

Judiciary 2-20-89 (p.455)  
DO pass 2-27-89 (p.543)

reprinted

FILED FEB 20 1989

SENATE FILE 233  
BY VARN

Passed Senate, Date 3-9-89 (p.691) Passed House, Date 4-13-89 (p.1565)  
Vote: Ayes 38 Nays 7 Vote: Ayes 89 Nays 3  
Approved May 11, 1989

A BILL FOR

1 An Act providing for DNA profiling of certain criminal offenders.  
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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SENATE FILE 233

S-3150

1 Amend Senate File 233 as follows:  
2 1. Page 1, line 28, by striking the word "shall"  
3 and inserting the following: "may".  
By TOM MANN, JR.

S-3150 FILED MARCH 1, 1989  
Adopted 3-9-89 (p.690)

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1 Section 1. NEW SECTION. 13.10 PHYSICAL CRIMINAL EVIDENCE  
2 -- DNA PROFILING.

3 The attorney general shall adopt rules in consultation with  
4 the division of criminal investigation, department of public  
5 safety, for the purpose of classifying felonies and indictable  
6 misdemeanors which shall require the offender to submit a  
7 physical specimen for DNA profiling as a condition of  
8 probation, parole, or work release. Factors to be considered  
9 shall include the deterrent effect of DNA profiling, the  
10 likelihood of repeated violations, and the seriousness of the  
11 offense.

12 Upon appropriation or receipt of sufficient funds, the  
13 division of criminal investigation shall carry out DNA pro-  
14 filing of submitted physical specimens. The division may  
15 contract with private entities for DNA profiling. "DNA  
16 profiling" means the procedure established by the division of  
17 criminal investigation, department of public safety, for  
18 determining a person's genetic identity.

19 Sec. 2. Section 901.2, unnumbered paragraph 1, Code 1989,  
20 is amended to read as follows:

21 Upon a plea of guilty, a verdict of guilty, or a special  
22 verdict upon which a judgment of conviction of any a public  
23 offense may be rendered, the court shall receive from the  
24 state, from the judicial district department of correctional  
25 services, and from the defendant any information which may be  
26 offered which is relevant to the question of sentencing. The  
27 court may consider information from other sources.

361,3150-28 Notwithstanding section 13.10, the court shall determine if  
29 the defendant shall be required to provide a physical specimen  
30 to be submitted for DNA profiling if the defendant is to be  
31 placed on probation or work release. The court shall consider  
32 the deterrent effect of DNA profiling, the likelihood of  
33 repeated violations by the defendant, and the seriousness of  
34 the offense. When funds have been allocated from the general  
35 fund of the state, or funds are provided by other public or

1 private sources, the court shall order DNA profiling. The  
2 court shall order a presentence investigation when the offense  
3 is a class "B," class "C," or class "D" felony. A presentence  
4 investigation for a class "B," class "C," or class "D" felony  
5 shall not be waived. The court may order, with the consent of  
6 the defendant, that the presentence investigation begin prior  
7 to the acceptance of a plea of guilty, or prior to a verdict  
8 of guilty. The court may order a presentence investigation  
9 when the offense is an aggravated or serious misdemeanor.

10 Sec. 3. Section 906.4, Code 1989, is amended by adding the  
11 following new unnumbered paragraph:

3158-12 NEW UNNUMBERED PARAGRAPH. Notwithstanding section 13.10,  
3155-13 the board shall determine if the defendant shall be required  
14 to provide a physical specimen to be submitted for DNA  
15 profiling as a condition of parole or work release. The board  
16 shall consider the deterrent effect of DNA profiling, the  
17 likelihood of repeated violations by the offender, and the  
3153-18 seriousness of the offense. When funds have been allocated  
19 from the general fund of the state, or funds have been  
20 provided by other public or private sources, the board shall  
21 order DNA profiling if appropriate.

22 EXPLANATION

23 This bill provides that the attorney general shall adopt  
24 rules, in consultation with the division of criminal  
25 investigation, for the purpose of classifying felonies and  
26 indictable misdemeanors which require the offender to submit a  
27 physical sample for DNA profiling. Factors to be considered  
28 are delineated. The division will perform DNA profiling upon  
29 allocation of the funds. The sentencing court and board of  
30 parole are authorized to require DNA profiling as a condition  
31 of probation, parole, or work release, regardless of whether  
32 the offense has been classified by the attorney general.

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## SENATE FILE 233

S-3151

Amend Senate File 233 as follows:

1. Page 2, line 18, by inserting after the word  
 "offense." the following: "The court, to the extent  
 possible, shall pursue a course of least offensive  
 intrusion and shall endeavor to preserve the privacy  
 rights of any person forced to submit to a search  
 pursuant to this section."

By TOM MANN, JR.

