

Amendment No. 790

Senate Amendment to Assembly Bill No. 92

(BDR 14-805)

Proposed by: Senate Committee on Judiciary**Amends:** Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date
Adopted	☐	Lost	☐	_____	Adopted	☐	Lost	☐	_____
Concurred In	☐	Not	☐	_____	Concurred In	☐	Not	☐	_____
Receded	☐	Not	☐	_____	Receded	☐	Not	☐	_____

EXPLANATION: Matter in (1) ***blue bold italics*** is new language in the original bill; (2) ***green bold italic underlining*** is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) ***green bold*** is newly added transitory language.

DY/BAW



Date: 5/21/2007

A.B. No. 92—Revises provisions governing genetic marker testing of certain convicted persons. (BDR 14-805)



ASSEMBLY BILL NO. 92—ASSEMBLYMEN ANDERSON,
MUNFORD, HOGAN, KIHUEN , SMITH **AND WEBER**

FEBRUARY 12, 2007

Referred to Committee on Judiciary

SUMMARY—Revises provisions governing genetic marker testing of certain convicted persons. (BDR 14-805)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: Yes.

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EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets **[omitted material]** is material to be omitted.

AN ACT relating to criminal procedure; expanding the crimes for which a convicted person is required to submit a biological specimen to be used for genetic marker analysis; **prohibiting the sharing or disclosure of biological specimens and certain information except under certain circumstances; providing penalties;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

[This] Section 1 of this bill expands the crimes for which a convicted person is required to submit to the Central Repository for Nevada Records of Criminal History a biological specimen to be used for analysis to determine the genetic markers of the specimen to include any felony, rather than certain felonies. (NRS 176.0913) **Sections 1 and 2 of this bill prohibit the sharing or disclosure of biological specimens and certain information except under certain circumstances. (NRS 176.0913, 176.0916).**

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 176.0913 is hereby amended to read as follows:
176.0913 1. If a defendant is convicted of an offense listed in subsection 4, the court, at sentencing, shall order that:

(a) The name, social security number, date of birth and any other information identifying the defendant be submitted to the Central Repository for Nevada Records of Criminal History; and

(b) A biological specimen be obtained from the defendant pursuant to the provisions of this section and that the specimen be used for an analysis to determine the genetic markers of the specimen.

2. If the defendant is committed to the custody of the Department of Corrections, the Department of Corrections shall arrange for the biological specimen to be obtained from the defendant. The Department of Corrections shall

1 provide the specimen to the forensic laboratory that has been designated by the
2 county in which the defendant was convicted to conduct or oversee genetic marker
3 testing for the county pursuant to NRS 176.0917.

4 3. If the defendant is not committed to the custody of the Department of
5 Corrections, the Division shall arrange for the biological specimen to be obtained
6 from the defendant. The Division shall provide the specimen to the forensic
7 laboratory that has been designated by the county in which the defendant was
8 convicted to conduct or oversee genetic marker testing for the county pursuant to
9 NRS 176.0917. Any cost that is incurred to obtain a biological specimen from a
10 defendant pursuant to this subsection is a charge against the county in which the
11 defendant was convicted and must be paid as provided in NRS 176.0915.

12 4. Except as otherwise provided in subsection 5, the provisions of subsection
13 1 apply to a defendant who is convicted of:

- 14 (a) A ~~category A~~ felony;
15 (b) ~~A category B felony~~;
16 ~~— (c) A category C felony involving the use or threatened use of force or violence~~
17 ~~against the victim;~~

18 ~~— (d) A crime against a child as defined in NRS 179D.210;~~

19 ~~[(e)] (c) A sexual offense as defined in NRS 179D.410;~~

20 ~~[(f)] (d) Abuse or neglect of an older person or a vulnerable person pursuant to~~
21 ~~NRS 200.5099;~~

22 ~~[(g)] (e) A second or subsequent offense for stalking pursuant to~~
23 ~~NRS 200.575;~~

24 ~~[(h)] (f) An attempt or conspiracy to commit an offense listed in paragraphs~~
25 ~~(a) to [(g), inclusive];~~

