

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

AN ACT

RELATING TO LAW ENFORCEMENT; AMENDING SECTIONS OF THE DNA IDENTIFICATION ACT TO MEET FEDERAL GUIDELINES ON QUALIFYING LABORATORIES; REQUIRING THE COLLECTION OF DNA SAMPLES FROM ADULTS CONVICTED OF A FELONY OFFENSE IN ANOTHER JURISDICTION.

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

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

"29-16-3. DEFINITIONS.--As used in the DNA

Identification Act:

A. "administrative center" means the part of a national DNA index system qualified New Mexico crime laboratory that administers and operates the DNA identification system;

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

C. "covered offender" means any person convicted of a felony offense as an adult pursuant to state, federal, or military law or convicted as an adult pursuant to youthful offender or serious youthful offender proceedings under the Children's Code or a sex offender required to register pursuant to the provisions of the Sex Offender Registration

1 and Notification Act;

2 D. "department" means the department of public  
3 safety;

4 E. "DNA" means deoxyribonucleic acid as the basis  
5 of human heredity;

6 F. "DNA identification system" means the DNA  
7 identification system established pursuant to the DNA  
8 Identification Act;

9 G. "DNA oversight committee" means the DNA  
10 identification system oversight committee;

11 H. "DNA records" means the results of DNA testing  
12 and related information;

13 I. "DNA testing" means a forensic DNA analysis  
14 that includes restriction fragment length polymorphism,  
15 polymerase chain reaction or other valid methods of DNA  
16 typing performed to obtain identification characteristics of  
17 samples;

18 J. "fund" means the DNA identification system  
19 fund;

20 K. "missing persons DNA identification system"  
21 means the missing persons DNA identification system  
22 established by the DNA Identification Act;

23 L. "sample" means a sample of biological material  
24 sufficient for DNA testing; and

25 M. "sex offender DNA identification system" means

1 the sex offender DNA identification system established by the  
2 DNA Identification Act."

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

5 "29-16-4. ADMINISTRATIVE CENTER--POWERS AND DUTIES--  
6 TRANSFER TO OTHER LAW ENFORCEMENT AGENCY.--

7 A. The administrative center shall be an  
8 appropriate unit of the department or such other qualified  
9 New Mexico law enforcement agency as the secretary of public  
10 safety may designate in accordance with this section that  
11 meets the requirements for participation in the national DNA  
12 index system.

13 B. The administrative center shall:

14 (1) establish and administer the DNA  
15 identification system. The DNA identification system shall  
16 provide for collection, storage, DNA testing, maintenance and  
17 comparison of samples and DNA records for forensic and  
18 humanitarian purposes. Those purposes shall include  
19 generation of investigative leads, statistical analysis of  
20 DNA profiles and identification of missing persons and  
21 unidentified human remains. Procedures used for DNA testing  
22 shall be compatible with the procedures the federal bureau of  
23 investigation has specified, including comparable test  
24 procedures, laboratory equipment, supplies and computer  
25 software. Procedures used shall meet or exceed the

1 provisions of the federal DNA Identification Act of 1994  
2 regarding minimum standards for state participation in CODIS,  
3 including minimum standards for the acceptance, security and  
4 dissemination of DNA records;

5 (2) coordinate sample collection activities;

6 (3) perform or contract for DNA testing;

7 (4) serve as a repository for samples and  
8 DNA records;

9 (5) act as liaison with the federal bureau  
10 of investigation for purposes of CODIS;

11 (6) adopt rules and procedures governing:

12 (a) sample collection;

13 (b) DNA testing;

14 (c) the DNA identification system and  
15 DNA records;

16 (d) the acceptance, security and  
17 dissemination of DNA records; and

18 (e) communication between local, state  
19 and federal law enforcement agencies, the corrections  
20 department and local jails and detention facilities in order  
21 to minimize duplicate sample collections from the same  
22 individual;

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

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

6                   (9) establish and administer the missing  
7 persons DNA identification system as a part of the DNA  
8 identification system; and

9                   (10) establish and administer the sex  
10 offender DNA identification system as part of the DNA  
11 identification system.

12                   C. The secretary of public safety may designate,  
13 pursuant to a joint powers agreement, the crime laboratory of  
14 the police department for the largest municipality in a class  
15 A county having a population of more than two hundred fifty  
16 thousand at the most recent federal decennial census to act  
17 as the administrative center.

18                   D. The secretary of public safety may designate,  
19 pursuant to a joint powers agreement, any other law  
20 enforcement agency to act as administrative center upon  
21 recommendation of five voting members of the DNA oversight  
22 committee."

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

25                   "29-16-5. DNA OVERSIGHT COMMITTEE--CREATED--POWERS AND

1 DUTIES.--

2 A. The "DNA identification system oversight  
3 committee" is created. The DNA oversight committee shall be  
4 composed of nine voting members as follows:

5 (1) a scientific representative from the  
6 department crime laboratory appointed by the secretary of  
7 public safety;

8 (2) a scientific representative from the  
9 crime laboratory of the police department for the largest  
10 municipality in a class A county having a population of more  
11 than two hundred fifty thousand at the most recent federal  
12 decennial census;

13 (3) the secretary of corrections or the  
14 secretary's designated representative;

15 (4) the state medical investigator or the  
16 investigator's designated representative;

17 (5) the attorney general or the attorney  
18 general's designated representative;

19 (6) the president of the district attorneys  
20 association or the president's designated representative;

21 (7) the chief public defender or the chief  
22 public defender's designated representative;

23 (8) the president of the New Mexico criminal  
24 defense lawyers association or the president's designated  
25 representative; and

1 (9) the head of the administrative center or  
2 the head's designated representative.

3 B. The DNA oversight committee shall adopt rules  
4 and procedures regarding the administration and operation of  
5 the DNA identification system.

6 C. The administrative center shall review and make  
7 recommendations to the DNA oversight committee regarding  
8 rules and procedures for the administration and operation of  
9 the DNA identification system.

10 D. The DNA oversight committee shall oversee the  
11 establishment and administration of the missing persons DNA  
12 identification system as part of the DNA identification  
13 system.

14 E. The DNA oversight committee shall adopt rules  
15 and procedures regarding the administration and operation of  
16 the missing persons DNA identification system as part of the  
17 DNA identification system.

18 F. The DNA oversight committee shall oversee the  
19 establishment and administration of the sex offender DNA  
20 identification system as part of the DNA identification  
21 system.

22 G. The DNA oversight committee shall adopt rules  
23 and procedures regarding the administration and operation of  
24 the sex offender DNA identification system as part of the DNA  
25 identification system."

---