S-3151 FILED MARCH 1, 1989

*Withdrawn 3-9-89 (p.690)*

SENATE FILE 233

S-3152

1 Amend Senate File 233 as follows:

2 1. Page 1, line 34, by inserting after the word  
 3 "offense." the following: "The court, to the extent  
 4 possible, shall pursue a course of least offensive  
 5 intrusion and shall endeavor to preserve the privacy  
 6 rights of any person forced to submit to a search  
 7 pursuant to this section."

By TOM MANN, JR.

S-3152 FILED MARCH 1, 1989

*lost 3-9-89 (p.690)*

SENATE FILE 233

S-3153

1 Amend Senate File 233 as follows:

2 1. Page 2, line 18, by inserting after the word  
 3 "offense." the following: "The court shall only order  
 4 an inmate to produce a physical specimen when probable  
 5 cause exists to believe that the inmate has committed  
 6 an offense, other than an offense which resulted in  
 7 the inmate's incarceration."

By TOM MANN, JR.

S-3153 FILED MARCH 1, 1989

*Withdrawn 3-9-89 (p.690)*

SENATE FILE 233

S-3154

1 Amend Senate File 233 as follows:

2 1. Page 1, line 34, by inserting after the word  
 3 "offense." the following: "The court shall only order  
 4 an inmate to produce a physical specimen when probable  
 5 cause exists to believe that the inmate has committed  
 6 an offense, other than an offense which resulted in  
 7 the inmate's incarceration."

By TOM MANN, JR.

S-3154 FILED MARCH 1, 1989

*lost 3-9-89 (p.690)*

SENATE FILE 233

S-3155

1 Amend Senate File 233 as follows:

2 1. Page 2, line 13, by striking the words "board  
 3 shall" and inserting the following: "board may".

By TOM MANN, JR.

S-3155 FILED MARCH 1, 1989

*Adopted 3-9-89 (p.690)*

## SENATE FILE 233

S-3158

1 Amend Senate File 233 as follows:

2 1. Page 2, line 12, by inserting after the figure  
3 "13.10," the following: "the 5th amendment to the  
4 United States Constitution's guarantee against self-  
5 incrimination, and the 4th amendment to the United  
6 States Constitution's and article I, section 8, of the  
7 Iowa Constitution's prohibition against unreasonable  
8 search and seizure without warrant or without probable  
9 cause,".

By TOM MANN, JR.

S-3158 FILED MARCH 1, 1989

*Withdrawn 3-9-89 (p. 690)*

SENATE FILE 233

S-3159

1 Amend Senate File 233 as follows:

2 1. Page 1, line 28, by inserting after the figure  
3 "13.10," the following: "the 5th amendment to the  
4 United States Constitution's guarantee against self-  
5 incrimination, and the 4th amendment to the United  
6 States Constitution's and article I, section 8, of the  
7 Iowa Constitution's prohibition against unreasonable  
8 search and seizure without warrant or without probable  
9 cause,".

By TOM MANN, JR.

S-3159 FILED MARCH 1, 1989

*Wst 3-9-89 (p. 690)*

House Judicial Law  
 Amended DO PASS per amend. 37411 3-31-89 (p. 1179)  
 DO PASS 4-5-89 (p. 1296)

SENATE FILE 233  
 BY VARN

(AS AMENDED AND PASSED BY THE SENATE MARCH 9, 1989)  
 \_\_\_\_\_ - New Language by the Senate

Passed Senate, Date 3/9/89 (p. 691) Passed House, Date 4-13-89 (p. 1505)  
 Vote: Ayes 38 Nays 7 Vote: Ayes 89 Nays 3  
 Approved May 11, 1989

A BILL FOR

1 An Act providing for DNA profiling of certain criminal offenders.  
 2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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S.F. 233

1 Section 1. NEW SECTION. 13.10 PHYSICAL CRIMINAL EVIDENCE  
2 - -DNA PROFILING.

3 The attorney general shall adopt rules in consultation with  
4 the division of criminal investigation, department of public  
5 safety, for the purpose of classifying felonies and indictable  
6 misdemeanors which shall require the offender to submit a  
7 physical specimen for DNA profiling as a condition of  
8 probation, parole, or work release. Factors to be considered  
9 shall include the deterrent effect of DNA profiling, the  
10 likelihood of repeated violations, and the seriousness of the  
11 offense.

12 Upon appropriation or receipt of sufficient funds, the  
13 division of criminal investigation shall carry out DNA pro-  
14 filing of submitted physical specimens. The division may  
15 contract with private entities for DNA profiling. "DNA  
16 profiling" means the procedure established by the division of  
17 criminal investigation, department of public safety, for  
18 determining a person's genetic identity.

