

## CHAPTER 268

---

**CRIMINAL LAW AND PROCEDURE**

---

**SENATE BILL 00-121**

BY SENATORS Lamborn, Andrews, Arnold, Chlouber, Congrove, Dyer, Epps, Hernandez, Hillman, Musgrave, Powers, Sullivant, Tebedo, and Weddig;  
also REPRESENTATIVES Mitchell, Dean, Clarke, Grossman, Hoppe, Kaufman, Lawrence, Scott, Tupa, Veiga, Vigil, Windels, and Zimmerman.

**AN ACT**

CONCERNING A REQUIREMENT FOR THE GENETIC TESTING OF CERTAIN CRIMINAL OFFENDERS, AND  
MAKING AN APPROPRIATION IN CONNECTION THEREWITH.

*Be it enacted by the General Assembly of the State of Colorado:*

**SECTION 1.** Part 1 of article 11 of title 16, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

**16-11-102.3. Genetic testing of convicted offenders.** (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES, "CONVICTED OFFENDER" MEANS A PERSON WHO IS NOT REQUIRED TO SUBMIT TO A CHEMICAL TESTING OF THE PERSON'S BLOOD TO DETERMINE THE GENETIC MARKERS THEREOF PURSUANT TO ANY OTHER PROVISION AND WHO IS CONVICTED OF, OR PLEADS GUILTY TO ANY OF THE FOLLOWING OFFENSES:

- (a) AN OFFENSE INVOLVING, OR FOR WHICH THE FACTUAL BASIS INVOLVED, UNLAWFUL SEXUAL BEHAVIOR AS DEFINED IN SECTION 18-3-412.5 (1) (b), C.R.S.;
- (b) A CRIME OF VIOLENCE, AS DEFINED IN SECTION 16-11-309 (2);
- (c) SECOND DEGREE MURDER, IN VIOLATION OF SECTION 18-3-103 (1), C.R.S.;
- (d) FIRST DEGREE ASSAULT, IN VIOLATION OF SECTION 18-3-202 (1), C.R.S.;
- (e) SECOND DEGREE ASSAULT, IN VIOLATION OF SECTION 18-3-203 (1) (b), (1) (c), (1) (d), (1) (g), or (2) (b.5), C.R.S.;

---

*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

- (f) SECOND DEGREE KIDNAPPING, IN VIOLATION OF SECTION 18-3-302 (4), C.R.S.;
- (g) FIRST DEGREE ARSON, IN VIOLATION OF SECTION 18-4-102 (3), C.R.S.;
- (h) BURGLARY IN THE FIRST DEGREE, IN VIOLATION OF SECTION 18-4-202, C.R.S.;
- (i) AGGRAVATED ROBBERY, IN VIOLATION OF SECTION 18-4-302 (4), C.R.S.; OR
- (j) ANY FELONY WHEN THE PERSON WAS PREVIOUSLY CONVICTED OF, OR PLED GUILTY TO ONE OR MORE OF THE OFFENSES LISTED IN PARAGRAPHS (a) TO (i) OF THIS SUBSECTION (1).

(2) (a) EVERY CONVICTED OFFENDER WHO, AS OF JULY 1, 2000, IS IN THE CUSTODY OF THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF CORRECTIONS FOR AN OFFENSE DESCRIBED IN SUBSECTION (1) OF THIS SECTION SHALL SUBMIT TO AND PAY FOR A CHEMICAL TESTING OF THE OFFENDER'S BLOOD TO DETERMINE THE GENETIC MARKERS THEREOF PRIOR TO THE PERSON'S RELEASE FROM CUSTODY.

(b) EVERY CONVICTED OFFENDER WHO, AS OF JULY 1, 2000, IS IN A COUNTY JAIL OR A COMMUNITY CORRECTIONS FACILITY PURSUANT TO ARTICLE 27 OF TITLE 17, C.R.S., FOR AN OFFENSE DESCRIBED IN SUBSECTION (1) OF THIS SECTION SHALL SUBMIT TO AND PAY FOR A CHEMICAL TESTING OF THE OFFENDER'S BLOOD TO DETERMINE THE GENETIC MARKERS THEREOF.

(c) EVERY CONVICTED OFFENDER WHO, AS OF JULY 1, 2000, IS ON PAROLE FOR AN OFFENSE DESCRIBED IN SUBSECTION (1) OF THIS SECTION SHALL SUBMIT TO AND PAY FOR A CHEMICAL TESTING OF THE OFFENDER'S BLOOD TO DETERMINE THE GENETIC MARKERS THEREOF.

(d) EVERY CONVICTED OFFENDER WHO, AS OF JULY 1, 2000, IS ON PROBATION FOR AN OFFENSE DESCRIBED IN SUBSECTION (1) OF THIS SECTION SHALL SUBMIT TO AND PAY FOR A CHEMICAL TESTING OF THE OFFENDER'S BLOOD TO DETERMINE THE GENETIC MARKERS THEREOF.

(3) COLLECTION OF THE BLOOD SAMPLES REQUIRED BY PARAGRAPHS (a) AND (b) OF SUBSECTION (2) OF THIS SECTION SHALL BE COLLECTED AT LEAST THIRTY DAYS PRIOR TO THE PERSON'S RELEASE FROM CUSTODY. COLLECTION OF THE BLOOD SAMPLES REQUIRED BY PARAGRAPHS (c) AND (d) OF SUBSECTION (2) OF THIS SECTION SHALL BE COLLECTED PRIOR TO JUNE 30, 2001.

