

FEB 14 2001
JUDICIARY

HOUSE FILE 254
BY BAUDLER

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act requiring certain criminal defendants to submit a physical
2 specimen for DNA profiling.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 254

1 Section 1. NEW SECTION. 80.40 DNA PROFILING.

2 The division of criminal investigation shall conduct DNA
3 profiling of submitted physical specimens as provided in
4 sections 902.13 and 903.7. The division may contract with
5 private entities for DNA profiling. "DNA profiling" means the
6 procedure established by the division of criminal
7 investigation of the department of public safety for
8 determining a person's genetic identity through the analysis
9 of a person's deoxyribonucleic acid.

10 Sec. 2. Section 901.5, subsection 8A, Code 2001, is
11 amended to read as follows:

12 8A. a. The court shall order DNA profiling, as defined in
13 section 80.40, of a defendant convicted of ~~an offense that~~
14 ~~requires profiling under section 13-10~~ a felony or order DNA
15 profiling if the defendant is convicted of an offense that
16 requires DNA profiling under section 903.7.

17 b. ~~Notwithstanding section 13-10,~~ The court may order
18 the a defendant not subject to DNA profiling under paragraph
19 "a" to provide a physical specimen to be submitted for DNA
20 profiling if appropriate. In determining the appropriateness
21 of ordering the DNA profiling, the court shall consider the
22 deterrent effect of DNA profiling, the likelihood of repeated
23 offenses by the defendant, and the seriousness of the offense.

24 Sec. 3. NEW SECTION. 902.13 DNA PROFILING -- FELONIES.

25 A person against whom a judgment of conviction for a felony
26 has been entered shall submit a physical specimen for DNA
27 profiling, as defined in section 80.40, after the person has
28 been committed to the custody of the director of the
29 department of corrections or upon assignment to a judicial
30 district department of correctional services. If the person
31 is confined in a county jail as a result of a felony
32 conviction under section 321J.2, the person shall submit a
33 physical specimen for DNA profiling prior to release from the
34 county jail. The division of criminal investigation of the
35 department of public safety shall conduct DNA profiling of

1 submitted specimens as provided in section 80.40.

2 Sec. 4. NEW SECTION. 903.7 DNA PROFILING --
3 MISDEMEANORS.

4 The attorney general, in consultation with the division of
5 criminal investigation of the department of public safety,
6 shall classify by rule which indictable misdemeanors shall
7 require the offender to submit a physical specimen for DNA
8 profiling, as defined in section 80.40, 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. Factors to be considered shall include the
13 deterrent effect of DNA profiling, the likelihood of repeated
14 violations, and the seriousness of the offense. The offenses
15 that require the offender to submit a physical specimen for
16 DNA profiling shall include but are not limited to a
17 misdemeanor violation under section 709.11. The division of
18 criminal investigation shall conduct DNA profiling of
19 submitted specimens as provided in section 80.40.

20 Sec. 5. Section 906.4, unnumbered paragraph 2, Code 2001,
21 is amended to read as follows:

22 ~~Notwithstanding section 13.10, the~~ The board may order the
23 defendant to provide a physical specimen to be submitted for
24 DNA profiling, as defined in section 80.40, as a condition of
25 parole or work release, if appropriate and if the court has
26 not ordered DNA profiling under section 901.5. In determining
27 the appropriateness of ordering DNA profiling, the board shall
28 consider the deterrent effect of DNA profiling, the likelihood
29 of repeated offenses by the defendant, and the seriousness of
30 the offense.

31 Sec. 6. Section 13.10, Code 2001, is repealed.

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EXPLANATION

33 This bill requires certain criminal defendants to submit a
34 physical specimen for DNA profiling. "DNA profiling" means a
35 procedure for determining a person's genetic identity.

1 The bill provides that any person convicted of a felony
2 shall submit a physical specimen for DNA profiling. The bill
3 requires that a felon submit a physical specimen when confined
4 at a correctional institution or assigned to a judicial
5 district department of correctional services. The bill and
6 current law provide that the division of criminal
7 investigation shall conduct the DNA profiling or that the
8 division may contract with private entities to conduct the
9 profiling. Current law lists offenses that require DNA
10 profiling under Code section 13.10.

11 The bill also provides that the attorney general, in
12 consultation with the division of criminal investigation of
13 the department of public safety, may determine the misdemeanor
14 offenses that require DNA profiling. The bill and current law
15 provide that a person convicted of assault with intent to
16 commit sexual abuse, punishable as an aggravated misdemeanor,
17 must submit a physical specimen for DNA profiling.

