



4530S05.01F

Mr. Speaker: I am instructed by the Senate to inform the House of Representatives that the Senate has taken up and passed

SS SCS HB 1350

entitled:

AN ACT

To repeal sections 43.500, 43.503, 43.504, 43.506, 43.509, 43.527, 43.530, 43.535, 43.540, 43.543, 43.546, 43.547, 192.2495, 208.909, 210.025, 210.254, 210.258, 210.482, 210.487, 302.060, 313.810, and 610.120, RSMo, and to enact in lieu thereof twenty-three new sections relating to criminal history records, with penalty provisions.

With SA 1, SA 2

In which the concurrence of the House is respectfully requested.

Respectfully,

Adriane D. Crouse
Secretary of the Senate

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SENATE AMENDMENT NO. 1Offered by Sifton of 1Amend SS/SCS/House Bill No. 1350, Page 61, Section 610.120, Line 16,

2 by inserting after all of said line the following:

3 "650.055. 1. Every individual who:

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

6 (2) Is seventeen years of age or older and arrested for
7 [burglary in the first degree under section 569.160, or burglary
8 in the second degree under section 569.170, or] a felony offense
9 [under chapter 565, 566, 567, 568, or 573]; or

10 (3) Has been determined to be a sexually violent predator
11 pursuant to sections 632.480 to 632.513; or

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

14
15 shall have a fingerprint and blood or scientifically accepted
16 biological sample collected for purposes of DNA profiling
17 analysis.

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

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

21 (2) Upon entering or before release from the department of

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1 corrections reception and diagnostic centers; or

2 (3) Upon entering or before release from a county jail or
3 detention facility, state correctional facility, or any other
4 detention facility or institution, whether operated by a private,
5 local, or state agency, or any mental health facility if
6 committed as a sexually violent predator pursuant to sections
7 632.480 to 632.513; or

8 (4) When the state accepts a person from another state
9 under any interstate compact, or under any other reciprocal
10 agreement with any county, state, or federal agency, or any other
11 provision of law, whether or not the person is confined or
12 released, the acceptance is conditional on the person providing a
13 DNA sample if the person was found guilty of a felony offense in
14 any other jurisdiction; or

15 (5) If such individual is under the jurisdiction of the
16 department of corrections. Such jurisdiction includes persons
17 currently incarcerated, persons on probation, as defined in
18 section 217.650, and on parole, as also defined in section
19 217.650; or

20 (6) At the time of registering as a sex offender under
21 sections 589.400 to 589.425.

22 3. The Missouri state highway patrol and department of
23 corrections shall be responsible for ensuring adherence to the
24 law. Any person required to provide a DNA sample pursuant to
25 this section shall be required to provide such sample, without
26 the right of refusal, at a collection site designated by the
27 Missouri state highway patrol and the department of corrections.
28 Authorized personnel collecting or assisting in the collection of
29 samples shall not be liable in any civil or criminal action when

1 the act is performed in a reasonable manner. Such force may be
2 used as necessary to the effectual carrying out and application
3 of such processes and operations. The enforcement of these
4 provisions by the authorities in charge of state correctional
5 institutions and others having custody or jurisdiction over
6 individuals included in subsection 1 of this section which shall
7 not be set aside or reversed is hereby made mandatory. The board
8 of probation or parole shall recommend that an individual on
9 probation or parole who refuses to provide a DNA sample have his
10 or her probation or parole revoked. In the event that a person's
11 DNA sample is not adequate for any reason, the person shall
12 provide another sample for analysis.

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

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

22 6. Implementation of sections 650.050 to 650.100 shall be
23 subject to future appropriations to keep Missouri's DNA system
24 compatible with the Federal Bureau of Investigation's DNA
25 databank system.

26 7. All DNA records and biological materials retained in the
27 DNA profiling system are considered closed records pursuant to
28 chapter 610. All records containing any information held or
29 maintained by any person or by any agency, department, or

1 political subdivision of the state concerning an individual's DNA
2 profile shall be strictly confidential and shall not be
3 disclosed, except to:

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

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

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

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

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

17 8. Any person who obtains records pursuant to the
18 provisions of this section shall use such records only for
19 investigative and prosecutorial purposes, including but not
20 limited to use at any criminal trial, hearing, or proceeding; or
21 for law enforcement identification purposes, including
22 identification of human remains. Such records shall be
23 considered strictly confidential and shall only be released as
24 authorized by this section.

25 9. (1) An individual may request expungement of his or her
26 DNA sample and DNA profile through the court issuing the reversal
27 or dismissal, or through the court granting an expungement of all
28 official records under section 568.040. A certified copy of the
29 court order establishing that such conviction has been reversed,

1 guilty plea has been set aside, or expungement has been granted
2 under section 568.040 shall be sent to the Missouri state highway
3 patrol crime laboratory. Upon receipt of the court order, the
4 laboratory will determine that the requesting individual has no
5 other qualifying offense as a result of any separate plea or
6 conviction and no other qualifying arrest prior to expungement.

