

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas  
2 87th General Assembly  
3 Regular Session, 2009

# A Bill

HOUSE BILL 1473

4  
5 By: Representatives D. Creekmore, Maxwell, Adcock, Garner, English, McLean, J. Dickinson, Barnett,  
6 T. Baker, J. Brown, George, R. Green, House, Hoyt, Ingram, Kidd, Nix, Pyle, Ragland, G. Smith,  
7 Summers, B. Wilkins, Lea  
8 By: Senator Broadway

## For An Act To Be Entitled

9  
10  
11 AN ACT TO BE KNOWN AS JULI'S LAW; TO PROVIDE FOR  
12 THE COLLECTION OF A DNA SAMPLE FOLLOWING AN  
13 ARREST OR A CRIMINAL CHARGE FOR CERTAIN OFFENSES;  
14 TO ESTABLISH PROCEDURES FOR THE COLLECTION,  
15 MAINTENANCE, AND DISSEMINATION OF DNA SAMPLES  
16 SUBMITTED FOLLOWING AN ARREST OR A CRIMINAL  
17 CHARGE; AND FOR OTHER PURPOSES.  
18

## Subtitle

19  
20 TO PROVIDE FOR THE COLLECTION OF A DNA  
21 SAMPLE FOLLOWING AN ARREST OR A CRIMINAL  
22 CHARGE FOR CERTAIN OFFENSES AND TO  
23 ESTABLISH PROCEDURES FOR THE COLLECTION,  
24 MAINTENANCE, AND DISSEMINATION OF DNA  
25 SAMPLES.  
26

27  
28  
29 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

30  
31 SECTION 1. NOT TO BE CODIFIED. This act shall be known and may be  
32 cited as "Juli's Law".

33  
34 SECTION 2. Arkansas Code § 12-12-1001 is amended to read as follows:  
35 12-12-1001. Definitions.

36 As used in this subchapter:



1 (1)(A) "Administration of criminal justice" means performing  
 2 functions of investigation, apprehension, detention, prosecution,  
 3 adjudication, correctional supervision, or rehabilitation of accused persons  
 4 or criminal offenders.

5 (B) "Administration of criminal justice" also includes  
 6 criminal identification activities and the collection, maintenance, and  
 7 dissemination of criminal justice information;

8 (2) "Arrest tracking number" means a unique number assigned to  
 9 an arrestee at the time of each arrest that is used to link that arrest to  
 10 the final disposition of that charge;

11 (3) "Central repository" means the Arkansas Crime Information  
 12 Center, which is authorized to collect, maintain, and disseminate criminal  
 13 history information;

14 (4) "CODIS" means the Federal Bureau of Investigation  
 15 Laboratory's Combined DNA Index System that allows the storage and exchange  
 16 of DNA records submitted by federal forensic laboratories, state forensic  
 17 laboratories, and local forensic laboratories;

18 ~~(4)~~(5) "Conviction information" means criminal history  
 19 information disclosing that a person has pleaded guilty or nolo contendere  
 20 to, or was found guilty of, a criminal offense in a court of law, together  
 21 with sentencing information;

22 ~~(5)~~(6)(A) "Criminal history information" means a record compiled  
 23 by a central repository or the Identification Bureau of the Department of  
 24 Arkansas State Police on an individual consisting of names and identification  
 25 data, notations of arrests, detentions, indictments, informations, or other  
 26 formal criminal charges. This record also includes any dispositions of the  
 27 charges, as well as notations on correctional supervision and release.

28 (B) "Criminal history information" does not include  
 29 fingerprint records on individuals not involved in the criminal justice  
 30 system, or driver history records;

31 ~~(6)~~(7) "Criminal history information system" means the  
 32 equipment, procedures, agreements, and organizations thereof, for the  
 33 compilation, processing, preservation, and dissemination of criminal history  
 34 information;

35 ~~(7)~~(8) "Criminal justice agency" means a government agency, or  
 36 any subunit of a government ~~agency, which~~ agency that is authorized by law to

1 perform the administration of criminal ~~justice, and which~~ justice and that  
 2 allocates more than one-half (1/2) its annual budget to the administration of  
 3 criminal justice;

4 ~~(8)~~(9) "Criminal justice official" means an employee of a  
 5 criminal justice agency performing the administration of criminal justice;

6 ~~(9)~~(10)(A) "Disposition" means information describing the  
 7 outcome of any criminal charges, including notations that law enforcement  
 8 officials have elected not to refer the matter to a prosecutor, that a  
 9 prosecutor has elected not to commence criminal proceedings, or that  
 10 proceedings have been indefinitely postponed.

