

AMENDMENTS TO LB 1009

Introduced by Judiciary Committee:

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

3 Section 1. Section 29-4101, Revised Statutes Cumulative
4 Supplement, 2004, is amended to read:

5 29-4101 Sections 29-4101 to 29-4115 and section 4 of this
6 act shall be known and may be cited as the DNA Detection of Sexual
7 and Violent Offenders Act.

8 Sec. 2. Section 29-4102, Revised Statutes Cumulative
9 Supplement, 2004, 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, ~~and~~ in deterring and detecting recidivist acts, and
14 in locating and identifying missing persons and human remains.
15 Several states have enacted laws requiring persons convicted
16 of certain crimes, especially sex offenses, to provide genetic
17 samples for DNA typing tests. Moreover, it is the policy of
18 this state to assist federal, state, and local criminal justice
19 and law enforcement agencies in the identification and detection
20 of individuals in criminal investigations and in locating and
21 identifying missing persons and human remains. It is in the best
22 interest of this state to establish a State DNA Data Base for
23 DNA records and a State DNA Sample Bank as a repository for DNA

1 samples from individuals convicted of felony sex offenses and other
2 specified offenses.

3 Sec. 3. Section 29-4104, Revised Statutes Cumulative
4 Supplement, 2004, is amended to read:

5 29-4104 The State DNA Data Base is established. The
6 Nebraska State Patrol shall administer the State DNA Data Base and
7 shall provide DNA records to the Federal Bureau of Investigation
8 for storage and maintenance in the Combined DNA Index System.
9 The patrol shall provide for liaison with the Federal Bureau of
10 Investigation and other law enforcement agencies in regard to the
11 state's participation in the Combined DNA Index System. The State
12 DNA Data Base shall store and maintain DNA records related to:

- 13 (1) Forensic casework;
- 14 (2) Convicted offenders required to provide a DNA sample
15 under the DNA Detection of Sexual and Violent Offenders Act; and
- 16 (3) Anonymous DNA records used for research or quality
17 control; and
- 18 (4) Missing persons, relatives of missing persons, and
19 unidentified human remains.

20 Sec. 4. A person required to submit a DNA sample pursuant
21 to section 29-4106 shall be given the choice of having the sample
22 collected by a blood draw or a buccal cell collection kit. Any
23 person who collects a DNA sample pursuant to section 29-4106 shall
24 honor the choice of collection method made by the person providing
25 the DNA sample. If the person required to submit the DNA sample
26 does not indicate a preference as to the method of collection,
27 either method may be used to collect the sample.

1 Sec. 5. Section 29-4106, Revised Statutes Cumulative
2 Supplement, 2004, is amended to read:

3 29-4106 (1) A person who is convicted of a felony sex
4 offense or other specified offense on or after September 13, 1997,
5 shall have a DNA sample ~~drawn~~ collected:

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

13 (b) As a condition for any sentence which will not
14 involve an intake into a prison, jail, or other detention facility
15 or institution. Such DNA samples shall be ~~drawn~~ collected at a
16 detention facility or institution as specified by the court. Such
17 person shall not be released unless and until a DNA sample has been
18 ~~drawn~~ collected.

19 (2) A person who has been convicted of a felony sex
20 offense or other specified offense before September 13, 1997, and
21 who is still serving a term of confinement for such offense on
22 September 13, 1997, shall not be released prior to the expiration
23 of his or her maximum term of confinement unless and until a DNA
24 sample has been ~~drawn~~ collected.

25 Sec. 6. Section 29-4107, Revised Statutes Cumulative
26 Supplement, 2004, is amended to read:

27 29-4107 (1) Only individuals (a) who are physicians or

1 registered nurses, (b) who are trained to withdraw human blood for
2 scientific or medical purposes and are obtaining blood specimens
3 while working under orders of or protocols and procedures approved
4 by a physician, registered nurse, or other independent health care
5 practitioner licensed to practice by the state if the scope of
6 practice of that practitioner permits the practitioner to obtain
7 blood specimens, or (c) who are both employed by a licensed
8 institution or facility and have been trained to withdraw human
9 blood for scientific or medical purposes shall draw a DNA blood
10 sample under the DNA Detection of Sexual and Violent Offenders
11 Act. Withdrawal of blood shall be performed in a medically approved
12 manner using a collection kit provided or accepted by the Nebraska
13 State Patrol. The collection of buccal samples shall be performed
14 by any person approved or designated by the Nebraska State Patrol
15 and using a collection kit provided or accepted by the Nebraska
16 State Patrol. In addition to the DNA sample, one thumb print or
17 fingerprint shall be taken from the person from whom the DNA sample
18 is being ~~drawn~~ collected for the exclusive purpose of verifying
19 the identity of such person. The DNA sample and the thumb print or
20 fingerprint shall be delivered to the Nebraska State Patrol within
21 five working days after ~~drawing~~ collecting the sample.

22 (2) A person authorized to ~~draw~~ collect DNA samples under
23 this section is not criminally liable for ~~drawing~~ collecting a DNA
24 sample and transmitting DNA records pursuant to the act if he or
25 she performs these activities in good faith and is not civilly
26 liable for such activities if he or she performed such activities
27 in a reasonable manner according to generally accepted medical

1 ~~and other professional practices~~ standards for blood samples or in
2 accordance with the collection kit and procedures approved by the
3 Nebraska State Patrol for tissue samples.

4 Sec. 7. Original sections 29-4101, 29-4102, 29-4104,
5 29-4106, and 29-4107, Revised Statutes Cumulative Supplement, 2004,
6 are repealed.