

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 204
99TH GENERAL ASSEMBLY

0356H.03C

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 650.055, RSMo, and to enact in lieu thereof one new section relating to the collection of biological samples from individuals arrested for felony offenses, with an existing penalty provision.

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

Section A. Section 650.055, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 650.055, to read as follows:

650.055. 1. Every individual who:

(1) Is found guilty of a felony or any offense under chapter 566; or

(2) Is seventeen years of age or older and **[arrested] indicted, or charged by information in circuit court**, for ~~[burglary in the first degree under section 569.160, or burglary in the second degree under section 569.170, or]~~ a felony offense ~~[under chapter 565, 566, 567, 568, or 573]~~; or

(3) Has been determined to be a sexually violent predator ~~[pursuant to]~~ **under** sections 632.480 to 632.513; or

(4) Is an individual required to register as a sexual offender under sections 589.400 to 589.425;

shall have a fingerprint and blood or scientifically accepted biological sample collected for purposes of DNA profiling analysis.

2. Any individual subject to DNA collection and profiling analysis under this section shall provide a DNA sample:

(1) Upon booking at a county jail or detention facility; or

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17 (2) Upon entering or before release from the department of corrections reception and
18 diagnostic centers; or

19 (3) Upon entering or before release from a county jail or detention facility, state
20 correctional facility, or any other detention facility or institution, whether operated by a private,
21 local, or state agency, or any mental health facility if committed as a sexually violent predator
22 pursuant to sections 632.480 to 632.513; or

23 (4) When the state accepts a person from another state under any interstate compact, or
24 under any other reciprocal agreement with any county, state, or federal agency, or any other
25 provision of law, whether or not the person is confined or released, the acceptance is conditional
26 on the person providing a DNA sample if the person was found guilty of a felony offense in any
27 other jurisdiction; or

28 (5) If such individual is under the jurisdiction of the department of corrections. Such
29 jurisdiction includes persons currently incarcerated, persons on probation, as defined in section
30 217.650, and on parole, as also defined in section 217.650; ~~or~~

31 (6) At the time of registering as a sex offender under sections 589.400 to 589.425; **or**

32 **(7) Upon order of the court under subdivision (2) of subsection 1 of this section.**

33 3. The Missouri state highway patrol and department of corrections shall be responsible
34 for ensuring adherence to the law. Any person required to provide a DNA sample pursuant to
35 this section shall be required to provide such sample, without the right of refusal, at a collection
36 site designated by the Missouri state highway patrol and the department of corrections.
37 Authorized personnel collecting or assisting in the collection of samples shall not be liable in any
38 civil or criminal action when the act is performed in a reasonable manner. Such force may be
39 used as necessary to the effectual carrying out and application of such processes and operations.
40 The enforcement of these provisions by the authorities in charge of state correctional institutions
41 and others having custody or jurisdiction over individuals included in subsection 1 of this section
42 which shall not be set aside or reversed is hereby made mandatory. The board of probation or
43 parole shall recommend that an individual on probation or parole who refuses to provide a DNA
44 sample have his or her probation or parole revoked. In the event that a person's DNA sample is
45 not adequate for any reason, the person shall provide another sample for analysis.

46 4. The procedure and rules for the collection, analysis, storage, expungement, use of
47 DNA database records and privacy concerns shall not conflict with procedures and rules
48 applicable to the Missouri DNA profiling system and the Federal Bureau of Investigation's DNA
49 databank system.

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

52 6. Implementation of sections 650.050 to 650.100 shall be subject to future

53 appropriations to keep Missouri's DNA system compatible with the Federal Bureau of
54 Investigation's DNA databank system.

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

60 (1) Peace officers, as defined in section 590.010, and other employees of law
61 enforcement agencies who need to obtain such records to perform their public duties;

62 (2) The attorney general or any assistant attorneys general acting on his or her behalf, as
63 defined in chapter 27;

64 (3) Prosecuting attorneys or circuit attorneys as defined in chapter 56, and their
65 employees who need to obtain such records to perform their public duties;

66 (4) The individual whose DNA sample has been collected, or his or her attorney; or

67 (5) Associate circuit judges, circuit judges, judges of the courts of appeals, supreme court
68 judges, and their employees who need to obtain such records to perform their public duties.

