

HS HCS SS SB 1000 -- DNA PROFILING SYSTEMS

This bill expands the collection and use of DNA evidence in criminal investigations. The bill:

- (1) Establishes the DNA Database Fund, to be administered by the Department of Public Safety and used for the ongoing operation of the state and local DNA index systems;
- (2) Establishes a \$30 surcharge on all felony cases and a \$15 surcharge on all misdemeanor cases to be assessed as court costs and deposited into the fund. This funding provision will expire on August 28, 2006;
- (3) Requires a DNA sample to be collected from every person convicted of any felony or any offense in Chapter 566, RSMo, regarding sex crimes, or any person civilly committed as a sexually violent predator. Current law requires collection only for offenses in Chapter 566 and felonies in Chapter 565;
- (4) Allows the state's DNA profiling system to be used to investigate any crime. Current law limits its use to investigating violent or sex-related crimes;
- (5) Clarifies that the Department of Corrections may have DNA samples collected by a contracted third party;
- (6) Requires county jail personnel to collect DNA samples from offenders under the custody of a county jail, subject to appropriations;
- (7) Clarifies that a DNA sample must be collected upon release from any correctional facility or any other detention facility;
- (8) Makes the acceptance of an offender from another state under any interstate compact conditioned upon the collection of a DNA sample when the offender has been convicted of an offense which would require a sample if committed in Missouri;
- (9) Requires the Board of Probation and Parole to recommend the revocation of the probation or parole of any offender refusing to provide a DNA sample;
- (10) Requires an offender to provide another DNA sample if for any reason the sample is not adequate;
- (11) Makes all DNA records and biological materials confidential and allows disclosure only to government employees for the performance of their public duties;

(12) Allows an individual whose criminal case was dismissed or conviction reversed to request the court to order his or her DNA record expunged;

(13) Requires the State Highway Patrol's crime lab to expunge all DNA records of an individual upon receipt of a certified copy of the final court order reversing a conviction, as long as the person is not otherwise required to submit a DNA sample;

(14) Allows the highway patrol to refuse to expunge any physical evidence obtained from a DNA sample if evidence relating to another person would be destroyed;

(15) Prohibits courts from excluding evidence or setting aside any warrant or conviction due to a failure to expunge, or a delay in expunging, DNA records; and

(16) Allows a person who has been incarcerated and then exonerated through the use of DNA evidence to collect restitution from the state. A person who is determined to be innocent of the crime may receive \$50 for every day the person was incarcerated after the conviction. Payments will be made from the DNA Profiling Analysis Fund. The bill clarifies that this provision does not constitute a waiver of the state's sovereign immunity and prohibits the innocent person from seeking any civil redress from the state, any political subdivision, or their employees. To be determined innocent, the person cannot be serving a concurrent sentence for a separate crime, the person must have received a final order of release by the court, and all appeals of the order of release must be exhausted.

The provisions requiring the collection of DNA samples become effective January 1, 2005.