

FIRST REGULAR SESSION

SENATE BILL NO. 198

92ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR CASKEY.

Pre-filed December 16, 2002, and 1,000 copies ordered printed.

TERRY L. SPIELER, Secretary.

0719S.011

AN ACT

To repeal sections 650.050, 650.052, and 650.055, RSMo, and to enact in lieu thereof three new sections relating to the DNA profiling system, with penalty provisions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 650.050, 650.052, and 650.055, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 650.050, 650.052, and 650.055, to read as follows:

650.050. 1. The Missouri department of public safety shall develop and establish a "DNA Profiling System", referred to in sections 650.050 to 650.057 as the system to support criminal justice services in the local communities throughout this state in DNA identification. This [establishment] **DNA profiling system** shall be accomplished through consultation with the Kansas City, Missouri [regional] **police** crime laboratory, Missouri state highway patrol crime laboratory, St. Louis, Missouri metropolitan crime laboratory, St. Louis county crime laboratory, southeast Missouri regional crime laboratory, Springfield regional crime laboratory, and the Missouri Southern State College police academy regional crime lab.

2. The DNA profiling system as established in this section shall be compatible with that used by the Federal Bureau of Investigation to ensure that DNA records are fully exchangeable between DNA laboratories and that quality assurance standards issued by the director of the Federal Bureau of Investigations are applied and performed.

650.052. 1. The state's DNA profiling system shall:

(1) Assist federal, state and local criminal justice and law enforcement agencies in the [putative] identification, detection or exclusion of individuals who are subjects of the investigation

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

or prosecution of [violent or sex-related crime] **criminal offenses** in which biological evidence is recovered from the crime scene; and

(2) Support development of a population statistics database, when personal identifying information is removed; and

(3) Support identification research and protocol development of forensic DNA analysis methods; and

(4) For quality control purposes; or

(5) Assist in the recovery or identification of human remains from mass disasters, or for other humanitarian purposes, including identification of living missing persons.

2. The Missouri state highway patrol shall act as the central repository for the DNA profiling system and shall coordinate with the Federal Bureau of Investigation on the national database program.

3. The Missouri state highway patrol may promulgate rules in accordance with Federal Bureau of Investigation recommendations for the form and manner of collection of blood or other scientifically accepted biological samples and other procedures for the operation of sections 650.050 to 650.057. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.

4. The Missouri state highway patrol shall provide the necessary components for collection of the convicted offender's biological samples. The specimens shall thereafter be forwarded to the Missouri state highway patrol crime laboratory.

5. The state's forensic DNA laboratories shall meet quality assurance standards specified by the Missouri state highway patrol and the Federal Bureau of Investigation to ensure quality DNA identification records submitted to the central repository.

6. The state's forensic DNA laboratories may provide the system for identification purposes to criminal justice, law enforcement officials and prosecutors in the preparation and utilization of DNA evidence for presentation in court and provide expert testimony in court on DNA evidentiary issues.

650.055. 1. Every individual **who pleads guilty or nolo contendere to or is** convicted in a Missouri circuit court, of a felony[, defined as a violent offense under chapter 565, RSMo,] or [as a sex] **any** offense under chapter 566, RSMo, [excluding sections 566.010 and 566.020, RSMo,] shall have a blood or scientifically accepted biological sample collected for purposes of DNA profiling analysis:

(1) Upon entering the department of correction's reception and diagnostic centers; or

(2) Before release from a county jail [or], detention facility, **or state correctional facility**; or

(3) If such individual is under the jurisdiction of the department of corrections [on or

after August 28, 1996]. Such jurisdiction includes persons currently incarcerated, persons on probation, as defined in section 217.650, RSMo, and on parole, as also defined in section 217.650, RSMo.

2. The Missouri state highway patrol and department of corrections shall be responsible for ensuring adherence to the law. Any person required to provide a DNA sample pursuant to this section shall be required to provide such sample, without the right of refusal, at a collection site designated by the Missouri state highway patrol and the department of corrections. Authorized personnel collecting or assisting in the collection of samples shall not be liable in any civil or criminal action when the act is performed in a reasonable manner. Such force may be used as necessary to the effectual carrying out and application of such processes and operations. The enforcement of these provisions by the authorities in charge of state correctional institutions and others having custody of those convicted of the felony which shall not be set aside or reversed, is hereby made mandatory.

3. The procedure and rules for the collection, analysis, storage, expungement, use of DNA database records and privacy concerns shall not conflict with procedures and rules applicable to the Missouri DNA profiling system and the Federal Bureau of Investigation's DNA data bank system.

4. Unauthorized uses or dissemination of individually identifiable DNA information in a database for purposes other than criminal justice or law enforcement is a class A misdemeanor.

5. Implementation of section 650.050 and this section shall be subject to future appropriations to keep Missouri's DNA system compatible with the Federal Bureau of Investigation's DNA data bank system.

6. All DNA records and biological materials retained in the DNA profiling system are considered closed records pursuant to chapter 610, RSMo. All records containing any information held or maintained by any person or by any agency, department, or political subdivision of the state concerning an individual's DNA profile shall be strictly confidential and shall not be disclosed, except to:

- (1) Peace officers, as defined in section 590.010, RSMo;**
- (2) The attorney general or any assistant attorneys general acting on his or her behalf, as defined in chapter 27, RSMo;**
- (3) Prosecuting attorneys or circuit attorneys as defined in chapter 56, RSMo;**
- (4) Public employees of any agency, department or political subdivision who need to obtain such records to perform their public duties.**

7. Any person who obtains records pursuant to the provisions of this section shall use such records only for investigative and prosecutorial purposes or for law enforcement identification purposes, including identification of human remains, and such records shall be considered strictly confidential and shall only be released as

authorized by this section.

T

Unofficial

Bill

Copy