

# HOUSE BILL No. 1730

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 10-13-6.

**Synopsis:** DNA samples for felony arrests. Authorizes the superintendent of the Indiana state police to include an individual arrested for a felony in the DNA data base. Requires a person arrested for certain crimes to submit a DNA sample for the DNA data base. Makes conforming amendments.

**Effective:** July 1, 2007.

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January 26, 2007, read first time and referred to Committee on Judiciary.

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First Regular Session 115th General Assembly (2007)

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 2006 Regular Session of the General Assembly.

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# HOUSE BILL No. 1730



A BILL FOR AN ACT to amend the Indiana Code concerning public safety.

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

1 SECTION 1. IC 10-13-6-8, AS AMENDED BY P.L.142-2005,  
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2007]: Sec. 8. (a) The superintendent may establish a data  
4 base of DNA identification records of:  
5 ~~(1) convicted criminals;~~  
6 **(1) individuals required to provide DNA samples under**  
7 **section 10 of this chapter;**  
8 (2) crime scene specimens;  
9 (3) unidentified missing persons; and  
10 (4) close biological relatives of missing persons.  
11 (b) The superintendent shall maintain the Indiana DNA data base.  
12 (c) The superintendent may contract for services to perform DNA  
13 analysis of ~~convicted offenders~~ **individuals** under section 10 of this  
14 chapter to assist federal, state, and local criminal justice and law  
15 enforcement agencies in the putative identification, detection, or  
16 exclusion of individuals who are subjects of an investigation or  
17 prosecution of a sex offense, a violent crime, or another crime in which



- 1 biological evidence is recovered from the crime scene.
- 2 (d) The superintendent:
  - 3 (1) may perform or contract for performance of testing, typing, or
  - 4 analysis of a DNA sample collected from a person described in
  - 5 section 10 of this chapter at any time; and
  - 6 (2) shall perform or contract for the performance of testing,
  - 7 typing, or analysis of a DNA sample collected from a person
  - 8 described in section 10 of this chapter if federal funds become
  - 9 available for the performance of DNA testing, typing, or analysis.
- 10 (e) The superintendent shall adopt rules under IC 4-22-2 necessary
- 11 to administer and enforce the provisions and intent of this chapter.
- 12 (f) The detention, arrest, or conviction of a person based on a data
- 13 base match or data base information is not invalidated if a court
- 14 determines that the DNA sample was obtained or placed in the Indiana
- 15 DNA data base by mistake.
- 16 SECTION 2. IC 10-13-6-10, AS AMENDED BY P.L.173-2006,
- 17 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 18 JULY 1, 2007]: Sec. 10. (a) This section applies to the following:
  - 19 (1) A person convicted of a felony under IC 35-42 (offenses
  - 20 against the person) or IC 35-43-2-1 (burglary):
    - 21 (A) after June 30, 1996, whether or not the person is sentenced
    - 22 to a term of imprisonment; or
    - 23 (B) before July 1, 1996, if the person is held in jail or prison
    - 24 on or after July 1, 1996.
  - 25 (2) A person convicted of a criminal law in effect before October
  - 26 1, 1977, that penalized an act substantially similar to a felony
  - 27 described in IC 35-42 or IC 35-43-2-1 or that would have been an
  - 28 included offense of a felony described in IC 35-42 or
  - 29 IC 35-43-2-1 if the felony had been in effect:
    - 30 (A) after June 30, 1998, whether or not the person is sentenced
    - 31 to a term of imprisonment; or
    - 32 (B) before July 1, 1998, if the person is held in jail or prison
    - 33 on or after July 1, 1998.
  - 34 (3) A person convicted of a felony, conspiracy to commit a felony,
  - 35 or attempt to commit a felony:
    - 36 (A) after June 30, 2005, whether or not the person is sentenced
    - 37 to a term of imprisonment; or
    - 38 (B) before July 1, 2005, if the person is held in jail or prison
    - 39 on or after July 1, 2005.
  - 40 **(4) A person required to register as a sex offender under**
  - 41 **IC 11-8-8.**
  - 42 **(5) A person at least eighteen (18) years of age who is arrested**

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for:

- (A) a felony under IC 35-42-4;
- (B) a crime listed under IC 11-8-8-5;
- (C) murder (IC 35-42-1-1);
- (D) attempted murder (IC 35-41-5-1);
- (E) voluntary manslaughter (IC 35-42-1-3); or
- (F) attempting to commit a crime listed in clauses (A) through (E).

(b) A person described in subsection (a) shall provide a DNA sample to the:

- (1) department of correction or the designee of the department of correction if the offender is committed to the department of correction;
- (2) county sheriff or the designee of the county sheriff if the offender is held in a county jail or other county penal facility, placed in a community corrections program (as defined in IC 35-38-2.6-2), or placed on probation; or
- (3) agency that supervises the person, or the agency's designee, if the person is on conditional release in accordance with IC 35-38-1-27.

A person is not required to submit a blood sample if doing so would present a substantial and an unreasonable risk to the person's health.

(c) The detention, arrest, or conviction of a person based on a data base match or data base information is not invalidated if a court determines that the DNA sample was obtained or placed in the Indiana DNA data base by mistake.

SECTION 3. IC 10-13-6-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 18. (a) A person whose DNA profile has been included in the Indiana DNA data base who has no past or present qualifying offense and for whom there is no legal basis for retaining the person's DNA specimen may request expungement of the profile from the DNA data base and that all samples from the person be destroyed under subsection (b) if:

- (1) following arrest, the charges, information, or indictment are dropped, dismissed, or not filed within the appropriate time for filing;
- (2) on the grounds that the underlying conviction on which the authority for inclusion in the Indiana DNA data base was founded has been reversed and the case has been dismissed; or
- (3) the person has been found not guilty of the underlying charges.

(b) All identifiable information in the Indiana DNA data base

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1 pertaining to a person requesting expungement under subsection (a)  
2 shall be expunged, and all samples from the person shall be destroyed  
3 upon receipt of:  
4 (1) a written request for expungement under subsection (a);  
5 (2) **if a person makes a request under subsection (a)(2)**, a  
6 certified copy of the court order reversing and dismissing the  
7 conviction; and  
8 (3) any other information necessary to ascertain the validity of the  
9 request.  
10 (c) Upon expungement of a person's DNA profile from the Indiana  
11 DNA data base, the superintendent shall request expungement of the  
12 person's DNA profile from the national DNA data base.

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