

SENATE AMENDMENT NO. _____

Offered by _____ Of _____

Amend SS/SCS/HCS/House Bill No. 302 & 228, Page 28, Section 590.1040, Line 5,

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

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. An individual may request expungement of his or her DNA
26 sample and DNA profile through the court issuing the reversal or
27 dismissal. A certified copy of the court order establishing that
28 such conviction has been reversed or guilty plea has been set
29 aside shall be sent to the Missouri state highway patrol crime

1 laboratory. Upon receipt of the court order, the laboratory will
2 determine that the requesting individual has no other qualifying
3 offense as a result of any separate plea or conviction and no
4 other qualifying arrest prior to expungement.

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

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

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

29 (4) Any identification, warrant, arrest, or evidentiary use

1 of a DNA match derived from the database shall not be excluded or
2 suppressed from evidence, nor shall any conviction be invalidated
3 or reversed or plea set aside due to the failure to expunge or a
4 delay in expunging DNA records.

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

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

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

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

28 (3) If the court finds at the preliminary hearing that
29 there is no probable cause that the defendant committed the

1 offense, the court shall notify the state highway patrol crime
2 laboratory of such finding;

3 (4) If the defendant is found not guilty, the court shall
4 notify the state highway patrol crime laboratory of such verdict.
5 If the state highway patrol crime laboratory receives notice
6 under this subsection, such crime laboratory shall determine,
7 within thirty days, whether the individual has any other
8 qualifying offenses or arrests that would require a DNA sample to
9 be taken. If the individual has no other qualifying arrests or
10 offenses, the crime laboratory shall expunge all DNA records in
11 the database pertaining to such person and destroy the person's
12 DNA sample."; and

13 Further amend the title and enacting clause accordingly.