

**SENATE AMENDMENT NO. \_\_\_\_\_**

Offered by \_\_\_\_\_ of \_\_\_\_\_

Amend SS/SCS/Senate Bill No. 590, Page 132, Section 632.520, Line 22

of said page, by inserting after all of said line the following:

"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 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 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

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

(3) Upon entering or before release from a county jail or

1 detention facility, state correctional facility, or any other  
2 detention facility or institution, whether operated by a private,  
3 local, or state agency, or any mental health facility if  
4 committed as a sexually violent predator pursuant to sections  
5 632.480 to 632.513; or

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

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

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

20 3. The Missouri state highway patrol and department of  
21 corrections shall be responsible for ensuring adherence to the  
22 law. Any person required to provide a DNA sample pursuant to  
23 this section shall be required to provide such sample, without  
24 the right of refusal, at a collection site designated by the  
25 Missouri state highway patrol and the department of corrections.  
26 Authorized personnel collecting or assisting in the collection of  
27 samples shall not be liable in any civil or criminal action when  
28 the act is performed in a reasonable manner. Such force may be  
29 used as necessary to the effectual carrying out and application

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

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

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

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

24 7. All DNA records and biological materials retained in the  
25 DNA profiling system are considered closed records pursuant to  
26 chapter 610. All records containing any information held or  
27 maintained by any person or by any agency, department, or  
28 political subdivision of the state concerning an individual's DNA  
29 profile shall be strictly confidential and shall not be

disclosed, except to:

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

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

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

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

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

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

9. An individual may request expungement of his or her DNA sample and DNA profile through the court issuing the reversal or dismissal. A certified copy of the court order establishing that such conviction has been reversed or guilty plea has been set aside shall be sent to the Missouri state highway patrol crime laboratory. Upon receipt of the court order, the laboratory will determine that the requesting individual has no other qualifying

1 offense as a result of any separate plea or conviction and no  
2 other qualifying arrest prior to expungement.

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

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

23 (3) 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 (4) 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     If the state highway patrol crime laboratory receives notice  
4     under this subsection, such crime laboratory shall determine,  
5     within thirty days, whether the individual has any other  
6     qualifying offenses or arrests that would require a DNA sample to  
7     be taken. If the individual has no other qualifying arrests or  
8     offenses, the crime laboratory shall expunge all DNA records in  
9     the database pertaining to such person and destroy the person's  
10    DNA sample."; and

11           Further amend the title and enacting clause accordingly.