

Maddox  
Boettger  
Dvorsky

SSB-3019  
Judiciary  
Succeeded By  
SF/HF 2324

SENATE/HOUSE FILE  
BY (PROPOSED ATTORNEY  
GENERAL BILL)

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

A BILL FOR

1 An Act relating to DNA profiling.

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

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1 Section 1. Section 13.10, Code 1999, is amended to read as  
2 follows:

3 13.10 PHYSICAL CRIMINAL EVIDENCE -- DNA PROFILING.

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

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

21 Sec. 2. Section 901.2, unnumbered paragraph 2, Code  
22 Supplement 1999, is amended by striking the unnumbered  
23 paragraph.

24 Sec. 3. Section 901.5, Code 1999, is amended by adding the  
25 following new subsection:

26 NEW SUBSECTION. 8A. a. The court shall order DNA  
27 profiling of a defendant convicted of an offense that requires  
28 profiling under section 13.10.

29 b. Notwithstanding section 13.10, the court may order the  
30 defendant to provide a physical specimen to be submitted for  
31 DNA profiling if appropriate. In determining the  
32 appropriateness of ordering DNA profiling, the court shall  
33 consider the deterrent effect of DNA profiling, the likelihood  
34 of repeated offenses by the defendant, and the seriousness of  
35 the offense.

1 Sec. 4. Section 906.4, unnumbered paragraph 2, Code 1999,  
2 is amended to read as follows:

3 ~~Notwithstanding section 13.10, the board may determine if~~  
4 ~~the defendant shall be required to provide a physical specimen~~  
5 ~~to be submitted for DNA profiling as a condition of parole or~~  
6 ~~work release. The board shall consider the deterrent effect~~  
7 ~~of DNA profiling, the likelihood of repeated violations by the~~  
8 ~~offender, and the seriousness of the offense. When funds have~~  
9 ~~been allocated from the general fund of the state, or funds~~  
10 ~~have been provided by other public or private sources, the~~ The  
11 board shall order DNA profiling if appropriate as a condition  
12 of parole or work release, if the court has not ordered DNA  
13 profiling under section 901.5, and if the offense requires  
14 profiling under section 13.10. Notwithstanding section 13.10,  
15 the board may order the defendant to provide a physical  
16 specimen to be submitted for DNA profiling as a condition of  
17 parole or work release, if appropriate. In determining the  
18 appropriateness of ordering DNA profiling, the board shall  
19 consider the deterrent effect of DNA profiling, the likelihood  
20 of repeated offenses by the defendant, and the seriousness of  
21 the offense.

22 EXPLANATION

23 This bill relates to DNA testing of certain criminal  
24 defendants. The bill provides that a defendant shall be  
25 ordered by the court to submit to a DNA test upon confinement  
26 in a county jail or prison if the defendant was convicted of  
27 an offense that requires testing as determined by the attorney  
28 general. Existing law limits DNA testing as a condition of  
29 probation, parole, or work release. However, existing law  
30 provides that the court or parole board may order DNA testing  
31 of any defendant, if the test is deemed appropriate.

32 The bill also requires the court or parole board to order  
33 DNA testing if the defendant was convicted of an offense  
34 requiring DNA testing. Existing law permits the court or  
35 parole board to order DNA testing if sufficient funds are

S.F. \_\_\_\_\_ H.F. \_\_\_\_\_

1 available for testing.

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jm/as/5



## Department of Justice

THOMAS J. MILLER  
ATTORNEY GENERAL

ADDRESS REPLY TO:  
HOOVER BUILDING  
DES MOINES, IOWA 50319  
TELEPHONE: 515-281-5164  
FACSIMILE: 515-281-4209

### MEMORANDUM

**TO:** Members of the Iowa General Assembly  
**FROM:** Anne Bunz, Legislative Liaison  
**DATE:** January 10, 2000  
**SUBJECT:** DNA Profiling

The Iowa Attorney General's Office is submitting a bill request for legislation dealing with offenders who are required to submit a physical specimen for DNA profiling.

