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1998 Survey of Rhode Island Law: Legislation: Criminal Law: An Act Relating to Identification and Apprehension of Criminal

Rory Zack Fazendeiro
Roger Williams University School of Law

Helena R. Pacheco
Roger Williams University School of Law

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Criminal Law. *An Act Relating to Identification and Apprehension of Criminals.* The legislation provides the procedure for, and regulation of DNA detection of sexual and violent crime offenders. The Act establishes a state DNA database and databank managed by the department of health. This system utilizes computer software compatible with the program and procedures of the FBI to store DNA samples from adult persons convicted of certain sexual and violent crimes. In addition, the department of health is authorized to promulgate procedure for the effective collection, analysis, storage, and disposition of DNA samples in accordance with the Act. Effective, June 29, 1998. 1998 R.I. Pub. Laws ch. 33.

The legislation (the Act) represents a recognition of the significant benefits of DNA databases and databanks in criminal investigations and in the detection and deterrence of repeated criminal acts.¹ The DNA database and databank institutes a means for collecting DNA samples "of individuals convicted of certain sexual and violent offenses and missing persons."² Furthermore, the legislation will assist federal, state, and local law enforcement in identifying and locating individuals in criminal investigations.³

The provisions of the Act establish both a DNA database and DNA databank. The function of the DNA database is to obtain and store DNA records.⁴ This database assists the FBI in gathering records for their national DNA index system.⁵ Information and records for the state database will be stored in computer software administered by the department of health.⁶ These records relate to forensics, missing persons, convicted offenders who are required to submit DNA samples under this Act, and anonymous DNA records used to establish sound technology management and control.⁷ The DNA databank, on the other hand, functions as the DNA receptacle; it contains the actual DNA samples provided by persons who are convicted of specified crimes under the Act.⁸

1. See 1998 R.I. Pub. Laws ch. 33.

2. R.I. Gen. Laws § 12-1.5-1 (1956) (1994 Reenactment & Supp. 1998).

3. See *id.*

4. See *id.* § 12-1.5-4.

5. See *id.*

6. See *id.*

7. See *id.*

8. See *id.* § 12-1.5-5.

In general, the department of health is empowered with the administration of the program.⁹ Specifically, it is responsible for the management and procedure of both the DNA database and databank.¹⁰ In addition, the department of health shall declare any rule or regulation that will contribute to the efficient administration of the Act's provisions.¹¹ Finally, it acts as a liaison between the state database, the FBI, and any other criminal investigation bureaus.¹²

Every person, upon conviction of certain sexual and violent offenses,¹³ is required to have a DNA sample taken.¹⁴ Any person who refuses to take a required DNA sample is in violation of the terms of his or release on probation.¹⁵ After a DNA sample is taken and recorded, a person may petition for expungement if his or her conviction has been reversed.¹⁶ These DNA records are available to criminal justice agencies and their approved forensic laboratories, prosecuting attorneys, courts, and grand juries.¹⁷

The procedure for obtaining the sample is specifically provided to ensure precision and safety. For example, only medically qualified individuals may withdraw a DNA sample.¹⁸ Moreover, the procedures for collecting, identifying, and storing DNA samples must "meet or exceed the current standards for quality assurance and proficiency testing for DNA analysis issued by the FBI."¹⁹ After records are input into the database, they may be obtained only through encryption codes that are confidential to the department's authorized personnel.²⁰

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9. *See id.* § 12-1.5-3.

10. *See id.*

11. *See id.*

12. *See id.*

13. *See id.* § 12-1.5-7. For the a list of the enumerated sexual and violent criminal offenses applicable under this section, see section 12-1.5-7.

14. *See id.* § 12-1.5-8.

15. *See id.* § 12-1.5-17.

16. *See id.* § 12-1.5-13.

17. *See id.* § 12-1.5-11.

18. *See id.* § 12-1.5-9.

19. *Id.* § 12-1.5-10.

20. *See id.*