

1 AN ACT

2 RELATING TO DNA IDENTIFICATION; PROVIDING THAT THE DNA
3 IDENTIFICATION SYSTEM OVERSIGHT COMMITTEE SHALL DESIGNATE THE
4 LOCATION OF THE ADMINISTRATIVE CENTER AND APPROVE THE
5 SELECTION OF THE HEAD OF THE ADMINISTRATIVE CENTER; PROVIDING
6 FOR QUALIFICATIONS FOR THE HEAD OF THE ADMINISTRATIVE CENTER;
7 REQUIRING A WRITTEN AGREEMENT BETWEEN THE COMMITTEE AND THE
8 LAW ENFORCEMENT AGENCY WHERE THE ADMINISTRATIVE CENTER IS
9 LOCATED; PROVIDING FOR THE COLLECTION OF THE DNA FEE BY THE
10 CORRECTIONS DEPARTMENT; CLARIFYING DEFINITIONS IN THE DNA
11 IDENTIFICATION ACT.

12
13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

14 SECTION 1. Section 29-16-3 NMSA 1978 (being Laws 1997,
15 Chapter 105, Section 3, as amended) is amended to read:

16 "29-16-3. DEFINITIONS.--As used in the DNA
17 Identification Act:

18 A. "administrative center" means the part of a law
19 enforcement agency crime laboratory that participates in the
20 national DNA index system and that administers and operates
21 the DNA identification system;

22 B. "CODIS" means the federal bureau of
23 investigation's national DNA index system for storage and
24 exchange of DNA records submitted by forensic DNA
25 laboratories;

1 C. "covered offender" means any person:

2 (1) convicted of a felony offense as an
3 adult pursuant to state, federal or military law;

4 (2) convicted as an adult pursuant to
5 youthful offender or serious youthful offender proceedings
6 under the Children's Code or pursuant to comparable or
7 equivalent proceedings under state, federal or military law;
8 or

9 (3) required to register as a sex offender
10 pursuant to the provisions of the Sex Offender Registration
11 and Notification Act;

12 D. "department" means the department of public
13 safety;

14 E. "DNA" means deoxyribonucleic acid as the basis
15 of human heredity;

16 F. "DNA identification system" means the DNA
17 identification system established pursuant to the DNA
18 Identification Act;

19 G. "DNA oversight committee" means the DNA
20 identification system oversight committee;

21 H. "DNA records" means the results of DNA testing
22 and related information;

23 I. "DNA testing" means a forensic DNA analysis
24 that includes restriction fragment length polymorphism,
25 polymerase chain reaction or other valid methods of DNA

1 typing performed to obtain identification characteristics of
2 samples;

3 J. "fund" means the DNA identification system
4 fund;

5 K. "missing persons DNA identification system"
6 means the missing persons DNA identification system
7 established by the DNA Identification Act;

8 L. "sample" means a sample of biological material
9 sufficient for DNA testing; and

10 M. "sex offender DNA identification system" means
11 the sex offender DNA identification system established by the
12 DNA Identification Act."

13 SECTION 2. Section 29-16-4 NMSA 1978 (being Laws 1997,
14 Chapter 105, Section 4, as amended) is amended to read:

15 "29-16-4. ADMINISTRATIVE CENTER--POWERS AND DUTIES--
16 HEAD--LOCATION--WRITTEN AGREEMENT.--

17 A. The administrative center shall:

18 (1) establish and administer the DNA
19 identification system. The DNA identification system shall
20 provide for collection, storage, DNA testing, maintenance and
21 comparison of samples and DNA records for forensic and
22 humanitarian purposes. Those purposes shall include
23 generation of investigative leads, statistical analysis of
24 DNA profiles and identification of missing persons and
25 unidentified human remains. Procedures used for DNA testing

1 shall be compatible with the procedures the federal bureau of
2 investigation has specified, including comparable test
3 procedures, laboratory equipment, supplies and computer
4 software. Procedures used shall meet or exceed the
5 provisions of the federal DNA Identification Act of 1994
6 regarding minimum standards for state participation in CODIS,
7 including minimum standards for the acceptance, security and
8 dissemination of DNA records;

9 (2) coordinate sample collection activities;

10 (3) perform or contract for DNA testing;

11 (4) serve as a repository for samples and

12 DNA records;

13 (5) act as liaison with the federal bureau

14 of investigation for purposes of CODIS;

15 (6) adopt rules and procedures governing:

16 (a) sample collection;

17 (b) DNA testing;

18 (c) the DNA identification system and

19 DNA records;

20 (d) the acceptance, security and

21 dissemination of DNA records; and

22 (e) communication between local, state

23 and federal law enforcement agencies, the corrections

24 department and local jails and detention facilities in order

25 to minimize duplicate sample collections from the same

1 individual;

2 (7) provide training to jail and detention
3 facility personnel who are required to collect samples
4 pursuant to Section 29-3-10 NMSA 1978;

5 (8) be reimbursed for, pursuant to the DNA
6 Identification Act, the costs of sample collection and DNA
7 testing of samples taken for the purposes of the
8 identification of missing persons and unidentified human
9 remains;

10 (9) establish and administer the missing
11 persons DNA identification system as a part of the DNA
12 identification system; and

13 (10) establish and administer the sex
14 offender DNA identification system as part of the DNA
15 identification system.

