

SENATE BILL No. 102

By Committee on Judiciary

2-5

1 AN ACT establishing the Kansas closed case task force; relating to
2 identification and investigation relating to hits to the combined DNA
3 index system (CODIS).
4

5 WHEREAS, The legislature finds that law enforcement agencies
6 routinely submit biological evidence to forensic laboratories for DNA
7 testing, prompting laboratories to report back to submitting law
8 enforcement agencies the results of the requested testing and any match
9 made to the combined DNA index system (CODIS); and

10 WHEREAS, It has been revealed, through a number of cases, that
11 CODIS hits can occur in cases in which someone else, not the person to
12 whom the DNA match was made, has already been convicted, which raises
13 questions about whether the proper person was convicted and whether the
14 match is in fact an important lead to the real perpetrator of the crime who
15 eluded detection; and

16 WHEREAS, Wrongful convictions are a threat to individual liberty and
17 cause irreparable harm to the innocent and their families; and

18 WHEREAS, Wrongful convictions also enable additional criminal
19 activity and harm to the public. Of the 362 DNA-based exonerations, 158
20 true perpetrators connected to those cases were ultimately identified. In the
21 time that the innocent were behind bars, these true perpetrators committed
22 at least 150 additional violent crimes, the majority of which involved rape
23 and murder; and

24 WHEREAS, CODIS hits to closed cases, when accompanied by proper
25 reinvestigations, can lead to the revelation of wrongful convictions; and

26 WHEREAS, CODIS is a powerful tool for solving decades-old crimes
27 and identifying repeat offenders by establishing links between closed cases
28 and ongoing investigations; and

29 WHEREAS, Kansas will benefit from a task force dedicated to creating
30 and assuring the implementation of a plan to achieve uniform protocols for
31 law enforcement agencies, forensic laboratories and prosecutors' offices
32 for the handling of CODIS hits reported out to submitting law enforcement
33 agencies by forensic laboratories to ensure that all CODIS hits are reported
34 to appropriate parties, accounted for and, where appropriate, investigated.

35 Now, therefore:

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

1 Section 1. (a) There is hereby established the Kansas closed case task
2 force. The task force shall be composed of 14 voting members, as follows:

- 3 (1) The chairperson of the standing senate committee on judiciary;
- 4 (2) the ranking minority member of the standing senate committee on
5 judiciary;
- 6 (3) the chairperson of the standing house committee on judiciary;
- 7 (4) the ranking minority member of the standing house committee on
8 judiciary;
- 9 (5) the governor or the governor's designee;
- 10 (6) the attorney general or the attorney general's designee;
- 11 (7) the director of the Kansas bureau of investigation or the director's
12 designee;
- 13 (8) a sheriff as designated by the Kansas sheriff's association;
- 14 (9) a chief of police as designated by the Kansas association of chiefs
15 of police;
- 16 (10) a prosecutor as designated by the Kansas county and district
17 attorneys association;
- 18 (11) the executive director of the state board of indigents' defense
19 services or the executive director's designee;
- 20 (12) the president of the Kansas bar association or the president's
21 designee;
- 22 (13) the director of victims services of the department of corrections
23 or the director's designee; and
- 24 (14) one member designated by the governor who represents an
25 organization that litigates claims of innocence.

26 (b) (1) Members shall be appointed to the task force on or before
27 September 1, 2019. The initial meeting of the task force shall be convened
28 on or before October 1, 2019.

29 (2) The chairperson of the standing senate committee on judiciary and
30 the chairperson of the standing house committee on judiciary shall serve as
31 co-chairs of the task force.

32 (3) The task force may meet in an open meeting at any time and at
33 any place within the state of Kansas upon the call of either co-chairperson
34 of the task force. A majority of the voting members of the task force
35 constitutes a quorum. Any action by the task force shall be by motion
36 adopted by a majority of the voting members present when there is a
37 quorum.

38 (c) The task force, in consultation with practitioners and experts, shall
39 develop a plan to ensure uniform statewide policies and procedures that
40 address, at a minimum:

- 41 (1) Timely receipt of the data relating to hits to the combined DNA
42 index system (CODIS) from the forensic laboratory;
- 43 (2) directly connecting the data relating to hits to the combined DNA

1 index system (CODIS) to the relevant case file;

2 (3) proper policies and procedures to ensure all hits are accounted for
3 and followed up;

4 (4) procedures to address how the key parties can conduct a
5 reasonable and timely investigation into the significance of the hit; and

6 (5) sharing the hits in data from both solved and unsolved cases with
7 other key parties, including the relevant prosecutors' offices, the original
8 defense attorney and the last known attorney of record, crime victims and
9 surviving relatives, and a local organization that litigates claims of
10 innocence.

11 (d) The task force shall complete a plan for implementation of a
12 protocol relating to hits to closed cases by October 1, 2020. The plan shall
13 include a mechanism to ensure uniform compliance at the local law
14 enforcement agency level.

15 (e) On or before December 1, 2020, the task force shall submit a
16 report containing a plan for uniform implementation of the protocol
17 throughout the state, including articulated benchmarks to facilitate and
18 measure adoption. This report shall be posted on a public website
19 maintained by the Kansas bureau of investigation and presented to the
20 governor, the speaker of the house of representatives and the president of
21 the senate.

22 (f) Legislative members of the task force attending meetings
23 authorized by the task force shall be paid amounts provided in K.S.A. 75-
24 3223(e), and amendments thereto. Non-legislative members of the task
25 force may be reimbursed by their appointing authority.

26 (g) The provisions of this section shall expire on December 30, 2020.

27 Sec. 2. This act shall take effect and be in force from and after its
28 publication in the statute book.