69 8. Any person who obtains records pursuant to the provisions of this section shall use
70 such records only for investigative and prosecutorial purposes, including but not limited to use
71 at any criminal trial, hearing, or proceeding; or for law enforcement identification purposes,
72 including identification of human remains. Such records shall be considered strictly confidential
73 and shall only be released as authorized by this section.

74 9. An individual may request expungement of his or her DNA sample and DNA profile
75 through the court issuing the reversal or dismissal. A certified copy of the court order
76 establishing that such conviction has been reversed or guilty plea has been set aside shall be sent
77 to the Missouri state highway patrol crime laboratory. Upon receipt of the court order, the
78 laboratory will determine that the requesting individual has no other qualifying offense as a result
79 of any separate plea or conviction and no other qualifying arrest prior to expungement.

80 (1) A person whose DNA record or DNA profile has been included in the state DNA
81 database in accordance with this section and sections 650.050, 650.052, and 650.100 may request
82 expungement on the grounds that the conviction has been reversed, or the guilty plea on which
83 the authority for including that person's DNA record or DNA profile was based has been set
84 aside.

85 (2) Upon receipt of a written request for expungement, a certified copy of the final court
86 order reversing the conviction or setting aside the plea and any other information necessary to
87 ascertain the validity of the request, the Missouri state highway patrol crime laboratory shall
88 expunge all DNA records and identifiable information in the state DNA database pertaining to

89 the person and destroy the DNA sample of the person, unless the Missouri state highway patrol
90 determines that the person is otherwise obligated to submit a DNA sample. Within thirty days
91 after the receipt of the court order, the Missouri state highway patrol shall notify the individual
92 that it has expunged his or her DNA sample and DNA profile, or the basis for its determination
93 that the person is otherwise obligated to submit a DNA sample.

94 (3) The Missouri state highway patrol is not required to destroy any item of physical
95 evidence obtained from a DNA sample if evidence relating to another person would thereby be
96 destroyed.

97 (4) Any identification, warrant, arrest, or evidentiary use of a DNA match derived from
98 the database shall not be excluded or suppressed from evidence, nor shall any conviction be
99 invalidated or reversed or plea set aside due to the failure to expunge or a delay in expunging
100 DNA records.

101 10. When a DNA sample is taken from an individual pursuant to subdivision (2) of
102 subsection 1 of this section and the prosecutor declines prosecution and notifies the arresting
103 agency of that decision, the arresting agency shall notify the Missouri state highway patrol crime
104 laboratory within ninety days of receiving such notification. Within thirty days of being notified
105 by the arresting agency that the prosecutor has declined prosecution, the Missouri state highway
106 patrol crime laboratory shall determine whether the individual has any other qualifying offenses
107 or arrests that would require a DNA sample to be taken and retained. If the individual has no
108 other qualifying offenses or arrests, the crime laboratory shall expunge all DNA records in the
109 database taken at the arrest for which the prosecution was declined pertaining to the person and
110 destroy the DNA sample of such person.

111 11. When a DNA sample is taken of an arrestee for any offense listed under subsection
112 1 of this section and charges are filed:

113 (1) If the charges are later withdrawn, the prosecutor shall notify the state highway patrol
114 crime laboratory that such charges have been withdrawn;

115 (2) If the case is dismissed, the court shall notify the state highway patrol crime
116 laboratory of such dismissal;

117 ~~(3) [If the court finds at the preliminary hearing that there is no probable cause that the~~
118 ~~defendant committed the offense, the court shall notify the state highway patrol crime laboratory~~
119 ~~of such finding.]~~

120 ~~————(4)]~~ If the defendant is found not guilty, the court shall notify the state highway patrol
121 crime laboratory of such verdict. If the state highway patrol crime laboratory receives notice
122 under this subsection, such crime laboratory shall determine, within thirty days, whether the
123 individual has any other qualifying offenses or arrests that would require a DNA sample to be
124 taken. If the individual has no other qualifying arrests or offenses, the crime laboratory shall

125 expunge all DNA records in the database pertaining to such person and destroy the person's DNA
126 sample.

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