11 (B) "Disposition" also ~~include~~ includes acquittals,  
 12 dismissals, probations, charges pending due to mental disease or defect,  
 13 guilty pleas, nolle prosequi, nolo contendere pleas, findings of guilt,  
 14 youthful offender determinations, first offender programs, pardons, commuted  
 15 sentences, mistrials in which the defendant is discharged, executive  
 16 clemencies, paroles, releases from correctional supervision, or deaths;

17 ~~(10)~~(11) "Dissemination" means disclosing criminal history  
 18 information or the absence of criminal history information to any person or  
 19 organization outside the agency possessing the information;

20 (12) "DNA" means deoxyribonucleic acid that is located in the  
 21 cells of an individual, provides an individual's personal genetic blueprint,  
 22 and encodes genetic information that is the basis of human heredity and  
 23 forensic identification;

24 (13)(A) "DNA record" means DNA identification information stored  
 25 in the State DNA Data Base or CODIS for the purpose of generating  
 26 investigative leads or supporting statistical interpretation of DNA test  
 27 results.

28 (B) The DNA record is the result obtained from the DNA  
 29 typing tests.

30 (C) The DNA record is composed of the characteristics of a  
 31 DNA sample that are of value in establishing the identity of individuals.

32 (D) The results of all DNA identification tests on an  
 33 individual's DNA sample also are collectively referred to as the DNA profile  
 34 of an individual;

35 (14) "DNA sample" means a blood, saliva, or tissue sample  
 36 provided by any individual as required by this subchapter or submitted to the

1 State Crime Laboratory for analysis or storage, or both;

2 ~~(11)(15)~~ "Expunge" means to restrict access to specific criminal  
 3 justice purposes as other laws permit "Expunged record" means a record that  
 4 was expunged under § 16-90-901 et seq.;

5 ~~(12)(16)~~ "Identification Bureau" means the Identification Bureau  
 6 of the Department of Arkansas State Police, which may maintain fingerprint  
 7 card files and other identification information on individuals;

8 ~~(13)(17)~~(A) "Juvenile aftercare and custody information" means  
 9 information maintained by the Division of Youth Services of the Department of  
 10 Human Services regarding the status of a juvenile committed to or otherwise  
 11 placed in the custody of the division from the date of commitment until the  
 12 juvenile is released from aftercare or custody, whichever is later.

13 (B) "Juvenile aftercare and custody information" may  
 14 include the name, address, and phone number of a contact person or an entity  
 15 responsible for the juvenile;

16 ~~(14)(18)~~ "Nonconviction information" means arrest information  
 17 without disposition if an interval of one (1) year has elapsed from the date  
 18 of arrest and no active prosecution of the charge is pending, as well as all  
 19 acquittals and all dismissals; and

20 ~~(15)(19)~~ "Pending information" means criminal history  
 21 information in some stage of active prosecution or processing.

22  
 23 SECTION 3. Arkansas Code § 12-12-1002 is amended to read as follows:  
 24 12-12-1002. Penalties.

25 (a) ~~Any~~ Upon conviction, any criminal justice agency or official  
 26 subject to fingerprinting or reporting requirements under this subchapter  
 27 that knowingly fails to comply with such reporting requirements ~~shall be~~  
 28 ~~deemed~~ is guilty of a Class B misdemeanor.