26 ~~— [(i)] (e), inclusive;~~

27 (g) Failing to register with a local law enforcement agency as a convicted
28 person as required pursuant to NRS 179C.100, if the defendant previously was:

29 (1) Convicted in this State of committing an offense listed in paragraph (a),
30 ~~[(b), (c), (f), (g) or (h)] (d), (e) or (f);~~ or

31 (2) Convicted in another jurisdiction of committing an offense that would
32 constitute an offense listed in paragraph (a), ~~[(b), (c), (f), (g) or (h)] (d), (e) or (f)~~ if
33 committed in this State;

34 ~~[(j)] (h) Failing to register with a local law enforcement agency after being~~
35 ~~convicted of a crime against a child as required pursuant to NRS 179D.240; or~~

36 ~~[(k)] (i) Failing to register with a local law enforcement agency after being~~
37 ~~convicted of a sexual offense as required pursuant to NRS 179D.450.~~

38 5. A court shall not order a biological specimen to be obtained from a
39 defendant who has previously submitted such a specimen for conviction of a prior
40 offense unless the court determines that an additional sample is necessary.

41 6. Except as otherwise authorized by federal law or by specific statute, a
42 biological specimen obtained pursuant to this section, the results of a genetic
43 marker analysis and any information identifying or matching a biological
44 specimen with a person must not be shared with or disclosed to any person other
45 than the authorized personnel who have possession and control of the biological
46 specimen, results of a genetic marker analysis or information identifying or
47 matching a biological specimen with a person, except pursuant to:

48 (a) A court order; or

49 (b) A request from a law enforcement agency during the course of an
50 investigation.

51 7. A person who violates any provision of subsection 6 is guilty of a
52 misdemeanor.

Sec. 2. NRS 176.0916 is hereby amended to read as follows:

176.0916 1. If the Division is supervising a probationer or parolee pursuant to an interstate compact and the probationer or parolee is or has been convicted in another jurisdiction of violating a law that prohibits the same or similar conduct as an offense listed in subsection 4 of NRS 176.0913, the Division shall arrange for a biological specimen to be obtained from the probationer or parolee.

2. After a biological specimen is obtained from a probationer or parolee pursuant to this section, the Division shall:

(a) Provide the biological specimen to the forensic laboratory that has been designated by the county in which the probationer or parolee is residing to conduct or oversee genetic marker testing for the county pursuant to NRS 176.0917; and

(b) Submit the name, social security number, date of birth and any other information identifying the probationer or parolee to the Central Repository for Nevada Records of Criminal History.

3. Except as otherwise authorized by federal law or by specific statute, a biological specimen obtained pursuant to this section, the results of a genetic marker analysis and any information identifying or matching a biological specimen with a person must not be shared with or disclosed to any person other than the authorized personnel who have possession and control of the biological specimen, results of a genetic marker analysis or information identifying or matching a biological specimen with a person, except pursuant to:

(a) A court order; or

(b) A request from a law enforcement agency during the course of an investigation.

4. A person who violates any provision of subsection 3 is guilty of a misdemeanor.

5. A probationer or parolee, to the extent of his financial ability, shall pay the sum of \$150 to the Division as a fee for obtaining the biological specimen and for conducting the analysis to determine the genetic markers of the biological specimen. Except as otherwise provided in subsection ~~4.4~~ 6, the fee required pursuant to this subsection must be collected from a probationer or parolee at the time the biological specimen is obtained from the probationer or parolee.

~~4.4~~ 6. A probationer or parolee may arrange to make monthly payments of the fee required pursuant to subsection ~~4.4~~ 5. If such arrangements are made, the Division shall provide a probationer or parolee with a monthly statement that specifies the date on which the next payment is due.

~~4.4~~ 7. Any unpaid balance for a fee required pursuant to subsection ~~4.4~~ 5 is a charge against the Division.

~~4.4~~ 8. The Division shall deposit money that is collected pursuant to this section in the Fund for Genetic Marker Testing, which is hereby created in the State General Fund. The money deposited in the Fund for Genetic Marker Testing must be used to pay for the actual amount charged to the Division for obtaining biological specimens from probationers and parolees, and for conducting an analysis to determine the genetic markers of the specimens.