

HB 1094 -- DNA PROFILING SYSTEM

SPONSOR: Mayer

COMMITTEE ACTION: Voted "do pass" by the Committee on Crime Prevention and Public Safety by a vote of 10 to 0.

This bill makes changes in the laws regarding the collection of DNA evidence. The bill:

- (1) Clarifies that forensic DNA analysis is admissible in any criminal proceeding to prove any relevant fact;
- (2) Allows the state's DNA profiling system to be used to investigate any crime. Current law limits its use to investigating violent or sex-related crimes;
- (3) Clarifies that the Department of Corrections may have DNA samples collected by a contracted third party;
- (4) Requires a DNA sample to be collected from every person convicted of a felony or any offense in Chapter 566, RSMo, regarding sex crimes. Current law does not require collection for some offenses in Chapter 566 or for nonviolent offenses;
- (5) Clarifies that a DNA sample must be collected upon release from any correctional facility, including a mental health facility;
- (6) Makes the acceptance of an offender from another state under any interstate compact conditioned upon the collection of a DNA sample when the offender has been convicted of an offense which would require a sample if committed in Missouri;
- (7) Prohibits the early release of any offender until the offender has provided a DNA sample;
- (8) Requires an offender to provide another DNA sample if the offender's DNA sample is not adequate for any reason;
- (9) Prohibits courts from excluding evidence or setting aside any warrant or conviction that is based upon a DNA sample that was obtained or placed in the database by mistake;
- (10) Establishes the DNA Database Fund to be administered by the Department of Public Safety and requires a \$160 fee to be assessed on all offenders required to provide a DNA sample. The fund will be used to provide for the ongoing operation of the state and local DNA index systems;

(11) Makes all DNA records and biological materials confidential and allows them to be disclosed only to government employees for the performance of their public duties;

(12) Limits the use of records from the DNA profiling system to criminal investigations and proceedings and for law enforcement's identification purposes;

(13) Allows an individual whose criminal case was dismissed or conviction reversed to request the court to order his or her DNA record expunged;

(14) Requires the State Highway Patrol's crime lab to expunge all DNA records of an individual upon receipt of a certified copy of the final court order reversing a conviction, as long as the person is not otherwise required to submit a DNA sample;

(15) Allows the patrol to refuse to expunge any physical evidence obtained from a DNA sample if evidence relating to another person would thereby be destroyed; and

(16) Prohibits courts from excluding evidence or setting aside any warrant or conviction due to a failure to expunge, or a delay in expunging, DNA records.

FISCAL NOTE: Estimated Net Cost on General Revenue Fund of More than \$2,516,034 in FY 2005, More than \$1,678,003 in FY 2006, and More than \$1,683,171 in FY 2007. No impact on Other State Funds in FY 2005, FY 2006, and FY 2007.

PROPOSERS: Supporters say that DNA profiling of all felons is now the law in 31 states. States have been solving several cold cases when they convict an offender of a drug crime, take a DNA sample, and match it with an unsolved violent crime. In states that have all felons profiling and DNA is recovered from a crime scene that matched up with a person, 80% of the time that person was in prison for a drug or property crime, not a violent crime. Collecting DNA on all felons prevents crime. DNA has been described as the guilty person's worst nightmare and the innocent person's best friend, because it is not biased and cannot be manipulated. It has revolutionized the way crime is investigated and prosecuted. We cannot fully utilize its potential unless we have DNA samples in the system, allowing us to identify suspects.

Testifying for the bill were Representatives Mayer, Bivins, and Jolly; Kansas City Area Crime Lab; Office of the Jackson County Prosecutor; Metropolitan Organization to Counter Sexual Assault; Missouri Victim Assistance Network; and Missouri Police Chiefs' Association.

OPPONENTS: Those who oppose the bill say that testing all felons is too broad in scope. Profiling juvenile offenders, who could be in the system for very minor offenses, raises other concerns. Where does it stop?

Testifying against the bill was Missouri Association of Criminal Defense Lawyers.

OTHERS: Others testifying on the bill say that the state currently processes about 2,200 DNA samples per year. The bill would increase that amount to about 28,000 per year, requiring four additional full-time employees. However, having DNA samples on file will allow law enforcement to arrest suspects before they commit additional crimes. This could save some of the law enforcement investigation costs, as well as prevent crimes. For example, the investigation of a serial killer in St. Louis cost approximately \$750,000. If DNA had been collected after a robbery conviction years earlier, the killer could have been identified after the first of 17 murders.

Others testifying on the bill was State Highway Patrol.

Richard Smreker, Senior Legislative Analyst