

FIRST REGULAR SESSION

SENATE BILL NO. 282

91ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR KLARICH.

Read 1st time January 11, 2001, and 1,000 copies ordered printed.

TERRY L. SPIELER, Secretary.

0990S.011

AN ACT

To repeal section 650.055, RSMo 2000, relating to post conviction procedures, and to enact in lieu thereof one new section relating to the same subject, with penalty provisions.

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

Section A. Section 650.055, RSMo 2000, is repealed and one new section enacted in lieu thereof, to be known as section 650.055, to read as follows: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 convicted in a Missouri circuit court, of a felony, defined as a violent offense under chapter 565, RSMo, or as a sex 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
- (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.

Any evidence leading to a conviction of a felony described in this subsection which has been or can be tested for DNA shall be preserved by the Missouri state highway patrol.

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. A defendant convicted of any felony listed in subsection 1 of this section may make a motion before the trial court that entered the judgment of conviction in his or her case for DNA testing on the defendant and on evidence that was secured in relation to the trial which resulted in the conviction. The defendant shall serve notice of the motion upon the prosecuting attorney of the county in which the conviction occurred. The defendant shall present a prima facie case that identity was a contested issue in the defendant's trial. If the defendant establishes a prima facie case, and the trial court determines that the results of the testing have the scientific potential to produce new, noncumulative evidence materially relevant to the defendant's assertion of actual innocence, the trial court shall order the state to compare DNA test results regarding the trial evidence and the defendant.