

# REPRINTED

FEB 4 2002  
Place On Calendar

HOUSE FILE 2201  
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HF 2077)

Passed House, <sup>(p. 307)</sup> Date 2-12-02 Passed Senate, <sup>(p. 787)</sup> Date 3-25-02  
Vote: Ayes 98 Nays 0 Vote: Ayes 49 Nays 0  
Approved 4/5/02  
*Re-Passed 3-27-01*  
*Vote 92-1*

## A BILL FOR

1 An Act requiring all felons to submit a physical specimen for DNA  
2 profiling, and providing for a contingent effective date.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 2201

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 ordered under  
4 section 901.5 or 906.4. The division of criminal  
5 investigation may contract with private entities for DNA  
6 profiling. "DNA profiling" means the procedure established by  
7 the division of criminal investigation for determining a  
8 person's genetic identity through the analysis of a person's  
9 deoxyribonucleic acid. The division of criminal investigation  
10 shall share the DNA profiling information with the appropriate  
11 federal agencies for use in a national database.

12 Sec. 2. Section 901.5, subsection 8A, Code Supplement  
13 2001, is amended to read as follows:

14 8A. a. ~~The Pursuant to section 902.13, the~~ court shall  
15 order DNA profiling, as defined in section 80.40, of a  
16 defendant convicted of ~~an offense that requires profiling~~  
17 under section 13-10 a felony or of a defendant convicted of an  
18 aggravated misdemeanor pursuant to section 709.11.

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

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

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

1 county jail. The division of criminal investigation of the  
2 department of public safety shall conduct DNA profiling of  
3 submitted specimens as provided in section 80.40.

4 Sec. 4. Section 906.4, unnumbered paragraph 2, Code 2001,  
5 is amended to read as follows:

6 ~~Notwithstanding section 13.10, the~~ The board may shall  
7 order the defendant to provide a physical specimen to be  
8 submitted for DNA profiling, as defined in section 80.40, as a  
9 condition of parole or work release,--if-appropriate if the  
10 defendant has not previously provided a physical specimen for  
11 DNA profiling pursuant to section 901.5 or 902.13. In  
12 determining the appropriateness of ordering DNA profiling, the  
13 board shall consider the deterrent effect of DNA profiling,  
14 the likelihood of repeated offenses by the defendant, and the  
15 seriousness of the offense.

16 Sec. 5. Section 13.10, Code 2001, is repealed.

17 Sec. 6. CONTINGENT EFFECTIVE DATE. This Act shall take  
18 effect only upon the appropriation or receipt of sufficient  
19 funds to pay for the annual cost of this Act.

#### 20 EXPLANATION

21 This bill requires all felons to submit a physical specimen  
22 for DNA profiling. "DNA profiling" means a procedure for  
23 determining a person's genetic identity.

24 The bill provides that any person convicted of a felony  
25 shall submit a physical specimen for DNA profiling. The bill  
26 requires that a felon submit a physical specimen when confined  
27 at a correctional institution or assigned to a judicial  
28 district department of correctional services. The bill and  
29 current law provide that the division of criminal  
30 investigation shall conduct the DNA profiling or that the  
31 division may contract with private entities to conduct the  
32 profiling. Current law lists offenses that require DNA  
33 profiling under Code section 13.10.

34 The bill requires the division of criminal investigation to  
35 share the DNA information with appropriate federal agencies

1 for use in a national database.

2 The bill and current law also provide that a person  
3 convicted of assault with intent to commit sexual abuse,  
4 punishable as an aggravated misdemeanor, must submit a  
5 physical specimen for DNA profiling.

6 The bill provides that the board of parole shall require  
7 DNA profiling as a condition of parole or work release.

8 Current law provides that the board may require DNA profiling  
9 as a condition of parole or work release.

10 Current law and the bill provide that the court may order a  
11 misdemeanor to submit a physical specimen for DNA profiling.  
12 In determining whether to order DNA profiling the court shall  
13 consider the deterrent effect, the likelihood of repeat  
14 offenses, and the seriousness of the crime.

15 Current law and the bill do not apply to a person receiving  
16 a deferred judgment.

17 The bill contains a contingent effective date making the  
18 bill effective only if sufficient funds are appropriated or  
19 received to pay the annual cost of the bill.