29 (b)(1) ~~Every~~ Upon conviction, any person who ~~shall~~ knowingly ~~release~~  
 30 ~~or disclose~~ releases or discloses to any unauthorized person any information  
 31 collected and maintained under this subchapter, and any person who knowingly  
 32 obtains ~~such~~ information collected and maintained under this subchapter for  
 33 purposes not authorized by this subchapter, ~~shall be deemed~~ is guilty of a  
 34 Class D felony.

35 (2) A person convicted for violating subdivision (b)(1) of this  
 36 section is subject to an additional fine of not more than five hundred

1 thousand dollars (\$500,000).

2  
 3 SECTION 4. Arkansas Code § 12-12-1003 is amended to read as follows:  
 4 12-12-1003. Scope.

5 (a) This subchapter governs the:

6 (1) Collection, maintenance, and dissemination of criminal  
 7 history information on identifiable individuals charged with or pleading  
 8 guilty or nolo contendere to, or being found guilty of, criminal offenses  
 9 under the laws of the State of Arkansas; and

10 (2) Dissemination of juvenile aftercare and custody information.

11 (b)(1) ~~The~~ Except as provided in subdivision (b)(2) of this section,  
 12 the Arkansas Crime Information Center ~~shall have general authority to~~ may  
 13 ~~issue regulations~~ rules and implement ~~the provisions of~~ this subchapter.

14 (2) The State Crime Laboratory may promulgate rules to implement  
 15 the provisions of this subchapter relating to the collection, maintenance,  
 16 dissemination, removal, or destruction of DNA samples or DNA records.

17 (c) The reporting requirements of this subchapter apply to prosecuting  
 18 attorneys, judges, and law enforcement, court, probation, correction, and  
 19 parole officials, within the limits defined in §§ 12-12-1006 and 12-12-1007.

20 (d) This subchapter does not apply to records of traffic offenses,  
 21 including misdemeanor offenses of driving while intoxicated, maintained by  
 22 the Department of Finance and Administration.

23 (e) Criminal history information collected and maintained by the  
 24 center is not considered public record information within the intent and  
 25 meaning of the Freedom of Information Act of 1967, § 25-19-101 et seq.

26  
 27 SECTION 5. Arkansas Code § 12-12-1004 is amended to read as follows:  
 28 12-12-1004. Completeness and accuracy.

29 (a) The Arkansas Crime Information Center and the State Crime  
 30 Laboratory shall implement procedures that will, to the maximum extent  
 31 feasible, ensure the completeness and accuracy of all criminal history  
 32 information in this state.

33 (b) ~~It shall be the duty of all~~ All criminal justice agencies and  
 34 criminal justice officials ~~to~~ shall maintain complete and accurate records,  
 35 as may be appropriate to their area of operation, and ~~to~~ shall report  
 36 information from ~~such~~ the records as required in §§ 12-12-1006 and 12-12-

1 1007.

2 (c) ~~It shall be the duty of the center to~~ The center shall maintain  
3 all information reported under this subchapter in a complete and permanent  
4 manner, to ensure that ~~no~~ records are not altered, unlawfully purged, or  
5 otherwise lost.

6 (d) The State Crime Laboratory shall maintain all DNA samples or DNA  
7 records obtained under this subchapter in a complete and permanent manner to  
8 ensure that DNA samples or DNA records are not altered, unlawfully purged, or  
9 lost.

10

11 SECTION 6. Arkansas Code § 12-12-1006 is amended to read as follows:  
12 12-12-1006. Fingerprinting, DNA sample collection, and photographing.

13 (a)(1) ~~Immediately following an arrest for an offense, the arresting~~  
14 ~~official~~ a law enforcement official at the receiving criminal detention  
15 facility shall take, or cause to be taken, the fingerprints and a photograph  
16 of the arrested person if the offense is a felony or a Class A misdemeanor.

