



February 26, 1999

SENATE BILL No. 71

DIGEST OF SB 71 (Updated February 24, 1999 4:13 pm - DI 51)

Citations Affected: IC 10-1.

Synopsis: DNA data bank. Requires a person arrested for burglary or an offense against the person to submit a DNA sample for inclusion in the Indiana DNA data base. 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 a court grants a petition to expunge the person's arrest record.

Effective: July 1, 1999.

Bray, Zakas, Meeks C, Alexa

January 6, 1999, read first time and referred to Committee on Rules and Legislative Procedure.
January 26, 1999, amended; reassigned to Committee on Judiciary.
February 25, 1999, amended, reported favorably — Do Pass.

SB 71—LS 6153/DI 13+



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February 26, 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 FOLLOWS
2 [EFFECTIVE JULY 1, 1999]: Sec. 8. (a) The superintendent is
3 authorized to establish a data base of DNA identification records for
4 **arrested and** convicted criminals, crime scene specimens, unidentified
5 missing persons, and close biological relatives of missing persons.
6 (b) The superintendent shall maintain the Indiana DNA data base.
7 (c) The superintendent may contract for services to perform DNA
8 analysis of convicted offenders under section 10 of this chapter to assist
9 federal, state, and local criminal justice and law enforcement agencies
10 in the putative identification, detection, or exclusion of individuals who
11 are subjects of an investigation or prosecution of a sex offense, a
12 violent crime, or another crime in which biological evidence is
13 recovered from the crime scene.
14 (d) The superintendent shall adopt rules under IC 4-22-2 necessary
15 to administer and enforce the provisions and intent of this chapter.
16 SECTION 2. IC 10-1-9-10 IS AMENDED TO READ AS
17 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 10. (a) This section

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1 applies to a person described in subsection (b) or (c).

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

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

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

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

10 (2) **A person arrested after June 30, 1999, for a felony under**
11 **IC 35-42 (offenses against the person) or IC 35-43-2-1**
12 **(burglary).**

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. **The department of correction or arresting authority is not**
27 **required to obtain a sample from a person described in subsection**
28 **(b) if a useable DNA profile for the person already is in the Indiana**
29 **DNA data base.**

30 SECTION 3. IC 10-1-9-16 IS AMENDED TO READ AS
31 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 16. A person who
32 knowingly or intentionally disseminates, receives, or otherwise uses or
33 attempts to use information in the Indiana DNA data base or DNA
34 samples used in DNA analyses, knowing that such dissemination,
35 receipt, or use is for a purpose other than authorized by law commits
36 a ~~Class A misdemeanor~~. **Class D felony.**

37 SECTION 4. IC 10-1-9-20 IS AMENDED TO READ AS
38 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 20. (a) A person whose
39 DNA profile has been included in the Indiana DNA data base may
40 request expungement of the profile from the DNA data base on the
41 grounds that:

42 (1) **the profile was included in the Indiana DNA data base as**

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1 **a result of an arrest and a court has ordered the expungement**
2 **of the records related to the arrest under IC 35-38-5 or**
3 **another law; or**
4 (2) the conviction on which the authority for inclusion in the
5 Indiana DNA data base has been reversed and the case has been
6 dismissed.
7 (b) All identifiable information in the Indiana DNA data base
8 pertaining to a person requesting expungement under subsection (a)
9 shall be expunged and all samples from the person shall be destroyed
10 upon receipt of:
11 (1) a written request for expungement under subsection (a);
12 (2) a certified copy of the court order reversing and dismissing the
13 conviction **or granting an expungement of arrest records;** and
14 (3) any other information necessary to ascertain the validity of the
15 request.
16 (c) Upon expungement of a person's DNA profile from the Indiana
17 DNA data base, the superintendent shall request expungement of the
18 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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SENATE MOTION

Mr. President: I move that Senators Zakas, Meeks C and Alexa be added as coauthors of Senate Bill 71.

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COMMITTEE REPORT

Mr. President: The Senate Committee on Judiciary, 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:

Page 1, run in lines 1 through 2.

Run in page 1, line 17 through page 2, line 1.

Page 2, delete lines 11 through 12, begin a new line block indented and insert:

"(2) A person arrested after June 30, 1999, for a felony under IC 35-42 (offenses against the person) or IC 35-43-2-1 (burglary)."

Page 2, line 26, after "health." insert **"The department of correction or arresting authority is not required to obtain a sample from a person described in subsection (b) if a useable DNA profile for the person already is in the Indiana DNA data base."**

Page 2, delete lines 27 through 41.

Page 3, delete lines 7 through 42, begin a new paragraph and insert:
"SECTION 4. IC 10-1-9-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 20. (a) A person whose DNA profile has been included in the Indiana DNA data base may request expungement of the profile from the DNA data base on the grounds that:

(1) the profile was included in the Indiana DNA data base as a result of an arrest and a court has ordered the expungement of the records related to the arrest under IC 35-38-5 or another law; or

(2) the conviction on which the authority for inclusion in the Indiana DNA data base has been reversed and the case has been dismissed.

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

- (1) a written request for expungement under subsection (a);
- (2) a certified copy of the court order reversing and dismissing the conviction **or granting an expungement of arrest records;** and
- (3) any other information necessary to ascertain the validity of the request.

(c) Upon expungement of a person's DNA profile from the Indiana DNA data base, the superintendent shall request expungement of the person's DNA profile from the national DNA data base."

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Delete page 4.
Reorder all SECTIONS consecutively.
and when so amended that said bill do pass.
(Reference is to SB 71 as introduced.)

BRAY, Chairperson

Committee Vote: Yeas 6, Nays 4.

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