

AMENDMENTS TO LB 190

Introduced by Judiciary.

1           1. Strike the original sections and insert the following  
2 new sections:

3           Section 1. Section 29-4102, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5           29-4102 The Legislature finds that DNA data banks are  
6 an important tool in criminal investigations, in the exclusion  
7 of individuals who are the subject of criminal investigations or  
8 prosecutions, in deterring and detecting recidivist acts, and in  
9 locating and identifying missing persons and human remains. Several  
10 states have enacted laws requiring persons convicted of certain  
11 crimes, especially sex offenses, to provide genetic samples for DNA  
12 typing tests. Moreover, it is the policy of this state to assist  
13 federal, state, and local criminal justice and law enforcement  
14 agencies in the identification and detection of individuals in  
15 criminal investigations and in locating and identifying missing  
16 persons and human remains. It is in the best interest of this  
17 state to establish a State DNA Data Base for DNA records and  
18 a State DNA Sample Bank as a repository for DNA samples from  
19 individuals convicted of felony ~~sex~~ offenses and other specified  
20 offenses and from individuals for purposes of assisting in locating  
21 and identifying missing persons and human remains.

22           Sec. 2. Section 29-4103, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

1                   29-4103   For   purposes   of   the   DNA   Identification  
2 Information Act:

3                   (1) Combined DNA Index System means the Federal Bureau  
4 of Investigation's national DNA identification index system that  
5 allows the storage and exchange of DNA records submitted by state  
6 and local forensic DNA laboratories;

7                   (2) DNA means deoxyribonucleic acid which is located in  
8 the cells and provides an individual's personal genetic blueprint.  
9 DNA encodes genetic information that is the basis of human heredity  
10 and forensic identification;

11                   (3) DNA record means the DNA identification information  
12 stored in the State DNA Data Base or the Combined DNA Index System  
13 which is derived from DNA typing test results;

14                   (4) DNA sample means a blood, tissue, or bodily fluid  
15 sample provided by any person covered by the DNA Identification  
16 Information Act for analysis or storage, or both;

17                   (5) DNA typing tests means the laboratory procedures  
18 which evaluate the characteristics of a DNA sample which are of  
19 value in establishing the identity of an individual;

20                   ~~(6) Felony sex offense means a felony offense, or an~~  
21 ~~attempt, conspiracy, or solicitation to commit a felony offense,~~  
22 ~~under any of the following:~~

23                   ~~(a) Kidnapping of a minor pursuant to section 28-313,~~  
24 ~~except when the person is the parent of the minor and was not~~  
25 ~~convicted of any other offense in this subdivision;~~

26                   ~~(b) Incest of a minor pursuant to section 28-703;~~

27                   ~~(c) Sexual assault in the first or second degree pursuant~~

1 to section 28-319 or 28-320;

2 (d) Sexual assault of a child in the second or third  
3 degree pursuant to section 28-320.01;

4 (e) Sexual assault of a child in the first degree  
5 pursuant to section 28-319.01;

6 (f) Sexual assault of a vulnerable adult pursuant to  
7 subdivision (1)(c) of section 28-386; and

8 (g) False imprisonment of a minor in the first degree  
9 pursuant to section 28-314, except when the person is the parent  
10 of the minor and was not convicted of any other offense in this  
11 subdivision;

12 (7) (6) Law enforcement agency includes a police  
13 department, a town marshal, a county sheriff, and the Nebraska  
14 State Patrol, and the office of the Attorney General;

15 (8) (7) Other specified offense means an offense,  
16 misdemeanor stalking pursuant to sections 28-311.02 to 28-311.05 or  
17 false imprisonment in the second degree pursuant to section 28-315  
18 or an attempt, conspiracy, or solicitation to commit an offense,  
19 under any of the following: stalking pursuant to sections 28-311.02  
20 to 28-311.05, false imprisonment in the first degree pursuant to  
21 section 28-314, false imprisonment in the second degree pursuant  
22 to section 28-315, knowing and intentional sexual abuse of a  
23 vulnerable adult pursuant to subdivision (1)(c) of section 28-386,  
24 or a violation of the Sex Offender Registration Act pursuant to  
25 section 29-4011; and

26 (a) Murder in the first degree pursuant to section  
27 28-303;

1           ~~(b) Murder in the second degree pursuant to section~~  
2 ~~28-304;~~

3           ~~(c) Manslaughter pursuant to section 28-305;~~

4           ~~(d) Stalking pursuant to sections 28-311.02 to 28-311.05;~~

5           ~~(e) Burglary pursuant to section 28-507 provided that the~~  
6 ~~real estate is a dwelling place intended for human occupancy; or~~

7           ~~(f) Robbery pursuant to section 28-324; and~~

8           ~~(9)~~ (8) Released means any release, parole, furlough,  
9 work release, prerelease, or release in any other manner from a  
10 prison, a jail, or any other detention facility or institution.

11           Sec. 3. Section 29-4106, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13           29-4106 (1) A person who is convicted of a felony ~~sex~~  
14 offense or other specified offense on or after July 14, 2006,  
15 the effective date of this act, who does not have a DNA sample  
16 available for use in the State DNA Sample Bank, shall have a DNA  
17 sample collected:

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

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

1 facility or institution as specified by the court. Such person  
2 shall not be released unless and until a DNA sample has been  
3 collected.

4 (2) A person who has been convicted of a felony ~~sex~~  
5 offense or other specified offense before ~~July 14, 2006,~~ the  
6 effective date of this act, who does not have a DNA sample  
7 available for use in the State DNA Sample Bank, and who is still  
8 serving a term of confinement for such felony offense or other  
9 specified offense on July 14, 2006, the effective date of this  
10 act, shall not be released prior to the expiration of his or her  
11 maximum term of confinement unless and until a DNA sample has been  
12 collected.

13 Sec. 4. Original sections 29-4102, 29-4103, and 29-4106,  
14 Reissue Revised Statutes of Nebraska, are repealed.