

COMMITTEE REPORT

MADAM PRESIDENT:

The Senate Committee on Judiciary, to which was referred Senate Bill No. 245, 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:

- 1 Page 1, delete lines 1 through 17.
2 Delete pages 2 through 3, begin a new paragraph and insert:
3 "SECTION 1. IC 10-13-6-8, AS AMENDED BY P.L.142-2005,
4 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
5 JULY 1, 2013]: Sec. 8. (a) The superintendent may establish a data
6 base of DNA identification records of:
7 (1) convicted criminals;
8 **(2) persons arrested for:**
9 **(A) burglary (IC 35-43-2-1);**
10 **(B) residential entry (IC 35-43-2-1.5);**
11 **(C) a crime of violence (as defined in IC 35-50-1-2); or**
12 **(D) a sex offense (as defined in IC 11-8-8-5.2);**
13 ~~(3)~~ **(3)** crime scene specimens;
14 ~~(4)~~ **(4)** unidentified missing persons; and
15 ~~(5)~~ **(5)** close biological relatives of missing persons.
16 (b) The superintendent shall maintain the Indiana DNA data base.
17 (c) The superintendent may contract for services to perform DNA
18 analysis of:
19 **(1) convicted offenders; and**
20 **(2) persons arrested for:**

- 1 **(A) burglary;**
 2 **(B) residential entry;**
 3 **(C) a crime of violence; or**
 4 **(D) a sex offense;**

5 under section 10 of this chapter to assist federal, state, and local
 6 criminal justice and law enforcement agencies in the putative
 7 identification, detection, or exclusion of individuals who are subjects
 8 of an investigation or prosecution of a sex offense, a violent crime, or
 9 another crime in which biological evidence is recovered from the crime
 10 scene.

11 (d) The superintendent:

12 (1) may perform or contract for performance of testing, typing, or
 13 analysis of a DNA sample collected from a person described in
 14 section 10 of this chapter at any time; and

15 (2) shall perform or contract for the performance of testing,
 16 typing, or analysis of a DNA sample collected from a person
 17 described in section 10 of this chapter if federal funds become
 18 available for the performance of DNA testing, typing, or analysis.

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

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

25 SECTION 2. IC 10-13-6-10, AS AMENDED BY P.L.173-2006,
 26 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 27 JULY 1, 2013]: Sec. 10. (a) This section applies to the following:

28 **(1) A person arrested after June 30, 2013, for burglary,**
 29 **residential entry, a crime of violence, or a sex offense, as**
 30 **described in section 8(a)(2) of this chapter.**

31 ~~(2)~~ **(2)** A person convicted of a felony under IC 35-42 (offenses
 32 against the person) or IC 35-43-2-1 (burglary):

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

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

37 ~~(2)~~ **(3)** A person convicted of a criminal law in effect before
 38 October 1, 1977, that penalized an act substantially similar to a

1 felony described in IC 35-42 or IC 35-43-2-1 or that would have
 2 been an included offense of a felony described in IC 35-42 or
 3 IC 35-43-2-1 if the felony had been in effect:

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

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

8 ~~(3)~~ **(4)** A person convicted of a felony, conspiracy to commit a
 9 felony, or attempt to commit a felony:

10 (A) after June 30, 2005, whether or not the person is sentenced
 11 to a term of imprisonment; or

12 (B) before July 1, 2005, if the person is held in jail or prison
 13 on or after July 1, 2005.

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

16 (1) department of correction or the designee of the department of
 17 correction if the offender is committed to the department of
 18 correction;

19 (2) county sheriff or the designee of the county sheriff if the
 20 offender is held in a county jail or other county penal facility,
 21 placed in a community corrections program (as defined in
 22 IC 35-38-2.6-2), ~~or~~ placed on probation, or **released on bond**;

23 (3) agency that supervises the person, or the agency's designee, if
 24 the person is on conditional release in accordance with
 25 IC 35-38-1-27; or

26 **(4) law enforcement agency that processes the person, in the**
 27 **case of a person arrested for burglary, residential entry, a**
 28 **crime of violence, or a sex offense.**

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

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

35 **(d) The officer, employee, or designee who obtains a DNA**
 36 **sample from a person under this section shall:**

37 **(1) inform the person of the person's right to DNA**
 38 **expungement under section 18 of this chapter; and**

1 **(2) provide the person with a form that may be used for DNA**
 2 **expungement.**

3 SECTION 3. IC 10-13-6-18 IS AMENDED TO READ AS
 4 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 18. (a) A person whose
 5 DNA profile has been included in the Indiana DNA data base may
 6 request expungement of the profile from the DNA data base on the
 7 grounds that:

8 (1) the conviction on which the authority for inclusion in the
 9 Indiana DNA data base was founded has been reversed and the
 10 case has been dismissed; **or**

11 **(2) the person was arrested for burglary, residential entry, a**
 12 **crime of violence, or a sex offense, as described in section**
 13 **8(a)(2) of this chapter, and:**

14 **(A) the person was acquitted of all felony charges;**

15 **(B) all burglary, residential entry, crime of violence, or sex**
 16 **offense charges in the case have been dismissed; or**

17 **(C) thirty (30) days have passed since the person's arrest**
 18 **and no burglary, residential entry, crime of violence, or sex**
 19 **offense charges have been filed against the person.**

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

24 (1) a ~~written request for~~ **letter or form requesting** expungement
 25 under subsection (a);

26 (2) a certified copy of ~~the~~ **a court order, or other evidence**
 27 **sufficient to establish or permit the superintendent to**
 28 **establish that:**

29 **(A) ~~reversing~~ all of the person's felony convictions have**
 30 **been reversed and dismissing the conviction, or dismissed,**
 31 **as described in subsection (a)(1);**

32 **(B) the person has been acquitted of all felony charges, as**
 33 **described in subsection (a)(2)(A);**

34 **(C) all burglary, residential entry, crime of violence, or sex**
 35 **offense charges in the case have been dismissed, as**
 36 **described in subsection (a)(2)(B); or**

37 **(D) thirty (30) days have passed since the person's arrest**
 38 **and no burglary, residential entry, crime of violence, or sex**

- 1 **offense charges have been filed against the person, as**
- 2 **described in subsection (a)(2)(C); and**
- 3 (3) any other information necessary to ascertain the validity of the
- 4 request.
- 5 (c) Upon expungement of a person's DNA profile from the Indiana
- 6 DNA data base, the superintendent shall request expungement of the
- 7 person's DNA profile from the national DNA data base."
- 8 Page 4, delete lines 1 through 5.
- 9 Renumber all SECTIONS consecutively.
- (Reference is to SB 245 as introduced.)

and when so amended that said bill do pass.

Committee Vote: Yeas 5, Nays 2.

Steele

Chairperson