MISSISSIPPI LEGISLATURE

By: Representatives Whittington, Mayo, Martinson, Brown

To: Penitentiary; Appropriations

HOUSE BILL NO. 64

AN ACT TO AMEND SECTION 45-33-37, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT DNA TESTING SHALL BE PERFORMED ON ALL CONVICTED FELONS; TO PROVIDE THAT SUCH INFORMATION SHALL BE MAINTAINED SEPARATE FROM SEX OFFENDER INFORMATION; TO PROVIDE FOR THE TAKING OF DNA SAMPLES; TO PROVIDE FOR THE USE OF SUCH INFORMATION IN CRIMINAL CASES; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 45-33-37, Mississippi Code of 1972, is amended as follows:

45-33-37. (1) The Mississippi Crime Laboratory shall develop a plan for and establish a deoxyribonucleic acid (DNA) identification system. In implementing the plan, the Mississippi Crime Laboratory shall purchase the appropriate equipment. The DNA identification system as established herein shall be compatible with that utilized by the Federal Bureau of Investigation.

(2) From and after January 1, 1996, every individual convicted of a sex offense or in the custody of the Mississippi Department of Corrections for a sex offense as defined in Section 45-33-23 shall submit a biological sample for purposes of DNA identification analysis before release from or transfer to a state correctional facility or county jail or other detention facility.

(3) From and after January 1, 1996, any person having a duty to register under Section 45-33-25 for whom a DNA analysis is not already on file shall submit a biological sample for purposes of DNA identification analysis within five (5) working days after registration.

(4) From and after July 1, 2003, any person convicted of a felony and incarcerated in a state correctional facility shall at
the time of entering the prison system have a sample of his or her blood, an oral swab or a sample obtained from a noninvasive procedure taken for DNA (deoxyribonucleic acid) analysis to determine identification characteristics specific to the person. The provisions and requirements of this section shall also apply to any person who has been convicted of a felony prior to July 1, 2002, and who currently is incarcerated in a state correctional facility in this state for such offense but only when such a person is to be released from the state correctional facility. The provisions and requirements of this section shall also apply to any person who has been convicted of a felony in this state on or after July 1, 2002, and who is incarcerated in a private correctional facility in this state for such offense pursuant to a contract with the Department of Corrections upon entering the facility, and for any person convicted of a felony prior to July 1, 2002; and who is incarcerated in a private correctional facility in this state pursuant to contract with the Department of Corrections, upon release. The information gathered under this subsection shall be maintained in a separate data base from sex offenders and such other felony offenders shall not be subject to the same requirements for sex offenders under this chapter. For the purposes of this subsection, the term "state correctional facility" means a penal institution under the jurisdiction of the Department of Corrections, including inmate work camps and inmate boot camps; provided, however, that such term shall not include a probation detention center, probation diversion center or probation boot camp under the jurisdiction of the Department of Corrections.

SECTION 2. (1) Each sample required pursuant to subsection (4) of Section 45-33-37 from persons who are to be released from a state correctional facility or private correctional facility shall be withdrawn within the twelve (12) months preceding such person's release at a place designated by the Department of Corrections.
The required samples from persons who are not sentenced to a term
of confinement shall be withdrawn as a condition of probation.

(2) Samples collected by oral swab or by a noninvasive
procedure may be collected by any individual who has been trained
in the procedure.

SECTION 3. Upon a showing by the defendant in a criminal
case that access to the DNA data bank is material to the
investigation, preparation or presentation of a defense at trial
or in a motion for a new trial, a court having proper jurisdiction
over such criminal case shall direct the Mississippi Crime
Laboratory to compare a DNA profile which has been generated by
the defendant through an independent test against the data bank,
provided that such DNA profile has been generated in accordance
with standards for forensic DNA analysis adopted pursuant to 42
USCS Section 14131, as amended.

SECTION 4. This act shall take effect and be in force from
and after July 1, 2003.