

WILLIAM DONALD SCHAEFER, Governor

May 27, 1988

The Honorable R. Clayton Mitchell, Jr.
Speaker of the House of Delegates
State House
Annapolis, Maryland 21401

Dear Mr. Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, I have today vetoed House Bill 254.

Senate Bill 65 and House Bill 254, identical bills, provide that in paternity proceedings a copy of a laboratory report of blood test results signed by the technician or analyst who performed the test is admissible as evidence without the presence of the technician or analyst. The bills further provide that if any party desires the technician or analyst to be present and to testify at trial, the party must notify the court and the opposing party in writing not later than five days before trial. If this notice is timely made, the tests results are inadmissible unless the technician or analyst is present at trial and subject to cross examination.

While Senate Bill 65 and House Bill 254 were intended only to clarify and permit the current practice of admitting blood test reports without the presence of the laboratory technician or analyst, the provisions of the bills permitting any party to require the presence of the laboratory technician as well as the person who analyzes the blood and prepares the report on such short notice would have an inadvertent impact on paternity proceedings.

I have been advised that as many as eight technicians may be involved in preparing and testing the blood. To allow a party to require the presence of all the technicians would be very expensive, disruptive to the laboratory operations, and would not significantly assist the parties in presenting their case to the judge or the jury. The basic function of the technicians is to separate the blood and determine what genes are present in the antigens and to log their findings. The technician findings are then utilized by a doctor or other expert to reach a conclusion and to prepare a report which will either exclude the defendant or include him to a certain percentage of probability. The doctor or expert who prepares the report and who monitors all the testing procedures is obviously the person who should be subject to cross examination at trial. However, it is not uncommon for a defendant to subpoena all the technicians involved, knowing that if one or more does not appear, the blood test results will not