18 Current law and the bill also provide that the board of
19 parole may require DNA profiling as a condition of parole or
20 work release.

21 Current law and the bill do not apply to a person receiving
22 a deferred judgment.

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HOUSE FILE 254
FISCAL NOTE

A fiscal note for **House File 254** is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note is available from the Legislative Fiscal Bureau to members of the Legislature upon request.

House File 254 requires all convicted felons to provide a physical specimen for DNA profiling when held in a State prison or assigned to Community-Based Corrections (CBC). The Bill provides that the Attorney General may determine by rule, which indictable misdemeanors require DNA profiling.

ASSUMPTIONS

1. Current law requires the Department of Public Safety, Division of Criminal Investigation (DCI) to conduct DNA profiling, or contract with the private sector to conduct DNA profiling, on people convicted of certain offenses.
2. Current law permits the court to order DNA profiling, if appropriate. Current law also provides that the Parole Board may require DNA profiling as a condition of parole or work release.
3. There were 2,831 felons released from State prisons during FY 2000. Of these, 169 (6.0%) were for offenses for which DNA profiling is currently required. Therefore, there were 2,662 additional prison releases for whom testing will be required under House File 254.
4. There were 7,830 felony convictions during FY 2000. Of these, 285 (4.0%) were for offenses for which DNA profiling is currently required. An additional 85 misdemeanor convictions were for offenses for which DNA profiling is currently required.
5. Approximately 63.0% of DNA samples collected per year are cases for which DNA profiling is currently required. Therefore, 320 discretionary DNA samples are collected annually on felony offenders. There will be 7,225 additional DNA samples collected per year under House File 254 (7,830 felony convictions less 285 currently required samples less 320 discretionary samples). An additional 2,662 DNA samples will be required of prison releases during the first two years of implementation. There will be 10,000 additional DNA samples collected annually for FY 2002 and FY 2003.
6. The provision in House File 254 that permits the Attorney General to determine which indictable misdemeanors require DNA profiling may increase costs. There are thousands of indictable misdemeanor convictions annually. This cost cannot be determined since it is not known how the Attorney General will use his discretion.
7. The Department of Public Safety will pay for all laboratory supplies and provide the supplies to the Department of Corrections, CBC District Departments, and local county jails.
8. The cost to collect DNA samples at the local level can be estimated. However, which governmental entity will bear that cost cannot be determined. It may be borne by local county jails (county general fund) or CBC District Departments (State General Fund).

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9. The CBC District Departments or counties will contract with local agencies to collect the DNA specimen. The cost per specimen is estimated to be \$25. It is estimated there will be 7,225 samples collected. Certain counties or CBC District Departments (those with a large number of felony convictions) will require additional staff for administering DNA profiling (assure that offenders have complied, transmit paperwork to the Department of Public Safety, etc.).
10. The Department of Corrections will incur approximately 15 minutes per inmate to collect the DNA sample and process paperwork. The DNA sample will be collected at the time of admission to the Iowa Medical Classification Center.
11. The Department of Public Safety will incur additional costs. Each DNA test kit costs \$40. Three additional staff and additional equipment are required. The processing of 10,000 samples will require repeat analysis for quality control. There may be 12,000 analyses conducted on 10,000 samples.

FISCAL IMPACT

House File 254 will increase expenditures as follows:

<u>STATE GENERAL FUND</u>	<u>FY 2002</u>	<u>FY 2003</u>
Department of Corrections		
1.0 FTE Lab Technician	\$ 48,000	\$ 48,000
Department of Public Safety		
Lab Kits	400,000	400,000
Equipment	150,000	0
3.0 FTE Positions	210,000	210,000
Total Dept. of Public Safety	<u>\$760,000</u>	<u>\$610,000</u>
Total General Fund	<u>\$808,000</u>	<u>\$658,000</u>

Additional costs associated with the collecting of DNA samples are estimated to be \$181,000, annually. It is unclear if this cost will be paid by the CBC District Departments or the counties.

SOURCES

Department of Human Rights, Criminal and Juvenile Justice Planning Division
 Department of Corrections
 Department of Public Safety

(LSB 1777hh, BAL)

FILED FEBRUARY 27, 2001

BY DENNIS PROUTY, FISCAL DIRECTOR