



SB0967/973222/1

AMENDMENTS
PREPARED
BY THE
DEPT. OF LEGISLATIVE
SERVICES

16 MAR 23
18:07:50

BY: Senator Muse
(To be offered in the Judicial Proceedings Committee)

AMENDMENTS TO SENATE BILL 967
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 2, after “**Collection**” insert “**and Expungement**”; in line 10, after “system;” insert “requiring that a DNA sample or DNA record be destroyed or expunged under certain circumstances; altering the method by which an individual is provided written notice of the destruction and expungement of a DNA sample and DNA record;”; and in line 14, after “2-504” insert “and 2-511”.

AMENDMENT NO. 2

On page 4, after line 31, insert:

“2-511.

(a) (1) Except as provided in paragraph (2) of this subsection, any DNA samples and records generated as part of a criminal investigation or prosecution shall be destroyed or expunged automatically from the State DNA database if:

(i) a criminal action begun against the individual relating to the crime does not result in a conviction of the individual;

(ii) the conviction is finally reversed or vacated and no new trial is permitted; or

(iii) the individual is granted an unconditional pardon.

(2) [A] EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, A DNA sample or DNA record may not be destroyed or expunged

automatically from the State DNA database if the criminal action is put on the stet docket or the individual receives probation before judgment.

(3) A DNA SAMPLE OR DNA RECORD GENERATED FROM COLLECTION FROM AN INDIVIDUAL CHARGED WITH A CRIME DESCRIBED UNDER § 2-504(A)(2) OF THIS SUBTITLE ON OR BEFORE NOVEMBER 30, 2023, SHALL BE DESTROYED AND EXPUNGED IF:

(I) AT LEAST 1 YEAR HAS PASSED FROM THE DATE OF COLLECTION OF THE DNA SAMPLE;

(II) THERE IS AN ASSOCIATED CHARGE IN THE DISTRICT COURT, THE DISPOSITION OF WHICH IS GUILTY, PROBATION BEFORE JUDGMENT, OR PLACEMENT ON THE STET DOCKET; OR

(III) NO OTHER QUALIFYING CHARGE FOR WHICH COLLECTION OF A DNA SAMPLE IS AUTHORIZED UNDER THIS SUBTITLE HAS BEEN REFERRED TO THE CIRCUIT COURT.

(b) If the DNA sample or DNA record was obtained or generated only in connection with a case in which eligibility for expungement has been established, the DNA sample shall be destroyed and the DNA record shall be expunged.

(c) Any DNA record expunged in accordance with this section shall be expunged from every database into which it has been entered, including local, State, and federal databases.

(d) An expungement or destruction of sample under this section shall occur within 60 days of an event listed in subsection (a) of this section.

(e) [A letter] WRITTEN NOTICE documenting expungement of the DNA record and destruction of the DNA sample shall be [sent by the Director] PROVIDED to the defendant [and the defendant's attorney at the address specified by the court in the order of expungement] IN ACCORDANCE WITH REGULATIONS ADOPTED BY THE DEPARTMENT.

(f) A record or sample that qualifies for expungement or destruction under this section and is matched concurrent with or subsequent to the date of qualification for expungement:

(1) may not be utilized for a determination of probable cause regardless of whether it is expunged or destroyed timely; and

(2) is not admissible in any proceeding for any purpose.

(g) The Director shall adopt procedures AND REGULATIONS to comply with this section."