

By: Representatives Whittington, Mayo,  
Martinson, Brown

To: Penitentiary;  
Appropriations

HOUSE BILL NO. 64

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

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

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

10 45-33-37. (1) The Mississippi Crime Laboratory shall  
11 develop a plan for and establish a deoxyribonucleic acid (DNA)  
12 identification system. In implementing the plan, the Mississippi  
13 Crime Laboratory shall purchase the appropriate equipment. The  
14 DNA identification system as established herein shall be  
15 compatible with that utilized by the Federal Bureau of  
16 Investigation.

17 (2) From and after January 1, 1996, every individual  
18 convicted of a sex offense or in the custody of the Mississippi  
19 Department of Corrections for a sex offense as defined in Section  
20 45-33-23 shall submit a biological sample for purposes of DNA  
21 identification analysis before release from or transfer to a state  
22 correctional facility or county jail or other detention facility.

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

28 (4) From and after July 1, 2003, any person convicted of a  
29 felony and incarcerated in a state correctional facility shall at



30 the time of entering the prison system have a sample of his or her  
31 blood, an oral swab or a sample obtained from a noninvasive  
32 procedure taken for DNA (deoxyribonucleic acid) analysis to  
33 determine identification characteristics specific to the person.  
34 The provisions and requirements of this section shall also apply  
35 to any person who has been convicted of a felony prior to July 1,  
36 2002, and who currently is incarcerated in a state correctional  
37 facility in this state for such offense but only when such a  
38 person is to be released from the state correctional facility.  
39 The provisions and requirements of this section shall also apply  
40 to any person who has been convicted of a felony in this state on  
41 or after July 1, 2002, and who is incarcerated in a private  
42 correctional facility in this state for such offense pursuant to a  
43 contract with the Department of Corrections upon entering the  
44 facility, and for any person convicted of a felony prior to July  
45 1, 2002; and who is incarcerated in a private correctional  
46 facility in this state pursuant to contract with the Department of  
47 Corrections, upon release. The information gathered under this  
48 subsection shall be maintained in a separate data base from sex  
49 offenders and such other felony offenders shall not be subject to  
50 the same requirements for sex offenders under this chapter. For  
51 the purposes of this subsection, the term "state correctional  
52 facility" means a penal institution under the jurisdiction of the  
53 Department of Corrections, including inmate work camps and inmate  
54 boot camps; provided, however, that such term shall not include a  
55 probation detention center, probation diversion center or  
56 probation boot camp under the jurisdiction of the Department of  
57 Corrections.

58       **SECTION 2.** (1) Each sample required pursuant to subsection  
59 (4) of Section 45-33-37 from persons who are to be released from a  
60 state correctional facility or private correctional facility shall  
61 be withdrawn within the twelve (12) months preceding such person's  
62 release at a place designated by the Department of Corrections.



63 The required samples from persons who are not sentenced to a term  
64 of confinement shall be withdrawn as a condition of probation.

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

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

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