Current law requires that offenders of specified felonies and indictable misdemeanors, who are being considered for probation, parole, or work release, be required to submit a physical specimen for DNA profiling.

The intent of Section 1 of the bill would amend current code by having offenders who would be considered for release or discharge from the correctional system, and who would not fall under probation, parole or work release, be required to submit a specimen for DNA profiling.

Section 2 of the bill requires the court to give notice to the offender that a DNA sample may be required of them. This section allows the court to hold those offenders, not willing to provide a DNA sample, in contempt of court.

Offenses for which an offender can be required to submit a DNA sample are listed in the Iowa Administrative Code Chapter 61 – Attorney General's Office.

FILED FEB 24 2000

REPRINTED

SENATE FILE 2324  
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 3019)

Passed Senate, Date <sup>(P. 584)</sup> 3-8-00 Passed House, Date <sup>(P. 1175)</sup> 4-3-00  
Vote: Ayes 50 Nays \_\_\_\_\_ Vote: Ayes 97 Nays 0  
Approved 4-20-00

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SF  
2324

1 Section 1. Section 13.10, Code 1999, is amended to read as  
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3 13.10 PHYSICAL CRIMINAL EVIDENCE -- DNA PROFILING.

4 The attorney general shall adopt rules in consultation with  
5 the division of criminal investigation, department of public  
6 safety, for the purpose of classifying felonies and indictable  
7 misdemeanors which shall require the offender to submit a  
8 physical specimen for DNA profiling upon confinement in or  
9 prior to release from a county jail, upon commitment to the  
10 custody of the director of the department of corrections or,  
11 prior to discharge of sentence or, as a condition of  
12 probation, parole, or work-release. Factors to be considered  
13 shall include the deterrent effect of DNA profiling, the  
14 likelihood of repeated violations, and the seriousness of the  
15 offense.

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

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24 Supplement 1999, is amended by striking the unnumbered  
25 paragraph.

26 Sec. 3. Section 901.5, Code 1999, is amended by adding the  
27 following new subsection:

28 NEW SUBSECTION. 8A. a. The court shall order DNA  
29 profiling of a defendant convicted of an offense that requires  
30 profiling under section 13.10.

31 b. Notwithstanding section 13.10, the court may order the  
32 defendant to provide a physical specimen to be submitted for  
33 DNA profiling if appropriate. In determining the  
34 appropriateness of ordering DNA profiling, the court shall  
35 consider the deterrent effect of DNA profiling, the likelihood

1 of repeated offenses by the defendant, and the seriousness of  
2 the offense.

3 Sec. 4. Section 906.4, unnumbered paragraph 2, Code 1999,  
4 is amended to read as follows:

5 ~~Notwithstanding section 13.10, the board may determine if~~  
6 ~~the defendant shall be required to provide a physical specimen~~  
7 ~~to be submitted for DNA profiling as a condition of parole or~~  
8 ~~work release. The board shall consider the deterrent effect~~  
9 ~~of DNA profiling, the likelihood of repeated violations by the~~  
10 ~~offender, and the seriousness of the offense. When funds have~~  
11 ~~been allocated from the general fund of the state, or funds~~  
12 ~~have been provided by other public or private sources, the~~  
13 ~~board shall order DNA profiling if appropriate.~~

14 Notwithstanding section 13.10, the board may order the  
15 defendant to provide a physical specimen to be submitted for  
16 DNA profiling as a condition of parole or work release, if  
17 appropriate. In determining the appropriateness of ordering  
18 DNA profiling, the board shall consider the deterrent effect  
19 of DNA profiling, the likelihood of repeated offenses by the  
20 defendant, and the seriousness of the offense.

