AN ACT

AMENDING SECTION 41-2418, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 21, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-2419; RELATING TO DEOXYRIBONUCLEIC ACID IDENTIFICATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)
Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 41-2418, Arizona Revised Statutes, is amended to read:

41-2418. Arizona deoxyribonucleic acid identification system
A. The Arizona deoxyribonucleic acid identification system is established in the department of public safety for the purposes of conducting deoxyribonucleic acid testing and analysis pursuant to sections 13-610 AND 41-2419.

B. The scientific criminal analysis section established in section 41-1771 shall establish procedures for the implementation of sections 13-610, subsection H AND SECTION 41-2419.

Sec. 2. Title 41, chapter 21, article 1, Arizona Revised Statutes, is amended by adding section 41-2419, to read:

41-2419. Deoxyribonucleic acid identification database; DNA ID collection; violation; classification; definitions
A. THE DEPARTMENT OF PUBLIC SAFETY SHALL ESTABLISH AND MAINTAIN A DEOXYRIBONUCLEIC ACID IDENTIFICATION DATABASE TO RETAIN DNA ID THAT IS COLLECTED PURSUANT TO THIS SECTION. THE DNA ID MUST BE ASSOCIATED WITH THE PERSON’S NAME, DATE OF BIRTH, LAST KNOWN ADDRESS AND SOCIAL SECURITY NUMBER, IF AVAILABLE. THE DATABASE MAY NOT INCLUDE ANY CRIMINAL HISTORY OR MEDICAL CONDITION INFORMATION AND MUST BE SEPARATE FROM ANY OTHER DATABASE THAT IS MAINTAINED BY THE DEPARTMENT OF PUBLIC SAFETY FOR CRIMINAL JUSTICE PURPOSES.

B. THE DEPARTMENT SHALL PUBLISH STANDARDS AND PROTOCOLS FOR THE COLLECTION AND PROCESSING OF DNA ID AND FOR THE SUBMISSION OF DNA ID FOR INCLUSION IN THE DATABASE. THE PROTOCOLS MUST INCLUDE PROCEDURES FOR ACCESSING AND ANALYZING INFORMATION IN THE DATABASE AND PROVIDING RESPONSES TO AUTHORIZED REQUESTS FOR IDENTIFICATIONS OR OTHER INFORMATION.

C. THE DEPARTMENT SHALL DEVELOP PROCEDURES SO THAT COLLECTED SAMPLES, WHICH AFTER PROCESSING MAY NOT MEET THE CRITERIA FOR INCLUSION IN THE DATABASE, MAY BE SEARCHED AGAINST THAT DATABASE.


