

IC 10-13-6

Chapter 6. Indiana DNA Data Base

IC 10-13-6-1

"Combined DNA Index System"

Sec. 1. As used in this chapter, "Combined DNA Index System" refers to the Federal Bureau of Investigation's national DNA identification index system that allows the storage and exchange of DNA records submitted by state and local forensic DNA laboratories.

As added by P.L.2-2003, SEC.4.

IC 10-13-6-2

"DNA"

Sec. 2. As used in this chapter, "DNA" means deoxyribonucleic acid that:

- (1) is located in the nucleated cells;
- (2) provides an individual's personal genetic blueprint; and
- (3) encodes genetic information that is the basis of human heredity and forensic identification.

As added by P.L.2-2003, SEC.4.

IC 10-13-6-3

"DNA analysis"

Sec. 3. As used in this chapter, "DNA analysis" means an identification process in which the unique genetic code of an individual that is carried by the individual's DNA is compared with the genetic codes of another individual.

As added by P.L.2-2003, SEC.4.

IC 10-13-6-4

"DNA profile"

Sec. 4. As used in this chapter, "DNA profile" means the results of all DNA identification tests on an individual's DNA sample.

As added by P.L.2-2003, SEC.4.

IC 10-13-6-5

"DNA record"

Sec. 5. As used in this chapter, "DNA record" refers to DNA identification information stored in the state DNA data base or the Combined DNA Index System for the purpose of generating investigative leads or supporting statistical interpretation of DNA test results that:

- (1) is the result obtained from DNA typing tests; and
- (2) is comprised of the characteristics of a DNA sample that are of value in establishing the identity of individuals.

As added by P.L.2-2003, SEC.4.

IC 10-13-6-6

"DNA sample"

Sec. 6. As used in this chapter, "DNA sample" means a blood, tissue, or other body fluid sample:

- (1) provided by a person with respect to offenses covered by this chapter; or
- (2) submitted to the state police laboratory under this chapter for analysis or storage, or both.

As added by P.L.2-2003, SEC.4.

IC 10-13-6-7

"Superintendent"

Sec. 7. As used in this chapter, "superintendent" includes the superintendent or the superintendent's designee.

As added by P.L.2-2003, SEC.4.

IC 10-13-6-8

Establishment of DNA data base; mandatory and discretionary testing and analysis

Sec. 8. (a) The superintendent may establish a data base of DNA identification records of:

- (1) convicted criminals;
- (2) crime scene specimens;
- (3) unidentified missing persons; and
- (4) 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 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 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 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.

As added by P.L.2-2003, SEC.4. Amended by P.L.69-2005, SEC.1 and P.L.142-2005, SEC.1.

IC 10-13-6-9

Duties of superintendent

Sec. 9. The superintendent shall ensure that the Indiana DNA data base:

- (1) supports development of a population statistics data base when personal identifying information is removed;
- (2) supports identification research and protocol development of forensic DNA analysis;
- (3) assists in achieving quality control; and
- (4) assists in the recovery or identification of human remains from mass disasters or for other humanitarian purposes, including identification of missing persons who may be alive.

As added by P.L.2-2003, SEC.4.

IC 10-13-6-9.5

DNA sample processing fund

Sec. 9.5. (a) The DNA sample processing fund is established for the purpose of funding the collection, shipment, analysis, and preservation of DNA samples and the conduct of a DNA data base program under this chapter. The fund shall be administered by the superintendent.

(b) The expenses of administering the fund shall be paid from money in the fund.

(c) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested.

(d) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

As added by P.L.176-2005, SEC.1.

IC 10-13-6-10

Persons required to provide DNA sample

Sec. 10. (a) This section applies to the following:

(1) A person convicted of a felony under IC 35-42 (offenses against the person) or IC 35-43-2-1 (burglary):

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

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

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

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

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

(3) A person convicted of a felony, conspiracy to commit a felony, or attempt to commit a felony:

- (A) after June 30, 2005, whether or not the person is sentenced to a term of imprisonment; or
- (B) before July 1, 2005, if the person is held in jail or prison on or after July 1, 2005.

(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.

As added by P.L.2-2003, SEC.4. Amended by P.L.69-2005, SEC.2 and P.L.142-2005, SEC.2; P.L.140-2006, SEC.8 and P.L.173-2006, SEC.8.

IC 10-13-6-11

Guidelines for DNA sample collection and shipment

Sec. 11. (a) The superintendent may issue specific guidelines relating to procedures for DNA sample collection and shipment within Indiana for DNA identification testing.

(b) The superintendent shall issue specific guidelines related to procedures for DNA sample collection and shipment by the:

- (1) county sheriff or designee of the county sheriff under section 10(b)(2) of this chapter; or
- (2) supervising agency or designee of the supervising agency under section 10(b)(3) of this chapter.

The superintendent shall provide each county sheriff and supervising agency with the guidelines issued under this subsection. A county sheriff and supervising agency shall collect and ship DNA samples in compliance with the guidelines issued under this subsection.

