

REFERENCE TITLE: DNA identification database; requirements

State of Arizona
Senate
Fifty-fourth Legislature
First Regular Session
2019

SB 1475

Introduced by
Senator Livingston

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)

1 Be it enacted by the Legislature of the State of Arizona:

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

4 41-2418. Arizona deoxyribonucleic acid identification system

5 A. The Arizona deoxyribonucleic acid identification system is
6 established in the department of public safety for the purposes of
7 conducting deoxyribonucleic acid testing and analysis pursuant to ~~section~~
8 SECTIONS 13-610 AND 41-2419.

9 B. The scientific criminal analysis section established in section
10 41-1771 shall establish procedures for the implementation of section
11 13-610, subsection H AND SECTION 41-2419.

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

14 41-2419. Deoxyribonucleic acid identification database; DNA
15 ID collection; violation; classification;
16 definitions

17 A. THE DEPARTMENT OF PUBLIC SAFETY SHALL ESTABLISH AND MAINTAIN A
18 DEOXYRIBONUCLEIC ACID IDENTIFICATION DATABASE TO RETAIN DNA ID THAT IS
19 COLLECTED PURSUANT TO THIS SECTION. THE DNA ID MUST BE ASSOCIATED WITH THE
20 PERSON'S NAME, DATE OF BIRTH, LAST KNOWN ADDRESS AND SOCIAL SECURITY
21 NUMBER, IF AVAILABLE. THE DATABASE MAY NOT INCLUDE ANY CRIMINAL HISTORY
22 OR MEDICAL CONDITION INFORMATION AND MUST BE SEPARATE FROM ANY OTHER
23 DATABASE THAT IS MAINTAINED BY THE DEPARTMENT OF PUBLIC SAFETY FOR
24 CRIMINAL JUSTICE PURPOSES.

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

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

33 D. THE DEPARTMENT SHALL ANNUALLY PREPARE AND PUBLISH A REPORT THAT
34 DOCUMENTS THE USE OF THE DATABASE, INCLUDING THE NUMBER OF DNA ID SAMPLES
35 IN THE SYSTEM AND THE NUMBER OF QUERIES AND GENERAL NATURE OF THE QUERIES.
36 THE REPORT SHALL BE IN THE AGGREGATE AND MAY NOT CONTAIN INFORMATION THAT
37 ALLOWS ANY PERSON WHOSE DNA ID IS IN THE DATABASE TO BE IDENTIFIED.

38 E. THE DEPARTMENT SHALL APPOINT AN OMBUDSMAN TO RECEIVE,
39 INVESTIGATE AND RESPOND TO COMPLAINTS FROM ANY PERSON WHO BELIEVES THE
40 INFORMATION IDENTIFYING THE PERSON IN THE DATABASE IS INCORRECT, HAS BEEN
41 SUBMITTED WITHOUT AUTHORIZATION OR HAS BEEN USED IN AN UNAUTHORIZED
42 MANNER. THE OMBUDSMAN SHALL RECOMMEND REMEDIAL ACTIONS TO THE DEPARTMENT
43 TO CORRECT THE INFORMATION OR TO DELETE THE INFORMATION FROM THE DATABASE
44 IF, AFTER REVIEW, THE OMBUDSMAN DETERMINES THE IDENTIFICATION IS INCORRECT
45 OR WAS IMPROPERLY OBTAINED.