19 Sec. 2. Section 901.2, unnumbered paragraph 1, Code 1989,  
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21 Upon a plea of guilty, a verdict of guilty, or a special  
22 verdict upon which a judgment of conviction of any a public  
23 offense may be rendered, the court shall receive from the  
24 state, from the judicial district department of correctional  
25 services, and from the defendant any information which may be  
26 offered which is relevant to the question of sentencing. The  
27 court may consider information from other sources.

28 Notwithstanding section 13.10, the court may determine if the  
29 defendant shall be required to provide a physical specimen to  
30 be submitted for DNA profiling if the defendant is to be  
31 placed on probation or work release. The court shall consider  
32 the deterrent effect of DNA profiling, the likelihood of  
33 repeated violations by the defendant, and the seriousness of  
34 the offense. When funds have been allocated from the general  
35 fund of the state, or funds are provided by other public or

1 private sources, the court shall order DNA profiling. The  
2 court shall order a presentence investigation when the offense  
3 is a class "B," class "C," or class "D" felony. A presentence  
4 investigation for a class "B," class "C," or class "D" felony  
5 shall not be waived. The court may order, with the consent of  
6 the defendant, that the presentence investigation begin prior  
7 to the acceptance of a plea of guilty, or prior to a verdict  
8 of guilty. The court may order a presentence investigation  
9 when the offense is an aggravated or serious misdemeanor.

10 Sec. 3. Section 906.4, Code 1989, is amended by adding the  
11 following new unnumbered paragraph:

12 NEW UNNUMBERED PARAGRAPH. Notwithstanding section 13.10,  
13 the board may determine if the defendant shall be required to  
14 provide a physical specimen to be submitted for DNA profiling  
15 as a condition of parole or work release. The board shall  
16 consider the deterrent effect of DNA profiling, the likelihood  
17 of repeated violations by the offender, and the seriousness of  
18 the offense. When funds have been allocated from the general  
19 fund of the state, or funds have been provided by other public  
20 or private sources, the board shall order DNA profiling if  
21 appropriate.

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SENATE FILE 233

AN ACT

PROVIDING FOR DNA PROFILING OF CERTAIN CRIMINAL OFFENDERS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. NEW SECTION. 13.10 PHYSICAL CRIMINAL EVIDENCE

-- DNA PROFILING.

The attorney general shall adopt rules in consultation with the division of criminal investigation, department of public safety, for the purpose of classifying felonies and indictable misdemeanors which shall require the offender to submit a physical specimen for DNA profiling as a condition of probation, parole, or work release. Factors to be considered shall include the deterrent effect of DNA profiling, the likelihood of repeated violations, and the seriousness of the offense.

Upon appropriation or receipt of sufficient funds, the division of criminal investigation shall carry out DNA profiling of submitted physical specimens. The division may contract with private entities for DNA profiling. "DNA profiling" means the procedure established by the division of criminal investigation, department of public safety, for determining a person's genetic identity.

Sec. 2. Section 901.2, unnumbered paragraph 1, Code 1989, is amended to read as follows:

Upon a plea of guilty, a verdict of guilty, or a special verdict upon which a judgment of conviction of any a public offense may be rendered, the court shall receive from the state, from the judicial district department of correctional services, and from the defendant any information which may be offered which is relevant to the question of sentencing. The court may consider information from other sources.

Notwithstanding section 13.10, the court may determine if the defendant shall be required to provide a physical specimen to be submitted for DNA profiling if the defendant is to be placed on probation or work release. The court shall consider the deterrent effect of DNA profiling, the likelihood of repeated violations by the defendant, and the seriousness of the offense. When funds have been allocated from the general fund of the state, or funds are provided by other public or private sources, the court shall order DNA profiling. The court shall order a presentence investigation when the offense is a class "B," class "C," or class "D" felony. A presentence investigation for a class "B," class "C," or class "D" felony shall not be waived. The court may order, with the consent of the defendant, that the presentence investigation begin prior to the acceptance of a plea of guilty, or prior to a verdict of guilty. The court may order a presentence investigation when the offense is an aggravated or serious misdemeanor.

Sec. 3. Section 906.4, Code 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Notwithstanding section 13.10, the board may determine if the defendant shall be required to provide a physical specimen to be submitted for DNA profiling as a condition of parole or work release. The board shall consider the deterrent effect of DNA profiling, the likelihood of repeated violations by the offender, and the seriousness of the offense. When funds have been allocated from the general

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fund of the state, or funds have been provided by other public or private sources, the board shall order DNA profiling if appropriate.

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JO ANN ZIMMERMAN  
President of the Senate

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DONALD D. AVENSON  
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 233, Seventy-third General Assembly.

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JOHN F. DWYER  
Secretary of the Senate

Approved \_\_\_\_\_, 1989

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TERRY E. BRANSTAD  
Governor