

HOUSE BILL No. 2091

By Committee on Corrections and Juvenile Justice

1-28

AN ACT concerning crimes and punishments; relating to specimen collection fees; amending K.S.A. 2002 Supp. 21-2511 and repealing the existing section.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 2002 Supp. 21-2511 is hereby amended to read as follows: 21-2511. (a) Any person convicted as an adult or adjudicated as a juvenile offender because of the commission of any felony; a violation of subsection (a)(1) of K.S.A. 21-3505; a violation of K.S.A. 21-3508; a violation of K.S.A. 21-4310; a violation of K.S.A. 21-3424, and amendments thereto when the victim is less than 18 years of age; a violation of K.S.A. 21-3507, and amendments thereto, when one of the parties involved is less than 18 years of age; a violation of subsection (b)(1) of K.S.A. 21-3513, and amendments thereto, when one of the parties involved is less than 18 years of age; a violation of K.S.A. 21-3515, and amendments thereto, when one of the parties involved is less than 18 years of age; or a violation of K.S.A. 21-3517, and amendments thereto; including an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303 and amendments thereto, of any such offenses provided in this subsection regardless of the sentence imposed, shall be required to submit specimens of blood and saliva to the Kansas bureau of investigation in accordance with the provisions of this act, if such person is:

(1) Convicted as an adult or adjudicated as a juvenile offender because of the commission of a crime specified in subsection (a) on or after the effective date of this act;

(2) ordered institutionalized as a result of being convicted as an adult or adjudicated as a juvenile offender because of the commission of a crime specified in subsection (a) on or after the effective date of this act; or

(3) convicted as an adult or adjudicated as a juvenile offender because of the commission of a crime specified in this subsection before the effective date of this act and is presently confined as a result of such conviction or adjudication in any state correctional facility or county jail or is presently serving a sentence under K.S.A. 21-4603, 22-3717 or 38-1663, and amendments thereto.

1 (b) Notwithstanding any other provision of law, the Kansas bureau of
2 investigation is authorized to obtain fingerprints and other identifiers for
3 all persons, whether juveniles or adults, covered by this act.

4 (c) Any person required by paragraphs (a)(1) and (a)(2) to provide
5 specimens of blood and saliva shall be ordered by the court to have spec-
6 imens of blood and saliva collected within 10 days after sentencing or
7 adjudication:

8 (1) If placed directly on probation, that person must provide speci-
9 mens of blood and saliva, at a collection site designated by the Kansas
10 bureau of investigation. Collection of specimens shall be conducted by
11 qualified volunteers, contractual personnel or employees designated by
12 the Kansas bureau of investigation. Failure to cooperate with the collec-
13 tion of the specimens and any deliberate act by that person intended to
14 impede, delay or stop the collection of the specimens shall be punishable
15 as contempt of court and constitute grounds to revoke probation;

16 (2) if sentenced to the secretary of corrections, the specimens of
17 blood and saliva will be obtained as soon as practical upon arrival at the
18 correctional facility; or

19 (3) if a juvenile offender is placed in the custody of the commissioner
20 of juvenile justice, in a youth residential facility or in a juvenile correc-
21 tional facility, the specimens of blood and saliva will be obtained as soon
22 as practical upon arrival.

23 (d) Any person required by paragraph (a)(3) to provide specimens of
24 blood and saliva shall be required to provide such samples prior to final
25 discharge or conditional release at a collection site designated by the
26 Kansas bureau of investigation. Collection of specimens shall be con-
27 ducted by qualified volunteers, contractual personnel or employees des-
28 ignated by the Kansas bureau of investigation.

29 (e) The Kansas bureau of investigation shall provide all specimen vi-
30 als, mailing tubes, labels and instructions necessary for the collection of
31 blood and saliva samples. *The person from whom the samples are collected*
32 *shall be responsible for the costs of collection.* The collection of samples
33 shall be performed in a medically approved manner. No person author-
34 ized by this section to withdraw blood and collect saliva, and no person
35 assisting in the collection of these samples shall be liable in any civil or
36 criminal action when the act is performed in a reasonable manner ac-
37 cording to generally accepted medical practices. The withdrawal of blood
38 for purposes of this act may be performed only by: (1) A person licensed
39 to practice medicine and surgery or a person acting under the supervision
40 of any such licensed person; (2) a registered nurse or a licensed practical
41 nurse; or (3) any qualified medical technician including, but not limited
42 to, an emergency medical technician-intermediate or mobile intensive
43 care technician, as those terms are defined in K.S.A. 65-6112, and amend-

1 ments thereto, or a phlebotomist. The samples shall thereafter be for-
2 warded to the Kansas bureau of investigation. The bureau shall analyze
3 the samples to the extent allowed by funding available for this purpose.

4 (f) The DNA (deoxyribonucleic acid) records and DNA samples shall
5 be maintained by the Kansas bureau of investigation. The Kansas bureau
6 of investigation shall establish, implement and maintain a statewide au-
7 tomated DNA databank and DNA database capable of, but not limited
8 to, searching, matching and storing DNA records. The DNA database as
9 established by this act shall be compatible with the procedures specified
10 by the federal bureau of investigation's combined DNA index system
11 (CODIS). The Kansas bureau of investigation shall participate in the
12 CODIS program by sharing data and utilizing compatible test procedures,
13 laboratory equipment, supplies and computer software.

14 (g) The DNA records obtained pursuant to this act shall be confi-
15 dential and shall be released only to authorized criminal justice agencies.

16 (h) The Kansas bureau of investigation shall be the state central re-
17 pository for all DNA records and DNA samples obtained pursuant to this
18 act. The Kansas bureau of investigation shall promulgate rules and reg-
19 ulations for the form and manner of the collection, maintenance and
20 expungement of DNA samples and other procedures for the operation of
21 this act. These rules and regulations also shall require compliance with
22 national quality assurance standards to ensure that the DNA records sat-
23 isfy standards of acceptance of such records into the national DNA iden-
24 tification index. The provisions of the Kansas administrative procedure
25 act shall apply to all actions taken under the rules and regulations so
26 promulgated.

27 Sec. 2. K.S.A. 2002 Supp. 21-2511 is hereby repealed.

28 Sec. 3. This act shall take effect and be in force from and after its
29 publication in the statute book.

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