



January 27, 1999

SENATE BILL No. 71

DIGEST OF SB 71 (Updated January 30, 1999 (4:19PM) - DI kcc)

Citations Affected: IC 10-1.

Synopsis: DNA data bank. Requires a person arrested for any felony to submit a DNA sample for inclusion in the Indiana DNA data base. Requires the laboratory that prepares a DNA profile to destroy the sample from which the profile was prepared. Increases the penalty for misuse of DNA information from a Class A misdemeanor to a Class D felony. Allows expungement of the DNA profile if there is no pending case based on the arrest and at least one year has elapsed since the arrest. Requires the superintendent of state police to submit a copy of an expungement request to the attorney general, who has 30 days to object to expungement of the DNA profile.

Effective: July 1, 1999.

Bray

January 6, 1999, read first time and referred to Committee on Rules and Legislative Procedure.

January 26, 1999, amended; reassigned to Committee on Judiciary.

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SB 71—LS 6153/DI 13+



January 27, 1999

First Regular Session 111th General Assembly (1999)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1998 General Assembly.

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SENATE BILL No. 71

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 10-1-9-8 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 8. (a) The
3 superintendent is authorized to establish a data base of DNA
4 identification records for **arrested and** convicted criminals, crime
5 scene specimens, unidentified missing persons, and close biological
6 relatives of missing persons.
7 (b) The superintendent shall maintain the Indiana DNA data base.
8 (c) The superintendent may contract for services to perform DNA
9 analysis of convicted offenders under section 10 of this chapter to assist
10 federal, state, and local criminal justice and law enforcement agencies
11 in the putative identification, detection, or exclusion of individuals who
12 are subjects of an investigation or prosecution of a sex offense, a
13 violent crime, or another crime in which biological evidence is
14 recovered from the crime scene.
15 (d) The superintendent shall adopt rules under IC 4-22-2 necessary
16 to administer and enforce the provisions and intent of this chapter.
17 SECTION 2. IC 10-1-9-10 IS AMENDED TO READ AS

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1 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 10. (a) This section
2 applies to a person described in subsection (b) or (c).

3 (b) This section applies to **the following:**

4 (1) A person convicted of a felony under IC 35-42 (offenses
5 against the person), IC 35-43-2-1 (burglary), IC 35-42-4-6 (child
6 solicitation):

7 (1) (A) after June 30, 1996, whether or not the person is
8 sentenced to a term of imprisonment; and

9 (2) (B) before July 1, 1996, if the person is held in jail or
10 prison on or after July 1, 1996.

11 (2) **A person arrested for a felony described in IC 35 after**
12 **June 30, 1999.**

13 (c) This section applies to a person convicted of a criminal law in
14 effect before October 1, 1977, that penalized an act substantially
15 similar to a felony described in IC 35-42 or IC 35-43-2-1 or that would
16 have been an included offense of a felony described in IC 35-42 or
17 IC 35-43-2-1, if the felony had been in effect:

18 (1) after June 30, 1998, whether or not the person is sentenced to
19 a term of imprisonment; and

20 (2) before July 1, 1998, if the person is held in jail or prison on or
21 after July 1, 1998.

22 (d) A person described in subsection (b) or (c) shall provide a DNA
23 sample to the department of correction **or arresting authority**. A
24 ~~convicted~~ person is not required to submit a blood sample if doing so
25 would present a substantial and an unreasonable risk to the person's
26 health.

27 SECTION 5. IC 10-1-9-14 IS AMENDED TO READ AS
28 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 14. (a) A laboratory
29 conducting forensic DNA analysis in Indiana must implement and
30 follow nationally recognized standards for DNA quality assurance and
31 proficiency testing, such as those approved by the American Society of
32 Crime Laboratory Directors Laboratory Accreditation Board.

33 (b) Quality assurance guidelines issued by the Technical Working
34 Group on DNA Analysis Methods (a committee of scientists that has
35 promulgated nationally recognized quality assurance standards) serve
36 as the standard for DNA testing under this chapter unless and until
37 national standards are set.

38 (c) A laboratory conducting forensic DNA analysis in Indiana shall
39 forward relevant DNA data base records to the state police laboratory.

40 (d) **After a DNA profile is completed, the laboratory shall**
41 **destroy the DNA sample from which the profile was prepared.**

42 SECTION 3. IC 10-1-9-16 IS AMENDED TO READ AS

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1 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 16. A person who
 2 knowingly or intentionally disseminates, receives, or otherwise uses or
 3 attempts to use information in the Indiana DNA data base or DNA
 4 samples used in DNA analyses, knowing that such dissemination,
 5 receipt, or use is for a purpose other than authorized by law commits
 6 a ~~Class A misdemeanor~~. **Class D felony.**

7 SECTION 4. IC 10-1-9-20 IS AMENDED TO READ AS
 8 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 20. (a) A person whose
 9 DNA profile has been included in the Indiana DNA data base may
 10 request expungement of the profile from the DNA data base on the
 11 grounds that: ~~The conviction on which the authority for inclusion in the~~
 12 ~~Indiana DNA data base has been reversed and the case has been~~
 13 ~~dismissed:~~

14 **(1) at least one (1) year has elapsed since the arrest on which**
 15 **the authority for inclusion in the Indiana DNA data base was**
 16 **established; and**

17 **(2) the case in which the arrest was made is not pending**
 18 **before a court.**

19 **(b) Upon receipt of a request for expungement, the**
 20 **superintendent shall send a copy of the request and accompanying**
 21 **information to the attorney general not later than ten (10) days**
 22 **after receipt of the request. The attorney general shall notify the**
 23 **superintendent not later than thirty (30) days after receipt of the**
 24 **copy of the request from the superintendent whether the attorney**
 25 **general objects or does not object to the expungement of the DNA**
 26 **profile.**

27 **(c) If the attorney general objects to the expungement, the**
 28 **person requesting the expungement shall file the expungement**
 29 **petition in the court having jurisdiction over the charge filed on**
 30 **which the DNA sample was based. The court shall determine the**
 31 **validity of the petition.**

32 ~~(b)~~ **(d) All identifiable information in the Indiana DNA data base**
 33 **pertaining to a person requesting expungement under subsection (a)**
 34 **shall be expunged and all samples from the person shall be destroyed**
 35 **upon receipt of the following:**

36 **(1) A written request for expungement under subsection (a).**

37 **(2) A certified copy of the court order reversing and dismissing**
 38 **the conviction; and A statement that:**

39 **(A) at least one (1) year has elapsed since the arrest on**
 40 **which the authority for inclusion in the Indiana DNA data**
 41 **base was established; and**

42 **(B) the case in which the arrest was made is not pending**



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1 **before a court.**
2 **(3) A certified copy of supporting court records to show that**
3 **the case is no longer pending before a court.**
4 ~~(3)~~ **(4)** Any other information necessary to ascertain the validity
5 of the request.
6 **(5) Notification from the attorney general under subsection**
7 **(b) that the attorney general does not object to the**
8 **expungement.**
9 ~~(e)~~ **(e)** Upon expungement of a person's DNA profile from the
10 Indiana DNA data base, the superintendent shall request expungement
11 of the person's DNA profile from the national DNA data base.

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SENATE MOTION

Mr. President: I move that Senator Garton be removed as author of Senate Bill 71 and that Senator Bray be substituted therefor.

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COMMITTEE REPORT

Mr. President: The Senate Committee on Rules and Legislative Procedure, to which was referred Senate Bill No. 71, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill be reassigned to the Senate Committee on Judiciary.

(Reference is to SB 71 as introduced.)

GARTON, Chairperson

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