



524656

LEGISLATIVE ACTION

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| Senate | . | House |
| Comm: FAV | . | |
| 04/01/2009 | . | |
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The Committee on Criminal Justice (Villalobos) recommended the following:

Senate Amendment (with title amendment)

Between lines 358 and 359
insert:

(15) Unless the department determines that a person is otherwise required by law to submit a DNA sample for inclusion in the statewide DNA database, the department shall, upon receipt and completion of such verification of the information noted below as may be required, promptly remove from the statewide DNA database the DNA analysis and any DNA biological samples that may have been retained of a person included



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12 therein:

13 (a) on the basis of a conviction for a qualifying offense
14 specified in (2)(g)1., if the department receives, from the
15 person seeking removal of DNA information from the statewide DNA
16 database, for each qualifying offense, a certified copy of a
17 final court order establishing that such conviction has been
18 overturned on direct appeal or set aside in a postconviction
19 proceeding; or

20 (b) on the basis of an arrest, if the department receives,
21 from the person seeking removal of DNA information from the
22 statewide DNA database, for each charge against the person on
23 the basis of which the analysis was or could have been included
24 in the statewide DNA database, a certified copy of the No
25 Information or Nolle Prosequi filed by the state attorney, or
26 final court order or other official documentation establishing
27 that such charge has been dismissed or has resulted in an
28 acquittal or that no charge was filed within the applicable time
29 period.

30
31 For purposes of this section, a court order is not final if time
32 remains for an appeal or application for discretionary review
33 with respect to the order, or if a case has been remanded for
34 retrial or other proceedings and has not been resolved after
35 remand, or time remains for appeal or discretionary review of
36 the remanded case or any other such proceedings that have not
37 concluded and rendered the case resolved with finality.

38 (16) The department shall, by rule, establish the procedure
39 by which a person seeking removal of his or her DNA analysis and
40 biological sample from the statewide DNA database shall submit



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41 the certified information required in subsection (15) to the
42 department.

43
44 ===== T I T L E A M E N D M E N T =====

45 And the title is amended as follows:

46 Between lines 43 and 44

47 insert:

48 providing circumstances that require removal of the DNA analysis
49 and DNA sample from the statewide DNA database of a person whose
50 DNA analysis and sample was included in the database as a result
51 of a conviction for a qualifying offense; providing
52 circumstances that require removal of the DNA analysis and DNA
53 sample from the statewide DNA database of a person whose DNA
54 analysis and sample was included in the database as a result of
55 arrest; providing the Department of Law Enforcement procedural
56 rulemaking authority related to the implementation of the
57 removal of DNA analyses and samples from the statewide DNA
58 database; providing