

E AND R AMENDMENTS TO LB 190

Introduced by Enrollment and Review Committee: Nordquist, 7,
Chairperson

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

3 Section 1. Section 29-4101, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 29-4101 Sections 29-4101 to 29-4115 and section 5 of this
6 act shall be known and may be cited as the DNA Identification
7 Information Act.

8 Sec. 2. Section 29-4102, Reissue Revised Statutes of
9 Nebraska, is amended to read:

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

1 individuals convicted of felony ~~sex~~ offenses and other specified
2 offenses and from individuals for purposes of assisting in locating
3 and identifying missing persons and human remains.

4 Sec. 3. Section 29-4103, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 29-4103 For purposes of the DNA Identification
7 Information Act:

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

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

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

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

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

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

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

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

5 ~~(c) Sexual assault in the first or second degree pursuant~~
6 ~~to section 28-319 or 28-320;~~

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

9 ~~(e) Sexual assault of a child in the first degree~~
10 ~~pursuant to section 28-319.01;~~

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

13 ~~(g) False imprisonment of a minor in the first degree~~
14 ~~pursuant to section 28-314, except when the person is the parent~~
15 ~~of the minor and was not convicted of any other offense in this~~
16 ~~subdivision;~~

17 ~~(7) (6) Law enforcement agency includes a police~~
18 ~~department, a town marshal, a county sheriff, and the Nebraska~~
19 ~~State Patrol, and the office of the Attorney General;~~

20 ~~(8) (7) Other specified offense means an offense,~~
21 ~~misdemeanor stalking pursuant to sections 28-311.02 to 28-311.05 or~~
22 ~~false imprisonment in the second degree pursuant to section 28-315~~
23 ~~or an attempt, conspiracy, or solicitation to commit an offense,~~
24 ~~under any of the following: stalking pursuant to sections 28-311.02~~
25 ~~to 28-311.05, false imprisonment in the first degree pursuant to~~
26 ~~section 28-314, false imprisonment in the second degree pursuant~~
27 ~~to section 28-315, knowing and intentional sexual abuse of a~~

1 vulnerable adult pursuant to subdivision (1)(c) of section 28-386,
2 or a violation of the Sex Offender Registration Act pursuant to
3 section 29-4011; and

4 ~~(a) Murder in the first degree pursuant to section~~
5 ~~28-303;~~

6 ~~(b) Murder in the second degree pursuant to section~~
7 ~~28-304;~~

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

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

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

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

13 ~~(9) (8) Released means any release, parole, furlough,~~
14 ~~work release, prerelease, or release in any other manner from a~~
15 ~~prison, a jail, or any other detention facility or institution.~~

16 Sec. 4. Section 29-4106, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 29-4106 (1) A person who is convicted of a felony ~~sex~~
19 ~~offense or other specified offense on or after July 14, 2006,~~
20 the effective date of this act, who does not have a DNA sample
21 available for use in the State DNA Sample Bank, shall have a DNA
22 sample collected:

23 (a) Upon intake to a prison, jail, or other detention
24 facility or institution to which such person is sentenced. If the
25 person is already confined at the time of sentencing, the person
26 shall have a DNA sample collected immediately after the sentencing.
27 Such DNA samples shall be collected at the place of incarceration

1 or confinement. Such person shall not be released unless and until
2 a DNA sample has been collected; or

3 (b) As a condition for any sentence which will not
4 involve an intake into a prison, jail, or other detention facility
5 or institution. Such DNA samples shall be collected at a detention
6 facility or institution as specified by the court. Such person
7 shall not be released unless and until a DNA sample has been
8 collected.

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

18 Sec. 5. The State DNA Sample and Data Base Fund is
19 created. The fund shall be maintained by the Department of Justice
20 and administered by the Attorney General. The fund shall consist
21 of any funds transferred to the fund by the Legislature or
22 made available by any department or agency of the United States
23 Government if so directed by such department or agency. The fund
24 shall be used to pay the expenses of the Department of Correctional
25 Services and the Nebraska State Patrol as needed to collect DNA
26 samples as provided in section 29-4106. Any money in the fund
27 available for investment shall be invested by the state investment

1 officer pursuant to the Nebraska Capital Expansion Act and the
2 Nebraska State Funds Investment Act.

3 Sec. 6. Original sections 29-4101, 29-4102, 29-4103, and
4 29-4106, Reissue Revised Statutes of Nebraska, are repealed.

5 2. On page 1, strike lines 2 through 6 and insert "amend
6 sections 29-4101, 29-4102, 29-4103, and 29-4106, Reissue Revised
7 Statutes of Nebraska; to provide for the collection of DNA samples
8 from individuals convicted of felony offenses; to provide for
9 applicability; to create a fund; to harmonize provisions; and to
10 repeal the original sections."