17 (2) In addition to the requirements of subdivision (a)(1) of  
18 this section, a law enforcement official at the receiving criminal detention  
19 facility shall take, or cause to be taken, a DNA sample of a person arrested  
20 for:

- 21 (A) Capital murder, § 5-10-101;
- 22 (B) Murder in the first degree, § 5-10-102;
- 23 (C) Murder in the second degree, § 5-10-103;
- 24 (D) Manslaughter, § 5-10-104;
- 25 (E) Negligent homicide, § 5-10-105, if charged as a  
26 felony;
- 27 (F) Kidnapping, § 5-11-102;
- 28 (G) False imprisonment in the first degree, § 5-11-103;
- 29 (H) Vehicular piracy, § 5-11-105;
- 30 (I) Permanent detention or restraint, § 5-11-106;
- 31 (J) Trafficking of persons, § 5-11-108;
- 32 (K) Robbery, § 5-12-102;
- 33 (L) Aggravated robbery, § 5-12-103;
- 34 (M) Battery in the first degree, § 5-13-201;
- 35 (N) Battery in the second degree, § 5-13-202;
- 36 (O) Aggravated assault, § 5-13-204;

1                   (P) Introduction of controlled substance into body of  
 2 another person, § 5-13-210;

3                   (Q) Aggravated assault upon an employee of a correctional  
 4 facility, § 5-13-211;

5                   (R) Terroristic act, § 5-13-310;

6                   (S) Rape, § 5-14-103;

7                   (T) Sexual indecency with a child, § 5-14-110;

8                   (U) Indecent exposure, § 5-14-112, if charged as a felony;

9                   (V) Exposing another person to human immunodeficiency  
 10 virus, § 5-14-123;

11                   (W) Sexual assault in the first degree, § 5-14-124;

12                   (X) Sexual assault in the second degree, § 5-14-125;

13                   (Y) Sexual assault in the third degree, § 5-14-126;

14                   (Z) Sexual assault in the fourth degree, § 5-14-127, if  
 15 charged as a felony;

16                   (AA) Incest, § 5-26-202;

17                   (BB) Domestic battering in the first degree, § 5-26-303;

18                   (CC) Domestic battering in the second degree, § 5-26-304;

19                   (DD) Aggravated assault on a family or household member, §  
 20 5-26-306;

21                   (EE) Employing or consenting to the use of a child in a  
 22 sexual performance, § 5-27-402;

23                   (FF) Producing, directing, or promoting a sexual  
 24 performance by a child, § 5-27-403;

25                   (GG) Distributing, possessing, or viewing of matter  
 26 depicting sexually explicit conduct involving a child, § 5-27-602;

27                   (HH) Computer child pornography, § 5-27-603;

28                   (II) Computer exploitation of a child, § 5-27-605;

29                   (JJ) Residential burglary, § 5-39-201(a);

30                   (KK) Aggravated residential burglary, § 5-39-204(a); or

31                   (LL) Stalking, § 5-71-229.

32           (b)(1) When the first appearance of a defendant in court is caused by  
 33 a citation or summons for an offense, the arresting official a law  
 34 enforcement official at the receiving criminal detention facility shall take,  
 35 or cause to be taken, the fingerprints and a photograph of the arrested  
 36 person when the offense is a felony or a Class A misdemeanor.

1           (2) In addition to the requirements of subdivision (b)(1) of  
 2 this section, if the first appearance of a defendant in court is caused by a  
 3 citation or summons for a felony offense enumerated in subdivision (a)(2) of  
 4 this section, the court immediately shall order and a law enforcement officer  
 5 shall take or cause to be taken a DNA sample of the arrested person.

6           (c)(1) When felony or Class A misdemeanor charges are brought against  
 7 a person already in the custody of a law enforcement agency or correctional  
 8 agency, and the charges are separate from the charges for which the person  
 9 was previously arrested or confined, the law enforcement agency or the  
 10 correctional agency shall again take the fingerprints and photograph of the  
 11 person in connection with the new charges.

12           (2) In addition to the requirements of subdivision (c)(1) of  
 13 this section, when a felony charge enumerated in subdivision (a)(2) of this  
 14 section is brought against a person already in the custody of a law  
 15 enforcement agency or a correctional agency and the felony charge is separate  
 16 from the charge or charges for which the person was previously arrested or  
 17 confined, the law enforcement agency or the correctional agency shall take or  
 18 cause to be taken a DNA sample of the person in connection with the new  
 19 felony charge unless the law enforcement agency or the correctional agency  
 20 can verify that the person's DNA record is stored in the State DNA Data Base  
 21 or CODIS.