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HOUSE FILE 2201

H-8042

1 Amend House File 2201 as follows:

2 1. Page 2, lines 9 through 11, by striking the  
3 words "if the defendant has not previously provided a  
4 physical specimen for DNA profiling pursuant to  
5 section 901.5 or 902.13" and inserting the following:  
6 "unless the defendant has previously provided a  
7 physical specimen for DNA profiling pursuant to  
8 section 901.5 or 902.13 and the previously submitted  
9 specimen remains available for use".

10 2. Page 2, by striking lines 17 through 19 and  
11 inserting the following:

12 "Sec. \_\_\_\_ . FUNDING. The department of public  
13 safety, the department of corrections, and counties  
14 are not required to comply with this Act by collecting  
15 physical specimens or conducting DNA profiling unless  
16 sufficient funds are appropriated or received to pay  
17 the cost of complying with this Act. If sufficient  
18 funds are not appropriated or received, the court and  
19 the board of parole are not required to order DNA  
20 profiling."

21 3. Title page, line 2, by striking the words "  
22 and providing for a contingent effective date".

By MILLAGE of Scott

H-8042 FILED FEBRUARY 2, 2002

*2/12/02 adapted (p. 307)*  
*2/12/02*  
*(p. 307)*

# Legislative Fiscal Bureau

## Fiscal Note

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HF 2201 - DNA Test for Convicted Felons (LSB 5430 HV)  
Analyst: Jennifer Dean (Phone: (515) 281-7846) (Jennifer.Dean@legis.state.ia.us)  
Fiscal Note Version - New

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### Description

House File 2201 would require all felons to submit a physical specimen for DNA profiling. The Bill also provides a contingent effective date.

### Assumptions

1. Beginning July 1, 2002, DNA profiling will be required for all felons.
2. In 2001, the Department of Public Safety collected 804 DNA samples. Most samples collected were required under the Iowa Code with very few being collected on judges' orders.
3. In FY 2001, 8,044 offenders were convicted of felonies and are not covered under the current DNA profiling provisions.
4. In FY 2001, 2,052 felons were released from prison and are not covered under current DNA profiling provisions.
5. All felons, on average, serve about two years prior to release from prison.
6. Approximately, 3,200 additional DNA samples would be collected over the next two years from persons exiting prison.
7. The Board of Parole is required to order DNA profiling for felons that they release on parole or work release if a sample has not already been taken.
8. Felons who flat time out (serve their sentence) of prison or have their sentence expire are not required to give a DNA sample under this Bill.
9. The Justice Data Warehouse was unable to determine the number of repeat felons that would not be required to resubmit a DNA sample, and therefore, the fifth-year estimate may be overstated.
10. The Department of Corrections will incur approximately 15 minutes per inmate to collect the DNA sample and process the 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 pay for all specimen collection kits and distribute them to the appropriate agency. The cost per kit is \$40. If the Department of Public Safety contracts for DNA lab work, the cost would increase by \$10 per kit. The kits collect blood and not saliva.
12. Three additional Public Safety staff and additional equipment are required. The processing of 10,000 samples will require repeat analysis for quality control. There may be as many as 14,000 analyses conducted on 11,000 samples.
13. The cost to the CBC Districts is unknown.
14. Current law and this Bill do not apply to persons receiving a deferred judgment.

### Correctional Impact

In the first and second year of implementation, there would be 10,100 additional DNA samples collected, compared to the DNA samples collected under current provisions. In the fifth year, there would be 8,000 DNA samples collected, compared to the DNA samples collected under current provisions. The number of repeat felons who would

have already given a DNA sample cannot be determined at this time, and therefore, the fifth-year estimate may be overstated.

**Fiscal Impact**

House File 2201 will result in increased General Fund expenditures as follows:

State General Fund	FY 2002	FY 2003	FY 2007
Department of Corrections			
1.0 FTE Lab Technician	\$ 49,000	\$ 49,000	\$ 49,000
Department of Public Safety			
Lab Kits	404,000	404,00	322,00
		0	0
Equipment	150,000	0	0
3.0 FTE Positions	210,000	210,00	210,00
		0	0
Total Department of Public Safety	<u>764,000</u>	<u>614,00</u>	<u>532,00</u>
		0	0
Total General Fund	<u>\$ 813,000</u>	<u>\$ 663,00</u>	<u>\$ 581,00</u>
		0	0

This Bill contains a contingent effective date making the Bill effective only if sufficient funds are appropriated or received to pay the annual cost of the Bill.

