited forensic analysis and meets the exception requirements in regulations adopted by the Secretary.

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### **Additional Information**

**Prior Introductions:** None.

**Designated Cross File:** None.

**Information Source(s):** Caroline, Howard, and Prince George’s counties; Judiciary (Administrative Office of the Courts); Office of the Public Defender; Maryland Department of Health; Department of State Police; Department of Legislative Services

**Fiscal Note History:** First Reader - February 18, 2022  
km/jkb Third Reader - March 29, 2022  
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