22           (d)(1) When a defendant pleads guilty or nolo contendere to, or is  
 23 found guilty of, any felony or Class A misdemeanor charge, the court shall  
 24 order that the defendant be immediately fingerprinted and photographed by the  
 25 appropriate law enforcement official.

26           (2) In addition to the requirements of subdivision (d)(1) of  
 27 this section, if a defendant pleads guilty or nolo contendere to or is found  
 28 guilty of a felony charge enumerated in subdivision (a)(2) of this section,  
 29 the court shall order that the defendant provide a DNA sample to the  
 30 appropriate law enforcement official unless the appropriate law enforcement  
 31 official can verify that the defendant's DNA record is stored in the State  
 32 DNA Data Base or CODIS.

33           (e)(1) Fingerprints or photographs taken after arrest or court  
 34 appearance ~~pursuant to~~ under subsections (a) and (b) of this section, or  
 35 taken from persons already in custody ~~pursuant to~~ under subsection (c) of  
 36 this section, shall be forwarded to the Identification Bureau of the



1 Department of Arkansas State Police within forty-eight (48) hours after the  
 2 arrest or court appearance.

3 (2) Fingerprints or photographs taken ~~pursuant to~~ under  
 4 subsection (d) of this section shall be forwarded to the ~~bureau~~  
 5 Identification Bureau by the fingerprinting official within five (5) working  
 6 days after the plea or finding of guilt.

7 (f) Fingerprint cards or fingerprint images may be retained by the  
 8 ~~bureau~~ Identification Bureau, and criminal history information may be  
 9 retained by the central repository for any criminal offense.

10 (g)(1) A DNA sample provided under this section shall be delivered to  
 11 the State Crime Laboratory by a law enforcement officer at the law  
 12 enforcement agency that took the sample in accordance with rules promulgated  
 13 by the State Crime Laboratory.

14 (2) A DNA sample taken under this section shall be retained in  
 15 the State DNA Data Bank established under § 12-12-1106.

16 (h) A DNA sample provided under this section shall be taken in  
 17 accordance with rules promulgated by the State Crime Laboratory in  
 18 consultation with the Department of Arkansas State Police and the Department  
 19 of Health.

20 (i) ~~Any individual who is arrested for a criminal offense and who~~  
 21 ~~refuses~~ Refusal to be fingerprinted or photographed or refusal to provide a  
 22 DNA sample as required under by this subchapter shall be guilty of is a Class  
 23 B misdemeanor.

24 (j)(1) A person authorized by this section to take a DNA sample is not  
 25 criminally liable for taking a DNA sample under this subchapter if he or she  
 26 takes the DNA sample in good faith and uses reasonable force.

27 (2) A person authorized by this section to take a DNA sample is  
 28 not civilly liable for taking a DNA sample if the person acted in good faith,  
 29 in a reasonable manner, using reasonable force, and according to generally  
 30 accepted medical and other professional practices.

31 (k)(1) An authorized law enforcement agency or an authorized  
 32 correctional agency may employ reasonable force if an individual refuses to  
 33 submit to a taking of a DNA sample authorized under this subchapter.

34 (2) An employee of an authorized law enforcement agency or an  
 35 authorized correctional agency is not criminally or civilly liable for the  
 36 use of reasonable force described in subdivision (k)(1) of this section.

1       (l) A person less than eighteen (18) years of age is exempt from all  
 2 provisions of this section regarding the collection of a DNA sample unless  
 3 that person is charged by the prosecuting attorney as an adult in circuit  
 4 court or pleads guilty or nolo contendere to or is found guilty of a felony  
 5 offense in circuit court.

6  
 7       SECTION 7. Arkansas Code § 12-12-1008, pertaining to the dissemination  
 8 of criminal history information for criminal justice purposes, is amended to  
 9 add an additional subsection to read as follows:

10       (e) A DNA sample or DNA record obtained under this subchapter shall be  
 11 disseminated only to criminal justice agencies and criminal justice officials  
 12 for the administration of criminal justice.