**Sources**

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

\_\_\_\_\_  
/s/ Dennis C Prouty

February 6, 2002

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The fiscal note and correctional impact statement for this bill was prepared pursuant to Joint Rule 17 and pursuant to Section 2.56, Code of Iowa. Data used in developing this fiscal note and correctional impact statement are available from the Legislative Fiscal Bureau to members of the Legislature upon request.

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SEVENTY-NINTH GENERAL ASSEMBLY  
2001 REGULAR SESSION  
DAILY  
HOUSE CLIP SHEET  
FEBRUARY 18, 2002

**Legislative Fiscal Bureau  
Fiscal Note**

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HF 2201 - DNA Test for Convicted Felons (LSB 5430 HV)  
Analyst: Jennifer Dean (Phone: (515) 281-7846) (Jennifer.Dean@legis.state.ia.us)  
Fiscal Note Version - Revised

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**Description**

House File 2201 would require all felons to submit a physical specimen for DNA profiling. The Bill also provides a contingent effective date.

**Assumptions**

1. Beginning July 1, 2002, DNA profiling will be required for all felons.
2. In 2001, the Department of Public Safety collected 804 DNA samples. Most samples collected were required under the Iowa Code with very few being collected on judges' orders.
3. In FY 2001, 8,044 offenders were convicted of felonies and are not covered under the current DNA profiling provisions.
4. In FY 2001, 2,052 felons were released from prison and are not covered under current DNA profiling provisions.
5. All felons, on average, serve about two years prior to release from prison.
6. Approximately, 3,200 additional DNA samples would be collected over the next two years from persons exiting prison.
7. The Board of Parole is required to order DNA profiling for felons that they release on parole or work release if a sample has not already been taken.
8. Felons who flat time out (serve their sentence) of prison or have their sentence expire are not required to give a DNA sample under this Bill.
9. The Justice Data Warehouse was unable to determine the number of repeat felons that would not be required to resubmit a DNA sample, and therefore, the fifth-year estimate may be overstated.
10. The Department of Corrections will incur approximately 15 minutes per inmate to collect the DNA sample and process the 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 pay for all specimen collection kits and distribute them to the appropriate agency. The cost per kit is \$40. If the Department of Public Safety contracts for DNA lab work, the cost would increase by \$10 per kit. The kits collect blood and not saliva.
12. Three additional Public Safety staff and additional equipment are required. The processing of 10,000 samples will require repeat analysis for quality control. There may be as many as 14,000 analyses conducted on 11,000 samples.
13. The cost to the CBC Districts is unknown.
14. Current law and this Bill do not apply to persons receiving a deferred judgment.

**Correctional Impact**

In the first and second year of implementation, there would be 10,100 additional DNA samples collected, compared to the DNA samples collected under current provisions. In the fifth year,

there would be 8,000 DNA samples collected, compared to the DNA samples collected under current provisions. The number of repeat felons who would have already given a DNA sample cannot be determined at this time, and therefore, the fifth-year estimate may be overstated.

**Fiscal Impact**

House File 2201 will result in increased General Fund expenditures as follows:

<u>State General Fund</u>	<u>FY 2003</u>	<u>FY 2004</u>	<u>FY 2007</u>
Department of Corrections			
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Department of Public Safety			
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Equipment	150,000	0	0
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Total Department of Public Safety	<u>764,000</u>	<u>614,000</u>	<u>532,000</u>
Total General Fund	<u>\$ 813,000</u>	<u>\$ 663,000</u>	<u>\$ 581,000</u>

This Bill contains a contingent effective date making the Bill effective only if sufficient funds are appropriated or received to pay the annual cost of the Bill.

**Sources**

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

\_\_\_\_\_  
 /s/ Dennis C Prouty

February 14, 2002

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The fiscal note and correctional impact statement for this bill was prepared pursuant to Joint Rule 17 and pursuant to Section 2.56, Code of Iowa. Data used in developing this fiscal note and correctional impact statement are available from the Legislative Fiscal Bureau to members of the Legislature upon request.