21 EXPLANATION

22 This bill relates to DNA testing of certain criminal  
23 defendants. The bill provides that a defendant shall be  
24 ordered by the court to submit to a DNA test upon confinement  
25 in or release from a county jail, or as a condition of  
26 probation, or commitment to prison, or upon discharge of a  
27 sentence if the defendant was convicted of an offense that  
28 requires testing as determined by the attorney general.  
29 Existing law limits DNA testing as a condition of probation,  
30 parole, or work release.

31 The bill also requires the court to order DNA testing if  
32 the defendant was convicted of an offense requiring DNA  
33 testing.

34 Existing law and the bill provide that the court or parole  
35 board may order DNA testing of any defendant, if the test is



- 1 deemed appropriate.
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## SENATE FILE 2324

S-5049

1 Amend Senate File 2324 as follows:

2 1. Page 1, by inserting after line 22 the  
3 following:

4 "Sec. \_\_\_\_\_. Section 216.6, subsection 1, paragraph  
5 a, Code 1999, is amended to read as follows:

6 a. Person to refuse to hire, accept, register,  
7 classify, or refer for employment, to discharge any  
8 employee, or to otherwise discriminate in employment  
9 against any applicant for employment or any employee  
10 because of the age, race, creed, color, sex, national  
11 origin, religion, genetic test results, or disability  
12 of such applicant or employee, unless based upon the  
13 nature of the occupation. If a person with a  
14 disability is qualified to perform a particular  
15 occupation, by reason of training or experience, the  
16 nature of that occupation shall not be the basis for  
17 exception to the unfair or discriminating practices  
18 prohibited by this subsection.

19 Sec. \_\_\_\_\_. NEW SECTION. 514L.1 DISCLOSURE OF  
20 GENETIC INFORMATION PROHIBITED.

21 1. The results of a genetic test are confidential  
22 information and shall not be disclosed by an insurer  
23 without the written consent of the individual to whom  
24 the test relates, such individual's legal guardian, or  
25 such individual's parent if the individual is a minor.

26 2. An insurer shall not deny the issuance or  
27 renewal of a contract or policy, or deny coverage  
28 under an existing contract or policy based upon the  
29 results of a genetic test.

30 3. For purposes of this section, unless the  
31 context otherwise requires:

32 a. "Genetic test" means a laboratory test of human  
33 chromosomes, genes, or gene products that is used to  
34 identify the presence or absence of inherited or  
35 congenital alterations in genetic material that are  
36 associated with a disease or illness.

37 b. "Insurer" means all of the following:

38 (1) A company or association organized under  
39 chapter 508, 511, 512A, 512B, 514, 514B, or 515, that  
40 delivers, issues for delivery, continues, or renews a  
41 contract or policy including any of the following:

42 (a) Individual accident and sickness insurance  
43 providing coverage on an expense-incurred basis.

44 (b) Individual hospital or medical service  
45 contract.

46 (c) An individual health maintenance organization  
47 contract.

48 (d) An individual or group life insurance  
49 contract.

50 (2) Any other entity engaged in the business of

S-5049

1 insurance, risk transfer, or risk retention, which is  
2 subject to the jurisdiction of the commissioner.

3 (3) A plan established pursuant to chapter 509A  
4 for public employees.

5 (4) An organized delivery system licensed by the  
6 director of public health.

7 Sec. \_\_\_\_ . NEW SECTION. 727.12 DISCLOSURE OF  
8 GENETIC TEST INFORMATION -- PENALTY.

9 A person who has, or is granted, access to the  
10 results of an individual's genetic test shall not  
11 disclose any information relating to such test to any  
12 other person, except to the extent permitted by the  
13 individual as evidenced by the individual's written  
14 consent. A person who violates this section commits a  
15 simple misdemeanor."

16 2. Title page, line 1, by striking the words "to  
17 DNA profiling" and inserting the following: "genetic  
18 information and providing a penalty".