16 B. The chief of the law enforcement agency where
17 the administrative center is located shall select the head of
18 the administrative center with the approval of six members of
19 the DNA oversight committee. The head of the administrative
20 center shall manage the operations of the administrative
21 center and shall have the education and experience to meet or
22 exceed the requirements for a technical leader or a CODIS
23 administrator pursuant to the federal bureau of
24 investigation's quality assurance standards.

25 C. The administrative center shall be located at

1 the crime laboratory of the law enforcement agency for the
2 largest municipality in a class A county having a population
3 of more than five hundred thousand at the most recent federal
4 decennial census. If a relocation of the administrative
5 center is required for continued compliance with the
6 provisions of the DNA Identification Act, the DNA oversight
7 committee shall designate any future locations of the
8 administrative center upon approval of six voting members of
9 the committee.

10 D. The DNA oversight committee shall enter into a
11 written agreement with the law enforcement agency where the
12 administrative center is located and may designate the
13 attorney general to enter into the agreement on its behalf
14 and with its approval."

15 SECTION 3. Section 29-16-5 NMSA 1978 (being Laws 1997,
16 Chapter 105, Section 5, as amended) is amended to read:

17 "29-16-5. DNA OVERSIGHT COMMITTEE--CREATED--POWERS AND
18 DUTIES.--

19 A. The "DNA identification system oversight
20 committee" is created. The DNA oversight committee shall be
21 composed of nine voting members as follows:

22 (1) a scientific representative from the
23 department crime laboratory appointed by the secretary of
24 public safety;

25 (2) a scientific representative from the

1 crime laboratory of the police department for the largest
2 municipality in a class A county having a population of more
3 than two hundred fifty thousand at the most recent federal
4 decennial census;

5 (3) the secretary of corrections or the
6 secretary's designated representative;

7 (4) the state medical investigator or the
8 investigator's designated representative;

9 (5) the attorney general or the attorney
10 general's designated representative;

11 (6) the president of the district attorneys'
12 association or the president's designated representative;

13 (7) the chief public defender or the chief
14 public defender's designated representative;

15 (8) the president of the New Mexico criminal
16 defense lawyers association or the president's designated
17 representative; and

18 (9) the head of the administrative center or
19 the head's designated representative.

20 B. The DNA oversight committee shall adopt rules
21 and procedures regarding the administration and operation of
22 the DNA identification system.

23 C. The administrative center shall review and make
24 recommendations to the DNA oversight committee regarding
25 rules and procedures for the administration and operation of

1 the DNA identification system.

2 D. The DNA oversight committee shall oversee the
3 establishment and administration of the missing persons DNA
4 identification system as part of the DNA identification
5 system.

6 E. The DNA oversight committee shall adopt rules
7 and procedures regarding the administration and operation of
8 the missing persons DNA identification system as part of the
9 DNA identification system.

10 F. The DNA oversight committee shall oversee the
11 establishment and administration of the sex offender DNA
12 identification system as part of the DNA identification
13 system.

14 G. The DNA oversight committee shall adopt rules
15 and procedures regarding the administration and operation of
16 the sex offender DNA identification system as part of the DNA
17 identification system.

18 H. The DNA oversight committee shall designate and
19 approve the location of the administrative center as provided
20 in Section 29-16-4 NMSA 1978.

21 I. The DNA oversight committee may award grants
22 and loans pursuant to Section 29-16-13 NMSA 1978."

23 SECTION 4. Section 29-16-11 NMSA 1978 (being Laws 1997,
24 Chapter 105, Section 11) is amended to read:

25 "29-16-11. ASSESSMENT--COLLECTION--DNA FEE.--

1 A. Each time that a covered offender is convicted,
2 the court shall assess a DNA fee of one hundred dollars
3 (\$100) in addition to any other fee, restitution or fine.
4 The corrections department shall collect the DNA fee from the
5 covered offender for deposit in the fund.

6 B. When a covered offender is transferred to New
7 Mexico from another state pursuant to an interstate compact,
8 the corrections department shall assess and collect from the
9 covered offender a DNA fee of one hundred dollars (\$100) for
10 deposit in the fund."

11 SECTION 5. Section 29-16-13 NMSA 1978 (being Laws 1997,
12 Chapter 105, Section 13, as amended) is amended to read:

13 "29-16-13. DNA IDENTIFICATION SYSTEM FUND CREATED--
14 PURPOSES.--

15 A. The "DNA identification system fund" is created
16 in the state treasury. The fund shall consist of all money
17 received by appropriation, gift or grant, all DNA fees
18 collected pursuant to Section 29-16-11 NMSA 1978 and all
19 investment income from the fund.

20 B. Money and investment income in the fund at the
21 end of any fiscal year shall not revert to the general fund
22 but shall remain in the fund. Money and investment income in
23 the fund is appropriated to the administrative center for
24 expenditure in fiscal year 1998 and subsequent fiscal years
25 for the purposes provided in this section.

1 C. The fund shall be used to implement the
2 purposes of the DNA Identification Act, including paying the
3 expenses incurred by the administrative center and all other
4 reasonable expenses. Money in the fund may be used for loans
5 or grants of money, equipment or personnel to any law
6 enforcement agency, correctional facility, jail, detention
7 facility, judicial agency, the public defender department or
8 the office of the medical investigator, upon approval of the
9 DNA oversight committee."

10 SECTION 6. EFFECTIVE DATE.--The effective date of the
11 provisions of this act is July 1, 2013. _____

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