7 (2) A person whose DNA record or DNA profile has been
8 included in the state DNA database in accordance with this
9 section and sections 650.050, 650.052, and 650.100 may request
10 expungement on one or more of the following grounds [that the
11 conviction has been reversed, the guilty plea on which the
12 authority for including that person's DNA record or DNA profile
13 was based has been set aside, or an expungement of all official
14 records has been granted by the court under section 568.040]:

15 (a) The conviction on which the authority for including
16 that person's DNA record or DNA profile was based on has been
17 reversed;

18 (b) The guilty plea on which the authority for including
19 that person's DNA record or DNA profile was based on has been set
20 aside;

21 (c) The prosecutor has declined prosecution on all alleged
22 offenses which, upon conviction, would authorize the inclusion of
23 that person's DNA record or DNA profile;

24 (d) The prosecutor has withdrawn all qualifying charges
25 which, upon conviction, would authorize the inclusion of that
26 person's DNA record or DNA profile;

27 (e) The case or cases containing all charges which, upon
28 conviction, would authorize the inclusion of that person's DNA
29 record or DNA profile, are dismissed;

1 (f) The court finds at a preliminary hearing that there is
2 no probable cause to try that person for any charge which, upon
3 conviction, would authorize the inclusion of that person's DNA
4 record or DNA profile;

5 (g) That person is found not guilty of all charges which,
6 upon conviction, would authorize the inclusion of that person's
7 DNA record or DNA profile.

8 (3) Upon receipt of a written request for expungement, a
9 certified copy of the final court order reversing the conviction,
10 setting aside the plea, or granting an expungement of all
11 official records under section 568.040, and any other information
12 necessary to ascertain the validity of the request, the Missouri
13 state highway patrol crime laboratory shall expunge all DNA
14 records and identifiable information in the state DNA database
15 pertaining to the person and destroy the DNA sample of the
16 person, unless the Missouri state highway patrol determines that
17 the person is otherwise obligated to submit a DNA sample. Within
18 thirty days after the receipt of the court order, the Missouri
19 state highway patrol shall notify the individual that it has
20 expunged his or her DNA sample and DNA profile, or the basis for
21 its determination that the person is otherwise obligated to
22 submit a DNA sample.

23 (4) The Missouri state highway patrol is not required to
24 destroy any item of physical evidence obtained from a DNA sample
25 if evidence relating to another person would thereby be
26 destroyed.

27 (5) Any identification, warrant, arrest, or evidentiary use
28 of a DNA match derived from the database shall not be excluded or
29 suppressed from evidence, nor shall any conviction be invalidated

1 or reversed or plea set aside due to the failure to expunge or a
2 delay in expunging DNA records.

3 [10. When a DNA sample is taken from an individual pursuant
4 to subdivision (2) of subsection 1 of this section and the
5 prosecutor declines prosecution and notifies the arresting agency
6 of that decision, the arresting agency shall notify the Missouri
7 state highway patrol crime laboratory within ninety days of
8 receiving such notification. Within thirty days of being
9 notified by the arresting agency that the prosecutor has declined
10 prosecution, the Missouri state highway patrol crime laboratory
11 shall determine whether the individual has any other qualifying
12 offenses or arrests that would require a DNA sample to be taken
13 and retained. If the individual has no other qualifying offenses
14 or arrests, the crime laboratory shall expunge all DNA records in
15 the database taken at the arrest for which the prosecution was
16 declined pertaining to the person and destroy the DNA sample of
17 such person.

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

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

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

26 (3) If the court finds at the preliminary hearing that
27 there is no probable cause that the defendant committed the
28 offense, the court shall notify the state highway patrol crime
29 laboratory of such finding;

1 (4) If the defendant is found not guilty, the court shall
2 notify the state highway patrol crime laboratory of such verdict.

3
4 If the state highway patrol crime laboratory receives notice
5 under this subsection, such crime laboratory shall determine,
6 within thirty days, whether the individual has any other
7 qualifying offenses or arrests that would require a DNA sample to
8 be taken. If the individual has no other qualifying arrests or
9 offenses, the crime laboratory shall expunge all DNA records in
10 the database pertaining to such person and destroy the person's
11 DNA sample.]"; and

12 Further amend the title and enacting clause accordingly.

Read 3/14/18

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SENATE AMENDMENT NO. 2

Offered by Schaaf of Buchanan

Amend SS/SCS/House Bill No. 1350, Page 20, Section 43.540, Line 17,

2 by inserting after the word "damages" the following: "solely";
3 and further amend lines 19-22, by striking all of said lines and
4 inserting in lieu thereof the following: "with respect to an
5 applicant. The state, any political subdivision".

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Adopted "