By JOHNIE HAMMOND  
JOE BOLKCOM  
ROBERT E. DVORSKY

S-5049 FILED MARCH 1, 2000

*o/o  
(p. 581)*

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SENATE FILE 2324

S-5109

1 Amend Senate File 2324 as follows:

2 1. Page 1, line 4, by inserting before the words  
3 "The attorney" the following: "1."

4 2. Page 1, line 15, by inserting after the word  
5 "offense." the following: "The offenses that require  
6 the offender to submit a physical specimen for DNA  
7 profiling shall include but are not limited to the  
8 following:

9 a. Murder in violation of section 707.2 or 707.3.

10 b. Attempt to commit murder in violation of  
11 section 707.11.

12 c. Kidnapping in violation of section 710.1,  
13 710.2, or 710.3.

14 d. Sexual abuse in violation of sections 709.2,  
15 709.3, or 709.4.

16 e. Assault with intent to commit sexual abuse in  
17 violation of section 709.11.

18 f. Assault while participating in a felony in  
19 violation of section 708.3.

20 g. Burglary in the first degree in violation of  
21 section 713.3."

22 3. Page 1, line 16, by inserting before the word  
23 "The" the following: "2."

By ROBERT E. DVORSKY

*(p. 584)*  
S-5109 FILED MARCH 8, 2000  
ADOPTED

H. 3/9/00 Judiciary  
H. 3/15/00 Do Pass  
H. 3/23/00 Unfiled Business Calendar

SENATE FILE **2324**  
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 3019)

(AS AMENDED AND PASSED BY THE SENATE MARCH 8, 2000)

\_\_\_\_\_ - New Language by the Senate

Passed Senate, Date \_\_\_\_\_ Passed House, <sup>(P. 1175)</sup> Date 4-3-00  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes 97 Nays 0  
Approved 4/20/00

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SF 2324

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4 1. The attorney general shall adopt rules in consultation  
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7 indictable misdemeanors which shall require the offender to  
8 submit a physical specimen for DNA profiling upon confinement  
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11 or, prior to discharge of sentence or, as a condition of  
12 probation, parole, or work-release. Factors to be considered  
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14 likelihood of repeated violations, and the seriousness of the  
15 offense. The offenses that require the offender to submit a  
16 physical specimen for DNA profiling shall include but are not  
17 limited to the following:

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20 707.11.

21 c. Kidnapping in violation of section 710.1, 710.2, or  
22 710.3.

23 d. Sexual abuse in violation of sections 709.2, 709.3, or  
24 709.4.

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26 of section 709.11.

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28 section 708.3.

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31 Upon appropriation or receipt of sufficient funds, the 2.  
32 The division of criminal investigation shall carry out DNA  
33 profiling of submitted physical specimens. The division may  
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1 criminal investigation, department of public safety, for  
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SENATE FILE 2324

AN ACT

RELATING TO DNA PROFILING.

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

Section 1. Section 13.10, Code 1999, is amended to read as follows:

13.10 PHYSICAL CRIMINAL EVIDENCE -- DNA PROFILING.

1. 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 upon confinement in or prior to release from a county jail, upon commitment to the custody of the director of the department of corrections or, prior to discharge of sentence or, 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. The offenses that require the offender to submit a physical specimen for DNA profiling shall include but are not limited to the following:

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- e. Assault with intent to commit sexual abuse in violation of section 709.11.
- f. Assault while participating in a felony in violation of section 706.3.
- g. Burglary in the first degree in violation of section 713.3.

~~2. Upon appropriation or receipt of sufficient funds, the~~ 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.

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SF 2324

DNA profiling, the board shall consider the deterrent effect of DNA profiling, the likelihood of repeated offenses by the defendant, and the seriousness of the offense.

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MARY E. KRAMER  
President of the Senate

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BRENT SIEGRIST  
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 2324, Seventy-eighth General Assembly.

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MICHAEL E. MARSHALL  
Secretary of the Senate

Approved 4/20, 2000

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THOMAS J. VILSACK  
Governor