(4) THE JUDICIAL DEPARTMENT, THE DEPARTMENT OF CORRECTIONS, A SHERIFF, OR A CONTRACTOR MAY USE REASONABLE FORCE TO OBTAIN BLOOD SAMPLES IN ACCORDANCE WITH THIS SECTION USING MEDICALLY RECOGNIZED PROCEDURES. IN ADDITION, AN OFFENDER'S REFUSAL TO COMPLY WITH THIS SECTION MAY BE GROUNDS FOR REVOCATION OR DENIAL OF PAROLE OR PROBATION.

(5) ANY MONEYS RECEIVED FROM OFFENDERS PURSUANT TO THIS SECTION SHALL BE DEPOSITED IN THE OFFENDER IDENTIFICATION FUND CREATED IN SECTION 24-33.5-415.6, C.R.S.

(6) THE COLORADO BUREAU OF INVESTIGATION IS DIRECTED TO CONDUCT THE

CHEMICAL TESTING OF THE BLOOD OBTAINED PURSUANT TO THIS SECTION. THE RESULTS THEREOF SHALL BE FILED AND MAINTAINED BY THE COLORADO BUREAU OF INVESTIGATION AND SHALL BE FURNISHED TO ANY LAW ENFORCEMENT AGENCY UPON REQUEST.

**SECTION 2.** Part 4 of article 11 of title 16, Colorado Revised Statutes, is amended BY THE ADDITION OF NEW SECTION to read:

**16-11-401.5. Genetic testing prior to execution.** PRIOR TO THE EXECUTION OF THE DEATH PENALTY PURSUANT TO THIS PART 4, THE JUDICIAL DEPARTMENT SHALL OBTAIN THE CHEMICAL TESTING OF THE CONVICTED OFFENDER'S BLOOD TO DETERMINE THE GENETIC MARKERS THEREOF.

**SECTION 3.** 24-33.5-415.6, Colorado Revised Statutes, is amended to read:

**24-33.5-415.6. Offender identification - fund.** There is hereby created in the state treasury the ~~violent~~ offender identification fund, referred to in this section as the "fund". Moneys in the fund shall consist of payments for genetic testing received from offenders pursuant to ~~section~~ SECTIONS 16-11-102.3 AND 16-11-204.3 (1) (b), C.R.S. Subject to annual appropriations by the general assembly, the executive director and the state court administrator are authorized to expend moneys in the fund to pay for genetic testing of offenders pursuant to ~~section~~ SECTIONS 16-11-102.3 AND 16-11-204.3 (1) (b), C.R.S. At the end of any fiscal year, all unexpended and unencumbered moneys in the fund shall remain therein and shall not be credited or transferred to the general fund or any other fund.

**SECTION 4.** 16-11-204.3 (3), Colorado Revised Statutes, is amended to read:

**16-11-204.3. Genetic testing as a condition of probation.** (3) Any moneys received from offenders pursuant to paragraph (a) of subsection (1) of this section shall be deposited in the sex offender identification fund created in section 24-33.5-415.5, C.R.S. Any moneys received from offenders pursuant to paragraph (b) of subsection (1) of this section shall be deposited in the ~~violent~~ offender identification fund established in section 24-33.5-415.6, C.R.S.

**SECTION 5.** 24-72-302 (4), Colorado Revised Statutes, is amended to read:

**24-72-302. Definitions.** As used in this part 3, unless the context otherwise requires:

(4) "Criminal justice records" means all books, papers, cards, photographs, tapes, recordings, or other documentary materials, regardless of form or characteristics, which are made, maintained, or kept by any criminal justice agency in the state for use in the exercise of functions required or authorized by law or administrative rule, including but not limited to the results of chemical BLOOD testing to determine the genetic markers conducted pursuant to sections 16-11-102.3, 16-11-204.3, and 17-2-201 (5) (h) and (5) (i), C.R.S.

**SECTION 6.** 24-72-305 (1.5), Colorado Revised Statutes, is amended to read:

**24-72-305. Allowance or denial of inspection - grounds - procedure - appeal.**

(1.5) On the ground that disclosure would be contrary to the public interest, the custodian of criminal justice records shall deny access to the results of chemical BLOOD testing to determine the genetic markers conducted pursuant to sections 16-11-102.3, 16-11-204.3, and 17-2-201 (5) (h) and (5) (i), C.R.S.

**SECTION 7. Appropriation - adjustment in 2000 long bill.** (1) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the general fund not otherwise appropriated, for the fiscal year beginning July 1, 2000, the sum of four hundred seven thousand nine hundred thirty-three dollars (\$407,933) and 1.5 FTE, or so much thereof as may be necessary, for the implementation of this act. Of such sum, twenty-five thousand eighty dollars (\$25,080), or so much thereof as may be necessary, is appropriated to the Department of Corrections; three hundred sixty-four thousand seven hundred thirty-six dollars (\$364,736) and 1.5 FTE, or so much thereof as may be necessary, is appropriated to the Department of Public Safety, for allocation to the Colorado Bureau of Investigation; and eighteen thousand one hundred seventeen dollars (\$18,117), or so much thereof as may be necessary, is appropriated to the Judicial Department.

(2) For the implementation of this act, appropriations made in the annual general appropriations act for the fiscal year beginning July 1, 2000, shall be adjusted as follows:

(a) The general fund appropriation to the capital construction fund outlined in section 3 (1) (f) is reduced by four hundred seven thousand nine hundred thirty-three dollars (\$407,933).

(b) The capital construction fund exempt appropriation to the department of transportation, construction projects, is reduced by four hundred seven thousand nine hundred thirty-three dollars (\$407,933).

**SECTION 8. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 26, 2000