- 1 F. DNA ID SHALL BE COLLECTED FROM:
- 2 1. A PERSON WHO IS REQUIRED BY LAW TO SUBMIT FINGERPRINTS FOR
- 3 PURPOSES OF IDENTIFICATION AS PART OF AN APPLICATION FOR LICENSURE,
- 4 CERTIFICATION OR A PERMIT OR RENEWAL OF A LICENSE, CERTIFICATE OR PERMIT
- 5 IF THE PERSON HAS NOT PREVIOUSLY SUBMITTED DNA ID.
- 6 2. A PERSON WHOSE EMPLOYMENT OR POSITION REQUIRES FINGERPRINTING
- 7 FOR PURPOSES OF IDENTIFICATION.
- 8 3. A PERSON WHO IS EMPLOYED BY OR VOLUNTEERING WITH A LAW
- 9 ENFORCEMENT AGENCY.
- 10 4. A PERSON WHO, FOR ANY OTHER REASON, IS REQUIRED BY LAW TO SUBMIT
- 11 FINGERPRINTS FOR PURPOSES OF IDENTIFICATION.
- 12 5. A DECEASED PERSON, WHOSE DNA ID SHALL BE COLLECTED BY THE
- 13 MEDICAL EXAMINER OR THE MEDICAL EXAMINER'S DESIGNEE AND SUBMITTED PURSUANT
- 14 TO PROTOCOLS DEVELOPED BY THE DEPARTMENT. A DECEASED PERSON'S DNA ID MUST
- 15 BE SUBMITTED TO THE DEPARTMENT WITHIN TWENTY-FOUR HOURS AFTER COLLECTION.
- 16 6. A PERSON WHO IS ORDERED BY A COURT OF COMPETENT JURISDICTION TO
- 17 SUBMIT DNA ID FOR PURPOSES OF PROVING OR DISPROVING FAMILIAL
- 18 RELATIONSHIPS.
- 19 7. A PERSON WHO VOLUNTARILY REQUESTS TO INCLUDE THE PERSON'S DNA ID
- 20 IN THE DATABASE, WHOSE DNA ID SHALL BE COLLECTED BY AN AUTHORIZED
- 21 COLLECTING AGENCY AND SUBMITTED TO THE DEPARTMENT.
- 22 G. A PERSON WHO COLLECTS BIOLOGICAL SAMPLES TO GENERATE DNA ID MUST
- 23 COMPLETE TRAINING IN COLLECTION PROCEDURES THAT IS APPROVED BY THE
- 24 DEPARTMENT.
- 25 H. A COLLECTING AGENCY:
- 26 1. SHALL PROMPTLY PROCESS THE SAMPLE OR CAUSE THE SAMPLE TO BE
- 27 PROCESSED WITHIN FOUR HOURS USING RAPID DNA IDENTIFICATION AND SUBMIT THE
- 28 RESULTING DNA ID TO THE DEPARTMENT.
- 29 2. MAY REQUIRE THE PERSON TO SUBMIT AN ADDITIONAL SAMPLE IF THE
- 30 SAMPLE IS FROM A PERSON FOR USE AS A REFERENCE DNA ID AND THE FIRST SAMPLE
- 31 DOES NOT GENERATE A REFERENCE DNA ID CONTAINING DATA FROM AT LEAST FIFTEEN
- 32 OF THE TWENTY FEDERAL BUREAU OF INVESTIGATION CORE LOCI.
- 33 3. MAY NOT TEST THE SAMPLE FOR OR SUBMIT ANY DEOXYRIBONUCLEIC ACID
- 34 INFORMATION OTHER THAN DNA ID. DEOXYRIBONUCLEIC ACID SEQUENCE OR SINGLE
- 35 NUCLEOTIDE POLYMORPHISM ARE EXPLICITLY EXCLUDED FROM SUBMISSION.
- 36 4. SHALL ENSURE THAT THE BIOLOGICAL SAMPLE IS DESTROYED IMMEDIATELY
- 37 AFTER TESTING IS COMPLETE.
- 38 5. MAY COLLECT A FEE OF UP TO \$250 FROM A PERSON WHO SUBMITS
- 39 BIOLOGICAL SAMPLES PURSUANT TO THIS SECTION.
- 40 I. THE DATABASE IS NOT A PUBLIC RECORD AND MAY BE ACCESSED OR
- 41 SEARCHED ONLY BY THE DEPARTMENT OR A PERSON WHO IS AUTHORIZED BY THE
- 42 DEPARTMENT AS FOLLOWS:
- 43 1. BY LAW ENFORCEMENT PERSONNEL FOR LEGITIMATE CRIMINAL JUSTICE
- 44 PURPOSES, INCLUDING INVESTIGATIONS AND CUSTODIAL FACILITY MANAGEMENT.

1 2. TO MATCH DNA ID WITH OTHER DATABASES, INCLUDING CRIMINAL JUSTICE
2 RELATED DATABASES.

3 3. TO SHARE DNA ID WITH OTHER GOVERNMENTAL ENTITIES OR
4 JURISDICTIONS FOR PURPOSES OF CRIMINAL LAW ENFORCEMENT, IDENTIFICATION FOR
5 EMPLOYMENT, LICENSING, DEATH REGISTRATION, MISSING PERSONS IDENTIFICATION,
6 IDENTIFICATION OF PERSONS USING ALIASES OR OTHER MULTIPLE IDENTITIES OR
7 OTHER USES SPECIFICALLY AUTHORIZED BY THE DEPARTMENT.

8 4. ON THE ISSUANCE OF A VALID COURT ORDER FROM A COURT OF COMPETENT
9 JURISDICTION.

