

SECOND REGULAR SESSION

# SENATE BILL NO. 1458

## 103RD GENERAL ASSEMBLY

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INTRODUCED BY SENATOR SCHROER.

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KRISTINA MARTIN, Secretary

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### AN ACT

To repeal section 650.055, RSMo, and to enact in lieu thereof one new section relating to collection of biological samples, with penalty provisions.

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Section A. Section 650.055, RSMo, is repealed and one new  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

650.055. 1. Every individual who:

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

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

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

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

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

**EXPLANATION-Matter enclosed in bold-faced brackets [thus] in this bill is not enacted  
and is intended to be omitted in the law.**

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

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

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

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

30            (4) When the state accepts a person from another state  
31 under any interstate compact, or under any other reciprocal  
32 agreement with any county, state, or federal agency, or any  
33 other provision of law, whether or not the person is  
34 confined or released, the acceptance is conditional on the  
35 person providing a DNA sample if the person was found guilty  
36 of a felony offense in any other jurisdiction; or

37            (5) If such individual is under the jurisdiction of  
38 the department of corrections. Such jurisdiction includes  
39 persons currently incarcerated, persons on probation, as  
40 defined in section 217.650, and on parole, as also defined  
41 in section 217.650; or

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

44            **(7) Notwithstanding the provisions of this subsection**  
45 **to the contrary, if it is determined that the person's DNA**  
46 **sample has been included in the DNA database, and has not**

47 **been subject to a court order expunging the record from the**  
48 **DNA database, no additional sample is required.**

49       3. The Missouri state highway patrol and department of  
50 corrections shall be responsible for ensuring adherence to  
51 the law. Any person required to provide a DNA sample  
52 pursuant to this section shall be required to provide such  
53 sample, without the right of refusal, at a collection site  
54 designated by the Missouri state highway patrol and the  
55 department of corrections. Authorized personnel collecting  
56 or assisting in the collection of samples shall not be  
57 liable in any civil or criminal action when the act is  
58 performed in a reasonable manner. Such force may be used as  
59 necessary to the effectual carrying out and application of  
60 such processes and operations. The enforcement of these  
61 provisions by the authorities in charge of state  
62 correctional institutions and others having custody or  
63 jurisdiction over individuals included in subsection 1 of  
64 this section which shall not be set aside or reversed is  
65 hereby made mandatory. The division of probation and parole  
66 shall recommend that an individual on probation or parole  
67 who refuses to provide a DNA sample have his or her  
68 probation or parole revoked. In the event that a person's  
69 DNA sample is not adequate for any reason, the person shall  
70 provide another sample for analysis.

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

76       5. Unauthorized use or dissemination of individually  
77 identifiable DNA information in a database for purposes

78 other than criminal justice or law enforcement is a class A  
79 misdemeanor.

80 6. Implementation of sections 650.050 to 650.100 shall  
81 be subject to future appropriations to keep Missouri's DNA  
82 system compatible with the Federal Bureau of Investigation's  
83 DNA databank system.

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

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

94 (2) The attorney general or any assistant attorneys  
95 general acting on his or her behalf, as defined in chapter  
96 27;

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

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

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

106 8. Any person who obtains records pursuant to the  
107 provisions of this section shall use such records only for  
108 investigative and prosecutorial purposes, including but not  
109 limited to use at any criminal trial, hearing, or

110 proceeding; or for law enforcement identification purposes,  
111 including identification of human remains. Such records  
112 shall be considered strictly confidential and shall only be  
113 released as authorized by this section.

114       9. (1) An individual may request expungement of his  
115 or her DNA sample and DNA profile through the court issuing  
116 the reversal or dismissal, or through the court granting an  
117 expungement of all official records under section 568.040.  
118 A certified copy of the court order establishing that such  
119 conviction has been reversed, guilty plea has been set  
120 aside, or expungement has been granted under section 568.040  
121 shall be sent to the Missouri state highway patrol crime  
122 laboratory. Upon receipt of the court order, the laboratory  
123 will determine that the requesting individual has no other  
124 qualifying offense as a result of any separate plea or  
125 conviction and no other qualifying arrest prior to  
126 expungement.

127       (2) A person whose DNA record or DNA profile has been  
128 included in the state DNA database in accordance with this  
129 section and sections 650.050, 650.052, and 650.100 may  
130 request expungement on the grounds that the conviction has  
131 been reversed, the guilty plea on which the authority for  
132 including that person's DNA record or DNA profile was based  
133 has been set aside, or an expungement of all official  
134 records has been granted by the court under section 568.040.

135       (3) Upon receipt of a written request for expungement,  
136 a certified copy of the final court order reversing the  
137 conviction, setting aside the plea, or granting an  
138 expungement of all official records under section 568.040,  
139 and any other information necessary to ascertain the  
140 validity of the request, the Missouri state highway patrol  
141 crime laboratory shall expunge all DNA records and

142 identifiable information in the state DNA database  
143 pertaining to the person and destroy the DNA sample of the  
144 person, unless the Missouri state highway patrol determines  
145 that the person is otherwise obligated to submit a DNA  
146 sample. Within thirty days after the receipt of the court  
147 order, the Missouri state highway patrol shall notify the  
148 individual that it has expunged his or her DNA sample and  
149 DNA profile, or the basis for its determination that the  
150 person is otherwise obligated to submit a DNA sample.

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

155 (5) Any identification, warrant, arrest, or  
156 evidentiary use of a DNA match derived from the database  
157 shall not be excluded or suppressed from evidence, nor shall  
158 any conviction be invalidated or reversed or plea set aside  
159 due to the failure to expunge or a delay in expunging DNA  
160 records.

161 10. When a DNA sample is taken from an individual  
162 pursuant to subdivision (2) of subsection 1 of this section  
163 and the prosecutor declines prosecution and notifies the  
164 arresting agency of that decision, the arresting agency  
165 shall notify the Missouri state highway patrol crime  
166 laboratory within ninety days of receiving such  
167 notification. Within thirty days of being notified by the  
168 arresting agency that the prosecutor has declined  
169 prosecution, the Missouri state highway patrol crime  
170 laboratory shall determine whether the individual has any  
171 other qualifying offenses or arrests that would require a  
172 DNA sample to be taken and retained. If the individual has  
173 no other qualifying offenses or arrests, the crime

174 laboratory shall expunge all DNA records in the database  
175 taken at the arrest for which the prosecution was declined  
176 pertaining to the person and destroy the DNA sample of such  
177 person.

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

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

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

186 (3) If the court finds at the preliminary hearing that  
187 there is no probable cause that the defendant committed the  
188 offense, the court shall notify the state highway patrol  
189 crime laboratory of such finding;

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

193 If the state highway patrol crime laboratory receives notice  
194 under this subsection, such crime laboratory shall  
195 determine, within thirty days, whether the individual has  
196 any other qualifying offenses or arrests that would require  
197 a DNA sample to be taken. If the individual has no other  
198 qualifying arrests or offenses, the crime laboratory shall  
199 expunge all DNA records in the database pertaining to such  
200 person and destroy the person's DNA sample.

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