13  
 14       SECTION 8. Arkansas Code § 12-12-1009, pertaining to the dissemination  
 15 of conviction information for noncriminal justice purposes, is amended to add  
 16 an additional subsection to read as follows:

17       (f) A DNA sample or DNA record obtained under this subchapter is not  
 18 available under this subchapter for noncriminal justice purposes.

19  
 20       SECTION 9. Arkansas Code § 12-12-1013 is amended to read as follows:  
 21       12-12-1013. Right of review and challenge.

22       (a)(1) A person, upon positive verification of his or her identity,  
 23 may review criminal history information pertaining to the person compiled and  
 24 maintained by the Identification Bureau of the Department of Arkansas State  
 25 Police or the central repository and may challenge the completeness or  
 26 accuracy of the information.

27       (2)(A) The criminal history information may be reviewed only by  
 28 the ~~subject,~~ person or the ~~subject's~~ person's attorney or other designee  
 29 authorized in writing by the subject.

30       (B) A copy of criminal history information maintained in  
 31 the Arkansas Crime Information Center on the ~~subject~~ person may be made  
 32 available to the ~~subject,~~ person or the ~~subject's~~ person's attorney or other  
 33 designee authorized in writing by the ~~subject~~ person.

34       (C) ~~Requests~~ A request for a copy of any criminal history  
 35 information maintained in the National Crime Information Center shall be  
 36 addressed to the Federal Bureau of Investigation.

1 (b) If the ~~subject~~ person, after appropriate review, believes that the  
 2 ~~records are~~ criminal history information is incorrect or incomplete in any  
 3 way, he or she may request an examination and correction of the ~~records~~  
 4 criminal history information by the agency responsible for the ~~records~~  
 5 criminal history information.

6 (c)(1) ~~Should it be~~ If it is determined as a result of the challenge  
 7 that the criminal history information is inaccurate, incomplete, or  
 8 improperly maintained, ~~that information~~ the criminal history information  
 9 shall be appropriately corrected.

10 (2) Immediately ~~thereafter~~ after correction under subdivision  
 11 (c)(1) of this section, the agency responsible for the ~~records~~ criminal  
 12 history information shall notify every agency or person known to have  
 13 received ~~this information~~ the criminal history information within the  
 14 previous one-year period and provide them with corrected criminal history  
 15 information.

16 (3) A person whose ~~record~~ criminal history information has been  
 17 corrected ~~shall be entitled to~~ may ascertain the names of those agencies or  
 18 individuals known to have received the previously incorrect criminal history  
 19 information.

20 (d)(1)(A) Criminal history information which was recorded ~~prior to~~  
 21 before August 13, 1993, is subject to the right of review and challenge in  
 22 accordance with this section.

23 (B) However, the duty of an agency in searching for  
 24 criminal history information under subdivision (d)(1)(A) of this section is  
 25 to make a reasonable search for ~~such~~ criminal history information.

26 (2) ~~There is no duty~~ An agency does not have a duty under  
 27 subdivision (d)(1)(A) of this section to provide access to that segment of  
 28 criminal history information that cannot be located after a reasonable  
 29 search.

30 (e) The right of a person to review his or her criminal history ~~record~~  
 31 information shall not be used by a prospective employer or ~~others~~ another  
 32 person as a means to circumvent procedures or fees for accessing records for  
 33 noncriminal justice purposes.

34  
 35 SECTION 10. Arkansas Code Title 12, Chapter 12, Subchapter 10 is  
 36 amended to add additional sections to read as follows:

1 12-12-1016. Powers and duties of State Crime Laboratory.

2 In addition to any other power or duty conferred by this subchapter,  
 3 the State Crime Laboratory shall expand the:

4 (1) State DNA Data Base established under § 12-12-1105 to store  
 5 and maintain DNA records generated under this subchapter; and

6 (2) State DNA Data Bank established under § 12-12-1106 to retain  
 7 DNA samples provided under this subchapter.

8  
 9 12-12-1017. Procedures for conduct, disposition, and use of DNA  
 10 analysis.