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5-110/01 Judiciary  
S. 3/13/02 Amend/Do Pass  
W/ S. 5157

5/31/02 UNFINISHED BUSINESS CALENDAR

HOUSE FILE 2201  
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HF 2077)

(As Amended and Passed by the House February 12, 2002)

Passed House, Date <sup>P. 1011</sup> 3-27-01 Passed Senate, Date <sup>(P. 787)</sup> 3-25-02  
Vote: Ayes 92 Nays 1 Vote: Ayes 49 Nays 0  
Approved 4/5/02

**A BILL FOR**

1 An Act requiring all felons to submit a physical specimen for DNA  
2 \* profiling.

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

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House Amendments \_\_\_\_\_

Deleted Language \*

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 ordered under  
4 section 901.5 or 906.4. The division of criminal  
5 investigation may contract with private entities for DNA  
6 profiling. "DNA profiling" means the procedure established by  
7 the division of criminal investigation for determining a  
8 person's genetic identity through the analysis of a person's  
9 deoxyribonucleic acid. The division of criminal investigation  
10 shall share the DNA profiling information with the appropriate  
11 federal agencies for use in a national database.

12 Sec. 2. Section 901.5, subsection 8A, Code Supplement  
13 2001, is amended to read as follows:

14 8A. a. ~~The~~ Pursuant to section 902.13, the court shall  
15 order DNA profiling, as defined in section 80.40, of a  
16 defendant convicted of ~~an offense that requires profiling~~  
17 ~~under section 13.10~~ a felony or of a defendant convicted of an  
18 aggravated misdemeanor pursuant to section 709.11.

19 b. ~~Notwithstanding section 13.107, the~~ The court may order  
20 ~~the~~ a defendant ~~not subject to DNA profiling under paragraph~~  
21 "a" to provide a physical specimen to be submitted for the DNA  
22 profiling if appropriate. In determining the appropriateness  
23 of ordering DNA profiling, the court shall consider the  
24 deterrent effect of DNA profiling, the likelihood of repeated  
25 offenses by the defendant, and the seriousness of the offense.

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

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

1 county jail. The division of criminal investigation of the  
2 department of public safety shall conduct DNA profiling of  
3 submitted specimens as provided in section 80.40.

4 Sec. 4. Section 906.4, unnumbered paragraph 2, Code 2001,  
5 is amended to read as follows:

6 ~~Notwithstanding section 13.10, the~~ The board may shall  
7 order the defendant to provide a physical specimen to be  
8 submitted for DNA profiling, as defined in section 80.40, as a  
9 condition of parole or work release, if appropriate unless the  
10 defendant has previously provided a physical specimen for DNA  
11 profiling pursuant to section 901.5 or 902.13 and the  
12 previously submitted specimen remains available for use. In  
13 determining the appropriateness of ordering DNA profiling, the  
14 board shall consider the deterrent effect of DNA profiling,  
15 the likelihood of repeated offenses by the defendant, and the  
16 seriousness of the offense.

17 Sec. 5. Section 13.10, Code 2001, is repealed.

18 Sec. 6. FUNDING. The department of public safety, the  
19 department of corrections, and counties are not required to  
20 comply with this Act by collecting physical specimens or  
21 conducting DNA profiling unless sufficient funds are  
22 appropriated or received to pay the cost of complying with  
23 this Act. If sufficient funds are not appropriated or  
24 received, the court and the board of parole are not required  
25 to order DNA profiling.

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SENATE AMENDMENT TO HOUSE FILE 2201

H-8430

1 Amend House File 2201, as amended, passed, and  
2 reprinted by the House, as follows:  
3 1. Page 2, by striking lines 9 through 16 and  
4 inserting the following: "condition of parole or work  
5 release, if appropriate. ~~In determining the~~  
6 ~~appropriateness of ordering DNA profiling, the board~~  
7 ~~shall consider the deterrent effect of DNA profiling,~~  
8 ~~the likelihood of repeated offenses by the defendant,~~  
9 ~~and the seriousness of the offense unless the~~  
10 defendant has previously provided a physical specimen  
11 for DNA profiling pursuant to section 901.5 or 902.13  
12 and the DNA profile developed from the previously  
13 submitted specimen remains available for use."  
14 2. Page 2, by striking lines 18 through 25, and  
15 inserting the following:  
16 "Sec. \_\_\_\_ . CONTINGENT EFFECTIVE DATE. The  
17 effective date of this Act shall be the later of July  
18 1, 2002, or on the date when sufficient funds have  
19 been appropriated or are first received to pay the  
20 costs of complying with this Act. The commissioner of  
21 public safety shall notify the Code editor when  
22 sufficient funds have been appropriated or are first  
23 received to pay the costs of complying with this Act.  
24 The department of public safety, the department of  
25 corrections, and the counties shall comply with  
26 section 13.10 until the effective date of this Act."  
27 3. Title page, line 2, by inserting after the  
28 word "profiling" the following: ", and providing a  
29 contingent effective date."