(c) The superintendent may delay the implementation of the collection of DNA samples under section 10(b)(2) or 10(b)(3) of this chapter in one (1) or more counties until the earlier of the following:

- (1) A date set by the superintendent.
- (2) The date funding becomes available by grant through the criminal justice institute.

If the superintendent delays implementation of section 10(b)(2) or 10(b)(3) of this chapter or terminates a delay under section 10(b)(2) or 10(b)(3) of this chapter in any county, the superintendent shall

notify the county sheriff in writing of the superintendent's action.
*As added by P.L.2-2003, SEC.4. Amended by P.L.140-2006, SEC.9
and P.L.173-2006, SEC.9.*

IC 10-13-6-12

Collection of samples

Sec. 12. DNA samples for the Indiana DNA data base must be collected in a medically approved manner by one (1) of the following:

- (1) A physician.
- (2) A registered nurse.
- (3) A licensed vocational nurse.
- (4) A licensed clinical laboratory technologist.
- (5) Any other person trained to collect DNA samples properly.

As added by P.L.2-2003, SEC.4.

IC 10-13-6-13

Purposes of testing

Sec. 13. (a) Tests performed on the DNA samples are for the following purposes:

- (1) To analyze and type the genetic markers contained in or derived from DNA.
- (2) For law enforcement identification purposes.
- (3) For research or administrative purposes, including:
 - (A) development of a population statistics data base after personal identifying information is removed;
 - (B) support of identification research and protocol development of forensic DNA analysis methods;
 - (C) quality control; and
 - (D) assisting in the recovery or identification of human remains from mass disasters or for other humanitarian purposes, including identification of missing persons who may be alive.

(b) Tests performed under this chapter must be conducted in a manner that produces compatible results with procedures specified by the Federal Bureau of Investigation Laboratory to ensure that DNA records are fully exchangeable between DNA laboratories.

As added by P.L.2-2003, SEC.4.

IC 10-13-6-14

Adherence to nationally recognized standards

Sec. 14. (a) A laboratory conducting forensic DNA analysis in Indiana must implement and follow nationally recognized standards for DNA quality assurance and proficiency testing, such as those approved by the American Society of Crime Laboratory Directors Laboratory Accreditation Board.

(b) Quality assurance guidelines issued by the Technical Working Group on DNA Analysis Methods serve as the standard for DNA testing under this chapter until national standards are set.

(c) A laboratory conducting forensic DNA analysis in Indiana

shall forward relevant DNA data base records to the state police laboratory.

As added by P.L.2-2003, SEC.4.

IC 10-13-6-15

Disclosure of DNA samples and analysis

Sec. 15. A laboratory conducting forensic DNA analysis in Indiana may disclose or allow access to collected DNA samples and DNA analysis results only under the following circumstances:

- (1) To criminal justice agencies for law enforcement identification purposes.
- (2) To defense counsel for criminal defense purposes.
- (3) Upon authorization by a court or statute.
- (4) For a population statistics data base, identification research and protocol development, or quality control purposes, but only if personal identifying information is removed.
- (5) For purposes of postconviction DNA testing and analysis under IC 35-38-7.

As added by P.L.2-2003, SEC.4.

IC 10-13-6-16

Collection of information for certain purposes prohibited

Sec. 16. The information contained in the Indiana DNA data base may not be collected or stored to obtain information about human physical traits or predisposition for disease.

As added by P.L.2-2003, SEC.4.

IC 10-13-6-17

Personal information limited

Sec. 17. Personal information stored in the Indiana DNA data base is limited to:

- (1) data necessary to:
 - (A) generate investigative leads; and
 - (B) support statistical interpretation of test results; and
- (2) any other information necessary to allow for the successful implementation of the Indiana DNA data base system.

As added by P.L.2-2003, SEC.4.

IC 10-13-6-18

Expungement of DNA profile

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 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; 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.

As added by P.L.2-2003, SEC.4.

IC 10-13-6-19

Access to DNA data base

Sec. 19. (a) Access to the Indiana DNA data base is limited to federal, state, and local law enforcement agencies through their servicing forensic DNA laboratories.

(b) The superintendent shall take appropriate measures to ensure that the Indiana DNA data base is protected against unauthorized access.

As added by P.L.2-2003, SEC.4.

IC 10-13-6-20

Denial of privileges due to failure to follow quality control and privacy standards

Sec. 20. The superintendent may deny the privilege of a laboratory performing forensic DNA analysis within Indiana to exchange DNA identification records with federal, state, or local criminal justice agencies if required quality control and privacy standards described in this chapter for the Indiana DNA data base are not met by the laboratory.

As added by P.L.2-2003, SEC.4.

IC 10-13-6-21

Unlawful tampering

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 commits a Class D felony.

As added by P.L.2-2003, SEC.4.

IC 10-13-6-22

Unlawful use of data base information or DNA samples

Sec. 22. A person who knowingly or intentionally disseminates, receives, or otherwise uses or attempts to use information in the Indiana DNA data base or DNA samples used in DNA analyses, knowing that such dissemination, receipt, or use is for a purpose other than authorized by law, commits a Class A misdemeanor.

As added by P.L.2-2003, SEC.4.