January 11, 2013

SENATE BILL No. 3

DIGEST OF SB 3 (Updated January 9, 2013 10:00 am - DI ck)

Citations Affected: IC 10-13; IC 31-37.

Synopsis: Juvenile DNA testing. Requires a juvenile court to order a child found to be a delinquent child for the commission of an act that, if committed by an adult, would be: (1) burglary; (2) residential entry; (3) a crime of violence; or (4) a sex offense; to provide a DNA sample to the agency having supervision of the child or to the county sheriff. Makes conforming amendments.

Effective: July 1, 2013.

Zakas

January 7, 2013, read first time and referred to Committee on Rules and Legislative Procedure.
January 10, 2013, amended; reassigned to Committee on Judiciary.

C o p y

January 11, 2013

First Regular Session 118th General Assembly (2013)

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 2012 Regular Session of the General Assembly.

C o p y

SENATE BILL No. 3

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

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

SECTION 1. IC 10-13-6-8, AS AMENDED BY P.L.142-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 8. (a) The superintendent may establish a data base of DNA identification records of:

(1) convicted criminals;

(2) certain delinquent children;

~~(2)~~ **(3)** crime scene specimens;

~~(3)~~ **(4)** unidentified missing persons; and

~~(4)~~ **(5)** close biological relatives of missing persons.

(b) The superintendent shall maintain the Indiana DNA data base.

(c) The superintendent may contract for services to perform DNA analysis of convicted offenders under section 10 of this chapter **or certain delinquent children under IC 31-37-19-1** to assist federal, state, and local criminal justice and law enforcement agencies in the putative identification, detection, or exclusion of individuals who are subjects of an investigation or prosecution of a sex offense, a violent crime, or another crime in which biological evidence is recovered from

the crime scene.

(d) The superintendent:

(1) may perform or contract for performance of testing, typing, or analysis of a DNA sample collected from a person described in section 10 of this chapter **or certain delinquent children described in IC 31-37-19-1** at any time; and

(2) shall perform or contract for the performance of testing, typing, or analysis of a DNA sample collected from a person described in section 10 of this chapter **or certain delinquent children described in IC 31-37-19-1** if federal funds become available for the performance of DNA testing, typing, or analysis.

(e) The superintendent shall adopt rules under IC 4-22-2 necessary to administer and enforce the provisions and intent of this chapter.

(f) 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 2. IC 10-13-6-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 18. (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 the conviction **or adjudication as a delinquent child** on which the authority for inclusion in the Indiana DNA data base was founded 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 adjudication;** 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.

SECTION 3. IC 10-13-6-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 21. A person who knowingly or intentionally without lawful authority tampers with or attempts to tamper with any DNA sample or a container collected under section 10 of this chapter **or IC 31-37-19-1** commits a Class D felony.

C o p y

SECTION 4. IC 31-37-19-1, AS AMENDED BY P.L.147-2012, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 1. (a) Subject to section 6.5 of this chapter, if a child is a delinquent child under IC 31-37-2, the juvenile court may enter one (1) or more of the following dispositional decrees:

(1) Order supervision of the child by the probation department.

(2) Order the child to receive outpatient treatment:

(A) at a social service agency or a psychological, a psychiatric, a medical, or an educational facility; or

(B) from an individual practitioner.

(3) Remove the child from the child's home and place the child in another home or shelter care facility. Placement under this subdivision includes authorization to control and discipline the child.

(4) Award wardship to a:

(A) person, other than the department; or

(B) shelter care facility.

(5) Partially or completely emancipate the child under section 27 of this chapter.

(6) Order:

(A) the child; or

(B) the child's parent, guardian, or custodian;

to receive family services.

(7) Order a person who is a party to refrain from direct or indirect contact with the child.

(b) If the child is removed from the child's home and placed in a foster family home or another facility, the juvenile court shall:

(A) approve a permanency plan for the child;

(B) find whether or not reasonable efforts were made to prevent or eliminate the need for the removal;

(C) designate responsibility for the placement and care of the child with the probation department; and

(D) find whether it:

(i) serves the best interests of the child to be removed; and

(ii) would be contrary to the health and welfare of the child for the child to remain in the home.

(c) If a dispositional decree under this section:

(1) orders or approves removal of a child from the child's home or awards wardship of the child to a:

(A) person other than the department; or

(B) shelter care facility; and

(2) is the first court order in the delinquent child proceeding that

C o p y

authorizes or approves removal of the child from the child's parent, guardian, or custodian;

the court shall include in the decree the appropriate findings and conclusions described in IC 31-37-6-6(f) and IC 31-37-6-6(g).

(d) If the juvenile court orders supervision of the child by the probation department under subsection (a)(1), the child or the child's parent, guardian, or custodian is responsible for any costs resulting from the participation in a rehabilitative service or educational class provided by the probation department. Any costs collected for services provided by the probation department shall be deposited in the county supplemental juvenile probation services fund.

(e) If a child is adjudicated to be a delinquent child under IC 31-37-2 for the commission of an act that, if committed by an adult, would be:

(1) burglary (IC 35-43-2-1);

(2) residential entry (IC 35-43-2-1.5);

(3) a crime of violence (as defined in IC 35-50-1-2); or

(4) a sex offense (as defined in IC 11-8-8-5.2);

the juvenile court shall order the child to provide a DNA sample to the agency having supervision of the child or to the county sheriff. A child is not required to submit a blood sample under this subsection if doing so would present a substantial and unreasonable risk to the child's health.

(f) If a juvenile court orders the agency having supervision of a child or the county sheriff to collect a DNA sample from the child under subsection (e), the agency or sheriff shall comply with:

(1) IC 10-13-6-12; and

(2) the guidelines issued by the superintendent of the state police department under IC 10-13-6-11.

C o p y

COMMITTEE REPORT

Madam President: The Senate Committee on Rules and Legislative Procedure, to which was referred Senate Bill No. 3, 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 the title and insert the following:

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

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 3 as introduced.)

LONG, Chairperson

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