

HCS HB 2868 -- THE COLLECTION OF BIOLOGICAL SAMPLES

SPONSOR: Parker

COMMITTEE ACTION: Voted "Do Pass with HCS" by the Standing Committee on Crime and Public Safety by a vote of 17 to 0. Voted "Do Pass" by the Standing Committee on Rules-Administrative by a vote of 8 to 0 with 1 voting present.

The following is a summary of the House Committee Substitute for HB 2868.

Currently, a biological sample must be collected from every person who is found guilty of a felony or any unlawful sexual offense or from every person who is at least 17 years old who is arrested for burglary in the first degree or burglary in the second degree or a felony offense under Chapter 565, 566, 567, 568, or 573, RSMo. Under this bill, a biological sample must be collected from every person who is found guilty of an unlawful sexual offense as well as for every person who is at least 17 years old who is arrested for a felony: controlled substance offense, fraud or misrepresentation offense, stealing offense, forgery offense, resisting or interfering with arrest, or driving while intoxicated offense. If it is determined that a person's biological sample has been included in the relevant database and has not been subject to a court order expunging the record from the database, no additional sample will be required.

The following is a summary of the public testimony from the committee hearing. The testimony was based on the introduced version of the bill.

PROponents: Supporters say that, currently, Missouri allows the collection of DNA for certain offenses and the statute details how the samples should be handled. This bill attempts to change the law to allow the collection for every felony you are arrested for. All 50 states allow for DNA samples for felony convictions, but 19 states, including our neighboring states, allow for the collection upon felony arrest. This would deter crime and lower the crime rate. There is a 2013 US Supreme Court case that says this is standard procedure and this does not violate the 4th Amendment. This will help convict people but it will also help exonerate those who are wrongfully imprisoned. States that do it upon arrest have solved thousands of cold cases as a result. The Office of Inspector General does an annual audit of this system,

and this DNA is not like the DNA samples for the family tree websites; these are just markers to identify you.

Testifying in person for the bill were Representative Parker; Arnie Dienoff-State Public Advocate; Action Now Initiative; Ashley Spence, DNA Justice Project.

OPPONENTS: Those who oppose the bill say that due process requires a balance between privacy and public safety, but there should be an erring on the side of the defendant. There are concerns about overreach. DNA being in the system could lead to the wrongful conviction of innocent people because charges are not a conviction. The letter of the law allows us to have clarity on issues, and that is what will be argued in court. Not spirit and not intent. CODIS should be expanded, and many people deserve justice, but this should not be the way. It's a complicated issue that needs to be addressed. This currently violates the presumption of innocence.

Testifying in person against the bill were Sage Coram, American Civil Liberties Union of Missouri; MO NAACP.

OTHERS: Others testifying on the bill say the Highway Patrol can provide information and answer questions that were asked during testimony. Missouri is missing out on information for investigative matters. This would aid approximately 731 investigations annually. There was some confusion for the Highway Patrol for when to collect, and that has been cleaned up. Any samples that are mistakenly collected are then tossed.

Testifying in person on the bill were Alexander Vivas, Missouri State Highway Patrol; and Joshua Kezer.

Written testimony has been submitted for this bill. The full written testimony and witnesses testifying online can be found under Testimony on the bill page on the House website.