11 (a)(1) The State Crime Laboratory shall promulgate rules governing the  
 12 procedures to be used in the submission, identification, analysis, storage,  
 13 and disposition of DNA samples and typing results of DNA samples submitted  
 14 under this subchapter.

15 (2) The procedures described in subdivision (a)(1) of this  
 16 section shall include quality assurance guidelines to ensure that DNA  
 17 identification records meet standards for laboratories that submit DNA  
 18 records to the State DNA Data Base.

19 (b) The typing results of DNA samples shall be securely stored in the  
 20 State DNA Data Base, and records of testing shall be retained on file with  
 21 the State Crime Laboratory.

22 (c)(1) Except as provided in § 12-12-1018, the tests to be performed  
 23 on each DNA sample shall be used only for law enforcement identification  
 24 purposes including the identification of missing persons and to assist in the  
 25 recovery or identification of human remains from disasters.

26 (2) The results of the DNA analysis conducted under this  
 27 subchapter from a person adjudicated delinquent may be used for any law  
 28 enforcement agency identification purpose, including adult prosecution.

29 (3) The detention, arrest, or conviction of a person based on a  
 30 State DNA Data Base match or State DNA Data Base information is not  
 31 invalidated if the DNA sample was obtained or placed in the State DNA Data  
 32 Base by mistake.

33 (d)(1) The State Crime Laboratory may contract with a third party for  
 34 purposes of carrying out any function of this subchapter.

35 (2) Any third party contracting to carry out a function of this  
 36 subchapter is subject to any restriction and requirement of this subchapter

1 that applies to the State Crime Laboratory as well as any additional  
 2 restriction imposed by the State Crime Laboratory.

3  
 4 12-12-1018. Receipt and analysis of DNA samples -- Availability of  
 5 information.

6 (a) The State Crime Laboratory shall:

7 (1) Receive, store, and perform analysis on DNA samples or  
 8 contract for DNA typing analysis with a qualified DNA laboratory that meets  
 9 guidelines as established by the State Crime Laboratory;

10 (2) Classify and file the DNA record of identification  
 11 characteristic profiles of DNA samples submitted under this subchapter; and

12 (3) Make information available from the State DNA Data Base as  
 13 provided in this section.

14 (b) The results of the DNA profile of individuals in the State DNA  
 15 Data Base shall be made available:

16 (1) To a criminal justice agency or to an approved crime  
 17 laboratory that serves a criminal justice agency; or

18 (2) To a criminal justice official upon written or electronic  
 19 request from the criminal justice official and in furtherance of an official  
 20 investigation of a criminal offense.

21 (c) The State Crime Laboratory shall promulgate rules governing the  
 22 methods of obtaining information from the State DNA Data Base and CODIS and  
 23 procedures for verification of the identity and authority of the requester.

24 (d) The State Crime Laboratory may create a separate population  
 25 database composed of DNA samples obtained under this subchapter after all  
 26 personal identification is removed.

27  
 28 12-12-1019. Removal and destruction of the DNA record and DNA sample.

29 (a) Any person whose DNA record is included in the State DNA Data Base  
 30 and whose DNA sample is stored in the State DNA Data Bank as authorized by  
 31 this subchapter may apply to the State Crime Laboratory for removal and  
 32 destruction of the DNA record and DNA sample if the arrest that led to the  
 33 inclusion of the DNA record and DNA sample:

34 (1) Resulted in a charge that has been resolved by:

35 (A) An acquittal;

36 (B) A dismissal;

1                   (C) A nolle prosequi;

2                   (D) A successful completion of a pre-prosecution diversion  
 3 program or a conditional discharge; or

4                   (E) A conviction of a Class B misdemeanor or Class C  
 5 misdemeanor; or

6                   (2) Has not resulted in a charge within one (1) year of the date  
 7 of the arrest.