10 5. FOR A LEGITIMATE RESEARCH STUDY THAT IS APPROVED BY THE
11 DEPARTMENT AND THAT ENSURES THAT THE RESEARCH IS RESTRICTED TO AGGREGATE
12 INFORMATION THAT CANNOT BE CONNECTED TO ANY INDIVIDUAL DNA ID.

13 J. THE DATABASE MAY NOT BE USED FOR THE STORAGE OF A
14 DEOXYRIBONUCLEIC ACID SEQUENCE OR A SINGLE NUCLEOTIDE POLYMORPHISM OR TO
15 CREATE A GENETIC PROFILE.

16 K. A PERSON WHO KNOWINGLY USES INFORMATION IN THE DATABASE OR
17 ACCESSES THE DATABASE FOR AN UNAUTHORIZED PURPOSE IS GUILTY OF A CLASS 2
18 MISDEMEANOR.

19 L. FOR THE PURPOSES OF THIS SECTION:

20 1. "COLLECTING AGENCY" MEANS THE LOCAL OR STATE LAW ENFORCEMENT
21 AGENCY, CORONER, MEDICAL EXAMINER OR OTHER AGENCY AUTHORIZED BY THE
22 DEPARTMENT TO COLLECT BIOLOGICAL SAMPLES AND PROCESS THE SAMPLES TO
23 GENERATE DNA ID.

24 2. "DATABASE" MEANS THE DEOXYRIBONUCLEIC ACID IDENTIFICATION
25 DATABASE.

26 3. "DEPARTMENT" MEANS THE DEPARTMENT OF PUBLIC SAFETY.

27 4. "DNA ID" MEANS A HUMAN IDENTIFICATION MEASUREMENT THAT IS BASED
28 ON THE SIZE OF A SET OF SHORT TANDEM REPEATS IN THE GENOME OF AN
29 INDIVIDUAL THAT IS OBTAINED FROM A BIOLOGICAL SAMPLE BY SHORT TANDEM
30 REPEAT AMPLIFICATION AND ELECTROPHORETIC SIZING AND THAT IS GENERATED FROM
31 A NONCODING PORTION OF DEOXYRIBONUCLEIC ACID THAT DOES NOT CONTAIN ANY
32 INFORMATION, OTHER THAN GENDER, ABOUT A PERSON'S PHYSICAL CHARACTERISTICS
33 OR MEDICAL CONDITIONS.

34 5. "GENETIC PROFILE" MEANS A DESCRIPTION OF A PERSON'S GENETIC CODE
35 THAT IS DEVELOPED THROUGH DEOXYRIBONUCLEIC ACID SEQUENCING OR SINGLE
36 NUCLEOTIDE POLYMORPHISM TECHNOLOGIES AND THAT CONTAINS INFORMATION ABOUT
37 THAT PERSON'S PHYSICAL CHARACTERISTICS OR MEDICAL CONDITIONS.

38 6. "RAPID DNA IDENTIFICATION" MEANS THE FULLY AUTOMATED GENERATION
39 OF DNA ID WITHOUT HUMAN HANDLING OR HUMAN DATA INTERPRETATION.

40 7. "REFERENCE DNA ID" MEANS DNA ID THAT IS GENERATED DIRECTLY FROM
41 A PERSON, INCLUDING BY A BUCCAL SWAB, AND THAT MUST CONTAIN DATA FROM AT
42 LEAST FIFTEEN OF THE TWENTY FEDERAL BUREAU OF INVESTIGATION CORE LOCI.

1 8. "SINGLE NUCLEOTIDE POLYMORPHISM" MEANS A VARIATION IN
2 DEOXYRIBONUCLEIC ACID SEQUENCE IN WHICH A SINGLE NUCLEOTIDE AT A SPECIFIC
3 LOCATION IN THE GENOME VARIES FROM PERSON TO PERSON AND CAN BE USED TO
4 ASSESS A GIVEN PERSON'S PHYSICAL CHARACTERISTICS OR MEDICAL CONDITIONS.
5 Sec. 3. Requirements for enactment; two-thirds vote
6 Pursuant to article IX, section 22, Constitution of Arizona, this
7 act is effective only on the affirmative vote of at least two-thirds of
8 the members of each house of the legislature and is effective immediately
9 on the signature of the governor or, if the governor vetoes this act, on
10 the subsequent affirmative vote of at least three-fourths of the members
11 of each house of the legislature.