

By: Representative Lott

To: Corrections;  
Appropriations

## HOUSE BILL NO. 1553

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) (a) 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 (b) From and after July 1, 2007, any person convicted  
24 of a felony shall submit a biological sample for DNA analysis to  
25 determine identification characteristics specific to the person at  
26 the time of entering the prison system.

27 (c) Any person incarcerated in a state correctional  
28 facility for a felony conviction before July 1, 2007, shall submit  
29 a biological sample before release.

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

35 (4) The Mississippi Crime Laboratory shall be responsible  
36 for the policy management and administration of the state DNA  
37 identification record system to support law enforcement and other  
38 criminal justice agencies and shall:

39 (a) Promulgate rules and regulations to implement the  
40 provisions of this section; and

41 (b) Provide for cooperation with the Federal Bureau of  
42 Investigation and other criminal justice agencies relating to the  
43 state's participation in the Combined DNA Index System (CODIS)  
44 program and the national DNA identification index or in any DNA  
45 database designated by the crime laboratory.

46 (5) A DNA sample obtained in good faith shall be deemed to  
47 have been obtained in accordance with the requirements of this  
48 section. Any entry into the database which is found to be  
49 erroneous shall not prohibit law enforcement officials from the  
50 legitimate use of information in the furtherance of a criminal  
51 investigation.

52 (6) For the purposes of this section, the term "state  
53 correctional facility" means a penal institution under the  
54 jurisdiction of the Department of Corrections, including inmate  
55 work camps and inmate boot camps, as well as a private  
56 correctional facility in this state under contract with the  
57 Department of Corrections; provided, however, that such term shall  
58 not include a probation detention center, probation diversion  
59 center or probation boot camp under the jurisdiction of the  
60 Department of Corrections.

61 **SECTION 2.** (1) A biological sample required pursuant to  
62 Section 45-33-37 from persons who are to be released from a state

63 correctional facility or private correctional facility shall be  
64 obtained at a place designated by the Department of Corrections  
65 not more than twelve (12) months before the person's release.

66 (2) Samples from persons who are not sentenced to a term of  
67 confinement shall be obtained as a condition of probation.

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

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

81 **SECTION 4.** This act shall take effect and be in force from  
82 and after July 1, 2007.