8                   (b) Except as provided in subsection (c) of this section, the State  
 9 Crime Laboratory shall remove and destroy a person's DNA record and DNA  
 10 sample by purging the DNA record and other identifiable information from the  
 11 State DNA Data Base and the DNA sample stored in the State DNA Data Bank when  
 12 the person provides the State Crime Laboratory with:

13                   (1) A court order for removal and destruction of the DNA record  
 14 and DNA sample; and

15                   (2) Either of the following:

16                   (A) A certified copy of:

17                                   (i) An order of acquittal;

18                                   (ii) An order of dismissal;

19                                   (iii) An order nolle prosequi;

20                                   (iv) Documentation reflecting a successful  
 21 completion of a pre-prosecution diversion program or a conditional discharge;  
 22 or

23                                   (v) A judgment of conviction of a Class B  
 24 misdemeanor or Class C misdemeanor; or

25                   (B) A court order stating that a charge arising out of the  
 26 person's arrest has not been filed within one (1) year of the date of the  
 27 arrest.

28                   (c) The State Crime Laboratory shall not remove or destroy a person's  
 29 DNA record or DNA sample under subsection (b) of this section if the person  
 30 had a prior felony or Class A misdemeanor conviction or a pending charge for  
 31 which collection of a DNA sample is authorized under Arkansas law.

32                   (d) When the State Crime Laboratory removes and destroys a person's  
 33 DNA record and DNA sample under subsection (b) of this section, the State  
 34 Crime Laboratory shall request that the person's DNA record be purged from  
 35 the National DNA Index System.

36

SECTION 11. Arkansas Code § 12-12-1105 is amended to read as follows:  
 12-12-1105. State DNA Data Base.

(a)(1) There is established the State DNA Data Base.

(2) ~~It shall be administered by the~~ The State Crime Laboratory shall administer the data base and provide ~~deoxyribonucleic acid (DNA)~~ DNA records to the Federal Bureau of Investigation for storage and maintenance in CODIS.

(b) The data base shall have the capability provided by computer software and procedures administered by the laboratory to store and maintain ~~deoxyribonucleic acid (DNA)~~ DNA records related to:

(1) Crime scene evidence and forensic case-work;

(2) Convicted offenders and juveniles adjudicated delinquent who are required to provide a ~~deoxyribonucleic acid (DNA)~~ DNA sample under this subchapter;

(3) Offenders who were required to provide a ~~deoxyribonucleic acid (DNA)~~ DNA sample under former § 12-12-1101 et seq.;

(4) Anonymous ~~deoxyribonucleic acid (DNA)~~ DNA records used for forensic validation, quality control, or establishment of a population statistics database;

(5) Unidentified persons or body parts; ~~and~~

(6) ~~Relatives~~ Missing persons and biological relatives of missing persons; ~~and~~

(7) Persons arrested for a felony offense who are required to provide a DNA sample under § 12-12-1006.

SECTION 12. Arkansas Code § 12-12-1115(b), concerning the penalty for prohibited disclosure of DNA information, is amended to read as follows:

(b) Any person who knowingly violates this section is guilty of a ~~Class A misdemeanor~~ Class D felony.

SECTION 13. Arkansas Code § 12-12-1116 is amended to read as follows:  
 12-12-1116. Prohibition against disclosure for pecuniary gain.

~~Any person who by virtue of employment, official position, or any person contracting to carry out any functions under this subchapter, including any officers, employees, and agents of such contractor, who has possession of or access to individually identifiable deoxyribonucleic acid~~

~~(DNA) information contained in the State DNA Data Base or State DNA Data Bank and who for pecuniary gain for such person or for any other person discloses it in any manner to any person or agency not authorized to receive it commits a Class A misdemeanor.~~

Upon conviction, a person is guilty of a Class D felony if the person:

(1) Possesses or accesses individually identifiable DNA information contained in the State DNA Data Base or State DNA Data Bank;

(2) Carries out functions of this subchapter as an employee, official, or contractor, including an officer, employee, or agent of a contractor; and

(3) For pecuniary gain of the person or another person knowingly discloses individually identifiable DNA information contained in the State DNA Data Base or State DNA Data Bank in any manner to a person or agency not authorized to receive the individually identifiable DNA information contained in the State DNA Data Base or State DNA Data Bank.

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