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To: Corrections;
Appropriations

HOUSE BILL NO. 882

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, 2005, 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 2005, 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, 2005, 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, 2005, 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, 2005.