

AMENDMENTS TO LB 155

(Amendments to Standing Committee amendments, AM1271)

Introduced by Avery, 28.

1 1. Insert the following new sections:

2 Sec. 18. Section 29-4102, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 29-4102 The Legislature finds that DNA data banks are
5 an important tool in criminal investigations, in the exclusion
6 of individuals who are the subject of criminal investigations or
7 prosecutions, in deterring and detecting recidivist acts, and in
8 locating and identifying missing persons and human remains. Several
9 states have enacted laws requiring persons convicted of certain
10 crimes, especially sex offenses, to provide genetic samples for DNA
11 typing tests. Moreover, it is the policy of this state to assist
12 federal, state, and local criminal justice and law enforcement
13 agencies in the identification and detection of individuals in
14 criminal investigations and in locating and identifying missing
15 persons and human remains. It is in the best interest of this
16 state to establish a State DNA Data Base for DNA records and
17 a State DNA Sample Bank as a repository for DNA samples from
18 individuals convicted of felony ~~sex~~ offenses and other specified
19 offenses and from individuals for purposes of assisting in locating
20 and identifying missing persons and human remains.

21 Sec. 19. Section 29-4103, Reissue Revised Statutes of
22 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. 20. 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 2. On page 26, line 14, strike "and" and after "29-110,"
14 insert "29-4102, 29-4103, and 29-4106,".

15 3. Renumber the remaining sections accordingly.