

LEGISLATIVE BILL 66

Approved by the Governor April 11, 2012

Introduced by Cornett, 45.

FOR AN ACT relating to the DNA Identification Information Act; to amend section 29-4107, Reissue Revised Statutes of Nebraska, and section 29-4106, Revised Statutes Cumulative Supplement, 2010; to change provisions relating to DNA collection and the costs of DNA sample kits; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 29-4106, Revised Statutes Cumulative Supplement, 2010, is amended to read:

29-4106 (1) A person who is convicted of a felony offense or other specified offense on or after July 15, 2010, who does not have a DNA sample available for use in the State DNA Sample Bank, shall, at his or her own expense, have a DNA sample collected:

(a) Upon intake to a prison, jail, or other detention facility or institution to which such person is sentenced. If the person is already confined at the time of sentencing, the person shall have a DNA sample collected immediately after the sentencing. Such DNA ~~samples~~ sample shall be collected at the place of incarceration or confinement. Such person shall not be released unless and until a DNA sample has been collected; or

(b) As a condition for any sentence which will not involve an intake into a prison, jail, or other detention facility or institution. Such DNA samples shall be collected as follows:

(i) In any county containing a city of the metropolitan class, a person placed on probation or who received a penalty of a fine or time served shall have such DNA sample collected by a probation officer at a probation office. Such person shall not be released unless and until a DNA sample has been collected; and

(ii) In all other counties, a person placed on probation shall have such DNA sample collected by a probation officer at a probation office, and a person not placed on probation who receives a penalty of a fine or time served shall have such DNA sample collected at a detention facility or institution as specified by the court, by the county sheriff. Such person shall not be released unless and until a DNA sample has been collected.

(2) A person who has been convicted of a felony offense or other specified offense before July 15, 2010, who does not have a DNA sample available for use in the State DNA Sample Bank, and who is still serving a term of confinement or probation for such felony offense or other specified offense on July 15, 2010, shall not be released prior to the expiration of his or her maximum term of confinement or revocation or discharge from his or her probation unless and until a DNA sample has been collected.

(3) A person who is serving a term of probation and has a DNA sample collected pursuant to this section shall pay all costs associated with the collection of the DNA sample.

(4) If the court waives the cost of taking a DNA sample for any reason, a county jail or other county detention facility or institution collecting the DNA sample shall not be held financially responsible for the cost of the DNA sample kit.

Sec. 2. Section 29-4107, Reissue Revised Statutes of Nebraska, is amended to read:

29-4107 (1) Only individuals (a) who are physicians or registered nurses, (b) who are trained to withdraw human blood for scientific or medical purposes and are obtaining blood specimens while working under orders of or protocols and procedures approved by a physician, registered nurse, or other independent health care practitioner licensed to practice by the state if the scope of practice of that practitioner permits the practitioner to obtain blood specimens, or (c) who are both employed by a licensed institution or facility and have been trained to withdraw human blood for scientific or medical purposes shall withdraw blood for a DNA blood sample under the DNA Identification Information Act. Withdrawal of blood shall be performed in a medically approved manner using a collection kit provided or accepted by the Nebraska State Patrol. The collection of buccal cell samples shall be performed by any person approved or designated by the Nebraska State Patrol and using a collection kit provided or accepted by the Nebraska State Patrol.

(2) In addition to the DNA sample, one thumb print or fingerprint shall be taken from the person from whom the DNA sample is being collected for the exclusive purpose of verifying the identity of such person. The DNA sample

and the thumb print or fingerprint shall be delivered to the Nebraska State Patrol within five working days after collecting the sample unless the DNA sample was collected from buccal cell samples, in which case the DNA sample shall be delivered within ten working days after collecting the sample.

(3) A person authorized to collect DNA samples under the act is not criminally liable for collecting a DNA sample and transmitting DNA records pursuant to the act if he or she performs these activities in good faith and is not civilly liable for such activities if he or she performed such activities in a reasonable manner according to generally accepted medical standards for blood samples or in accordance with the collection kit and procedures approved by the Nebraska State Patrol for tissue samples.

Sec. 3. Original section 29-4107, Reissue Revised Statutes of Nebraska, and section 29-4106, Revised Statutes Cumulative Supplement, 2010, are repealed.