



WES MOORE
Governor

ARUNA MILLER
Lieutenant Governor

May 15, 2023

The Honorable Wes Moore
Governor of Maryland
100 State Circle
Annapolis, MD 21401

The Honorable William C. "Bill" Ferguson IV
President of the Senate
State House, H-107
Annapolis, MD 21401-1991

The Honorable Adrienne Jones
Speaker of the House of Delegates
State House, H-101
Annapolis, MD 21401

RE: Report required by Criminal Procedure Article § 17-105 (MSAR #14179) - Forensic Genetic Genealogical DNA Analysis and Search (FGGS) 2022 Letter

Dear Governor Moore, President Ferguson, and Speaker Jones:

In accordance with § 17-105 of the Criminal Procedure Article, which requires the Governor's Office of Crime Prevention, Youth, and Victim Services (Office) to prepare and submit an annual report to the Governor and the General Assembly by June 1 of each year, please accept this letter as fulfillment of the requirement report.¹

Chapters 681 and 682 of 2021 established requirements and procedures for forensic genetic genealogical DNA analysis and related searches of publicly accessible databases using genetic profiles; and included provisions regarding regulation and oversight of testing connected to this analysis and direct-to-consumer genetic genealogy services. It also required the Office to prepare and submit an annual report regarding requests for forensic genetic genealogical analysis and engage with a panel of stakeholders tasked to review the report each year and make policy recommendations. Specifically, and in accordance with § 17-105 of the Criminal Procedure Article, the Office must submit a publicly available report on requests for forensic genetic genealogical DNA analysis and search (FGGS), for the preceding calendar year, to the Governor and the General Assembly by June 1 of each year, as it relates to the following: (1) the number of requests for FGGS made, broken down by number of requests made by prosecutors, pretrial defendants, and post-conviction defendants; (2) the number of times FGGS was

¹ Maryland General Assembly. (2021). *Chapters 681 and 682 (House Bill 240/Senate Bill 187), Criminal Procedure - Forensic Genetic Genealogical DNA Analysis, Searching, Regulation, and Oversight.*

https://mgaleg.maryland.gov/2021RS/chapters_noln/Ch_681_hb0240E.pdf;
https://mgaleg.maryland.gov/2021RS/chapters_noln/Ch_682_sb0187T.pdf

granted and the basis of each grant or denial; (3) the number of putative perpetrators identified through FGGS; (4) the number of covert collections of reference samples from putative perpetrators, a description of the methods used during the covert collection, the time period needed to perform the covert collection, any complaints from individuals subject to surveillance during the covert collections, and any complaints or suggestions from judges supervising the covert collections; (5) an evaluation of the “pursued reasonable investigative leads” requirement in accordance with § 17-102(b)(4) of this title, including scientific, public, and non forensic; (6) the costs of the FGGS procedures; (7) the race and age of those identified as putative perpetrators; (8) the number of times a third party reference sample was requested and collected, and the race and age of the third parties; (9) the number of requests made by defendants and post conviction lawyers; and (10) the outcome of each authorized search, including whether the search resulted in an arrest or a conviction for the target offense.

Pursuant to its charge, the Office submitted a [letter](#) in June 2022, which highlighted the efforts of the panel of stakeholders in developing a formal data collection process for law enforcement agencies to electronically submit information on requests for forensic genetic genealogical analysis; and creating a standard affidavit form for law enforcement agencies to use.² On April 18, 2023, and given the creation and use of the data collection process, the Office emailed all police chiefs and sheriffs to request the submission of the required forensic genetic genealogical analysis information by May 1, 2023. During the reporting process, the Office received several questions pertaining to the collection and submission of information to ensure compliance with this Act. The Office also received a request for training as it relates to the implementation of the law and the formal data collection process. Furthermore, and while numerous responses were received in reference to the submission of information on requests for forensic genetic genealogical analysis, only one case met the legal requirements of Chapters 681 and 682 of 2021. Because of this, and to ensure compliance with the law, the Office will distribute an electronic survey to all state’s attorneys offices to gather insight on their accessibility to forensic genetic genealogical analysis information. Based on the survey findings, and if it is determined that state’s attorneys should serve as the point of contact for the future submission of such information, the Office will work with each to collect the required information. The Office will also work with the panel of stakeholders to review the findings of the data, identify successes and challenges of the data collection process, and make recommendations to improve efforts for next year.

Based on these efforts, our Office anticipates that next year’s report, which will be submitted on June 1, 2024, will provide more insight as it relates to requests for forensic genetic genealogical analysis. Should you have any questions relating to the information provided, please feel free to contact me at 410-697-9338.

Sincerely,



Sam Abed
Interim Acting Executive Director

² Department of Legislative Services. (2022). *Forensic Genetic Genealogical DNA Analysis and Search (FGGS) 2021 Letter*. https://dlslibrary.state.md.us/publications/Exec/GOCPYVS/CP17-105_2022.pdf

cc: Sarah Albert, Department of Legislative Services (5 copies)