RECEIVED FROM THE SENATE

H-8430 FILED MARCH 25, 2002

*House Concurred 3/27/02 (p.1011)*

## HOUSE FILE 2201

S-5157

1 Amend House File 2201, as amended, passed, and  
2 reprinted by the House, as follows:  
3 1. Page 2, by striking lines 9 through 16 and  
4 inserting the following: "condition of parole or work  
5 release, ~~if appropriate. In determining the~~  
6 ~~appropriateness of ordering DNA profiling, the board~~  
7 ~~shall consider the deterrent effect of DNA profiling,~~  
8 ~~the likelihood of repeated offenses by the defendant,~~  
9 ~~and the seriousness of the offense unless the~~  
10 defendant has previously provided a physical specimen  
11 for DNA profiling pursuant to section 901.5 or 902.13  
12 and the DNA profile developed from the previously  
13 submitted specimen remains available for use."  
14 2. Page 2, by striking lines 18 through 25, and  
15 inserting the following:  
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17 effective date of this Act shall be the later of July  
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19 been appropriated or are first received to pay the  
20 costs of complying with this Act. The commissioner of  
21 public safety shall notify the Code editor when  
22 sufficient funds have been appropriated or are first  
23 received to pay the costs of complying with this Act.  
24 The department of public safety, the department of  
25 corrections, and the counties shall comply with  
26 section 13.10 until the effective date of this Act."  
27 3. Title page, line 2, by inserting after the  
28 word "profiling" the following: ", and providing a  
29 contingent effective date."

By COMMITTEE ON JUDICIARY  
O. GENE MADDOX, Chairperson

S-5157 FILED MARCH 13, 2002

*Adopted*

3-25-02

(p. 787)

HOUSE FILE 2201

AN ACT

REQUIRING ALL FELONS TO SUBMIT A PHYSICAL SPECIMEN FOR DNA  
PROFILING, AND PROVIDING A CONTINGENT EFFECTIVE DATE.

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

Section 1. NEW SECTION. 80.40 DNA PROFILING.

The division of criminal investigation shall conduct DNA profiling of submitted physical specimens as ordered under section 901.5 or 906.4. The division of criminal investigation may contract with private entities for DNA profiling. "DNA profiling" means the procedure established by the division of criminal investigation for determining a person's genetic identity through the analysis of a person's deoxyribonucleic acid. The division of criminal investigation shall share the DNA profiling information with the appropriate federal agencies for use in a national database.

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

8A. a. ~~The Pursuant to section 902.13, the court shall order DNA profiling, as defined in section 80.40, of a defendant convicted of an offense that requires profiling under section 13-10 a felony or of a defendant convicted of an aggravated misdemeanor pursuant to section 709.11.~~

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

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

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

Sec. 4. Section 906.4, unnumbered paragraph 2, Code 2001, is amended to read as follows:

~~Notwithstanding section 13-10, the~~ The board may shall order the defendant to provide a physical specimen to be submitted for DNA profiling, as defined in section 80.40, as a condition of parole or work release, ~~if appropriate;--in determining the appropriateness of ordering 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 unless the defendant has previously provided a physical specimen for DNA profiling pursuant to section 901.5 or 902.13 and the DNA profile developed from the previously submitted specimen remains available for use.~~

Sec. 5. Section 13.10, Code 2001, is repealed.

Sec. 6. CONTINGENT EFFECTIVE DATE. The effective date of this Act shall be the later of July 1, 2002, or on the date when sufficient funds have been appropriated or are first received to pay the costs of complying with this Act. The commissioner of public safety shall notify the Code editor when sufficient funds have been appropriated or are first received to pay the costs of complying with this Act. The department of public safety, the department of corrections,

and the counties shall comply with section 13.10 until the effective date of this Act.

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BRENT SIEGRIST  
Speaker of the House

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MARY E. KRAMER  
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2201, Seventy-ninth General Assembly.

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MARGARET THOMSON  
Chief Clerk of the House

Approved 4/5, 2002

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THOMAS J. VILSACK  
Governor