

By: Senator(s) Fillingane

To: Corrections;
Appropriations

SENATE BILL NO. 2560

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.