E. THE DEPARTMENT SHALL APPOINT AN OMBUDSMAN TO RECEIVE, INVESTIGATE AND RESPOND TO COMPLAINTS FROM ANY PERSON WHO BELIEVES THE INFORMATION IDENTIFYING THE PERSON IN THE DATABASE IS INCORRECT, HAS BEEN SUBMITTED WITHOUT AUTHORIZATION OR HAS BEEN USED IN AN UNAUTHORIZED MANNER. THE OMBUDSMAN SHALL RECOMMEND REMEDIAL ACTIONS TO THE DEPARTMENT TO CORRECT THE INFORMATION OR TO DELETE THE INFORMATION FROM THE DATABASE IF, AFTER REVIEW, THE OMBUDSMAN DETERMINES THE IDENTIFICATION IS INCORRECT OR WAS IMPROPERLY OBTAINED.
F. DNA ID SHALL BE COLLECTED FROM:
1. A PERSON WHO IS REQUIRED BY LAW TO SUBMIT FINGERPRINTS FOR
   PURPOSES OF IDENTIFICATION AS PART OF AN APPLICATION FOR LICENSURE,
   CERTIFICATION OR A PERMIT OR RENEWAL OF A LICENSE, CERTIFICATE OR PERMIT
   IF THE PERSON HAS NOT PREVIOUSLY SUBMITTED DNA ID.
2. A PERSON WHOSE EMPLOYMENT OR POSITION REQUIRES FINGERPRINTING
   FOR PURPOSES OF IDENTIFICATION.
3. A PERSON WHO IS EMPLOYED BY OR VOLUNTEERING WITH A LAW
   ENFORCEMENT AGENCY.
4. A PERSON WHO, FOR ANY OTHER REASON, IS REQUIRED BY LAW TO SUBMIT
   FINGERPRINTS FOR PURPOSES OF IDENTIFICATION.
5. A DECEASED PERSON, WHOSE DNA ID SHALL BE COLLECTED BY THE
   MEDICAL EXAMINER OR THE MEDICAL EXAMINER'S DESIGNEE AND SUBMITTED PURSUANT
   TO PROTOCOLS DEVELOPED BY THE DEPARTMENT. A DECEASED PERSON'S DNA ID MUST
   BE SUBMITTED TO THE DEPARTMENT WITHIN TWENTY-FOUR HOURS AFTER COLLECTION.
6. A PERSON WHO IS ORDERED BY A COURT OF COMPETENT JURISDICTION TO
   SUBMIT DNA ID FOR PURPOSES OF PROVING OR DISPROVING FAMILIAL
   RELATIONSHIPS.
7. A PERSON WHO VOLUNTARILY REQUESTS TO INCLUDE THE PERSON'S DNA ID
   IN THE DATABASE, WHOSE DNA ID SHALL BE COLLECTED BY AN AUTHORIZED
   COLLECTING AGENCY AND SUBMITTED TO THE DEPARTMENT.
G. A PERSON WHO COLLECTS BIOLOGICAL SAMPLES TO GENERATE DNA ID MUST
   COMPLETE TRAINING IN COLLECTION PROCEDURES THAT IS APPROVED BY THE
   DEPARTMENT.
   H. A COLLECTING AGENCY:
   1. SHALL PROMPTLY PROCESS THE SAMPLE OR CAUSE THE SAMPLE TO BE
      PROCESSED WITHIN FOUR HOURS USING RAPID DNA IDENTIFICATION AND SUBMIT THE
      RESULTING DNA ID TO THE DEPARTMENT.
   2. MAY REQUIRE THE PERSON TO SUBMIT AN ADDITIONAL SAMPLE IF THE
      SAMPLE IS FROM A PERSON FOR USE AS A REFERENCE DNA ID AND THE FIRST SAMPLE
      DOES NOT GENERATE A REFERENCE DNA ID CONTAINING DATA FROM AT LEAST FIFTEEN
      OF THE TWENTY FEDERAL BUREAU OF INVESTIGATION CORE LOCI.
   3. MAY NOT TEST THE SAMPLE FOR OR SUBMIT ANY DEOXYRIBONUCLEIC ACID
      INFORMATION OTHER THAN DNA ID. DEOXYRIBONUCLEIC ACID SEQUENCE OR SINGLE
      NUCLEOTIDE POLYMORPHISM ARE EXPLICITLY EXCLUDED FROM SUBMISSION.
   4. SHALL ENSURE THAT THE BIOLOGICAL SAMPLE IS DESTROYED IMMEDIATELY
      AFTER TESTING IS COMPLETE.
   5. MAY COLLECT A FEE OF UP TO $250 FROM A PERSON WHO SUBMITS
      BIOLOGICAL SAMPLES PURSUANT TO THIS SECTION.
   I. THE DATABASE IS NOT A PUBLIC RECORD AND MAY BE ACCESSED OR
   SEARCHED ONLY BY THE DEPARTMENT OR A PERSON WHO IS AUTHORIZED BY THE
   DEPARTMENT AS FOLLOWS:
   1. BY LAW ENFORCEMENT PERSONNEL FOR LEGITIMATE CRIMINAL JUSTICE
      PURPOSES, INCLUDING INVESTIGATIONS AND CUSTODIAL FACILITY MANAGEMENT.
2. TO MATCH DNA ID WITH OTHER DATABASES, INCLUDING CRIMINAL JUSTICE RELATED DATABASES.
3. TO SHARE DNA ID WITH OTHER GOVERNMENTAL ENTITIES OR JURISDICTIONS FOR PURPOSES OF CRIMINAL LAW ENFORCEMENT, IDENTIFICATION FOR EMPLOYMENT, LICENSING, DEATH REGISTRATION, MISSING PERSONS IDENTIFICATION, IDENTIFICATION OF PERSONS USING ALIASES OR OTHER MULTIPLE IDENTITIES OR OTHER USES SPECIFICALLY AUTHORIZED BY THE DEPARTMENT.
4. ON THE ISSUANCE OF A VALID COURT ORDER FROM A COURT OF COMPETENT JURISDICTION.
5. FOR A LEGITIMATE RESEARCH STUDY THAT IS APPROVED BY THE DEPARTMENT AND THAT ENSURES THAT THE RESEARCH IS RESTRICTED TO AGGREGATE INFORMATION THAT CANNOT BE CONNECTED TO ANY INDIVIDUAL DNA ID.
J. THE DATABASE MAY NOT BE USED FOR THE STORAGE OF A DEOXYRIBONUCLEIC ACID SEQUENCE OR A SINGLE NUCLEOTIDE POLYMORPHISM OR TO CREATE A GENETIC PROFILE.
K. A PERSON WHO KNOWINGLY USES INFORMATION IN THE DATABASE OR ACCESSES THE DATABASE FOR AN UNAUTHORIZED PURPOSE IS GUILTY OF A CLASS 2 MISDEMEANOR.
L. FOR THE PURPOSES OF THIS SECTION:
1. "COLLECTING AGENCY" MEANS THE LOCAL OR STATE LAW ENFORCEMENT AGENCY, CORONER, MEDICAL EXAMINER OR OTHER AGENCY AUTHORIZED BY THE DEPARTMENT TO COLLECT BIOLOGICAL SAMPLES AND PROCESS THE SAMPLES TO GENERATE DNA ID.
2. "DATABASE" MEANS THE DEOXYRIBONUCLEIC ACID IDENTIFICATION DATABASE.
3. "DEPARTMENT" MEANS THE DEPARTMENT OF PUBLIC SAFETY.
4. "DNA ID" MEANS A HUMAN IDENTIFICATION MEASUREMENT THAT IS BASED ON THE SIZE OF A SET OF SHORT TANDEM REPEATS IN THE GENOME OF AN INDIVIDUAL THAT IS OBTAINED FROM A BIOLOGICAL SAMPLE BY SHORT TANDEM REPEAT AMPLIFICATION AND ELECTROPHORETIC SIZING AND THAT IS GENERATED FROM A NONCODING PORTION OF DEOXYRIBONUCLEIC ACID THAT DOES NOT CONTAIN ANY INFORMATION, OTHER THAN GENDER, ABOUT A PERSON'S PHYSICAL CHARACTERISTICS OR MEDICAL CONDITIONS.
5. "GENETIC PROFILE" MEANS A DESCRIPTION OF A PERSON'S GENETIC CODE THAT IS DEVELOPED THROUGH DEOXYRIBONUCLEIC ACID SEQUENCING OR SINGLE NUCLEOTIDE POLYMORPHISM TECHNOLOGIES AND THAT CONTAINS INFORMATION ABOUT THAT PERSON'S PHYSICAL CHARACTERISTICS OR MEDICAL CONDITIONS.
6. "RAPID DNA IDENTIFICATION" MEANS THE FULLY AUTOMATED GENERATION OF DNA ID WITHOUT HUMAN HANDLING OR HUMAN DATA INTERPRETATION.
7. "REFERENCE DNA ID" MEANS DNA ID THAT IS GENERATED DIRECTLY FROM A PERSON, INCLUDING BY A BUCCAL SWAB, AND THAT MUST CONTAIN DATA FROM AT LEAST FIFTEEN OF THE TWENTY FEDERAL BUREAU OF INVESTIGATION CORE LOCI.
8. "SINGLE NUCLEOTIDE POLYMORPHISM" MEANS A VARIATION IN DEOXYRIBONUCLEIC ACID SEQUENCE IN WHICH A SINGLE NUCLEOTIDE AT A SPECIFIC LOCATION IN THE GENOME VARIES FROM PERSON TO PERSON AND CAN BE USED TO ASSESS A GIVEN PERSON'S PHYSICAL CHARACTERISTICS OR MEDICAL CONDITIONS.

Sec. 3. Requirements for enactment; two-thirds vote

Pursuant to article IX, section 22, Constitution of Arizona, this act is effective only on the affirmative vote of at least two-thirds of the members of each house of the legislature and is effective immediately on the signature of the governor or, if the governor vetoes this act, on the subsequent affirmative vote of at least three-fourths of the members of each house of the legislature.