

HOUSE BILL 2059

By Fitzhugh

AN ACT to amend Tennessee Code Annotated, Title 38  
and Title 40, relative to familial DNA searches.

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

SECTION 1. Tennessee Code Annotated, Section 38-6-113, is amended by adding a new subsection (e) thereto:

(e)

(1) For purposes of this subsection (e), "familial DNA search" means a search of the centralized system to cross-reference data obtained from DNA analysis from a DNA profile taken from a crime scene for the purpose of determining if there is a biological relative of an individual for whom there is a DNA profile in the centralized system.

(2) The bureau shall perform a familial DNA search if:

(A) A request to perform a familial DNA search has been submitted to the attorney general in writing by the district attorney general of the district where the crime under investigation is believed to have been committed or by the bureau, and the request sets out the reasons the district attorney general or the bureau believe a familial DNA search would produce results that would assist the investigators in identifying the perpetrator of the crime;

(B) The attorney general has reviewed the case file for the crime under investigation and the request for a familial DNA search and determined that:

(i) Subdivisions (e)(2)(C) through (E) have been satisfied;

(ii) The necessity of protecting the public safety by apprehending the perpetrator of the crime outweighs the privacy invasion and inconvenience that might be caused to individual's whose names are included in the results of a familial DNA search; and

(iii) A familial DNA search is reasonably likely to produce results that would assist the investigators in identifying the perpetrator of the crime.

(C) The DNA profile taken from the crime scene is a single-source profile;

(D) The perpetrator of the crime remains unknown after all other investigative leads have been exhausted; and

(E) The crime under investigation is one of the following:

(i) First or second degree murder, as defined in § 39-13-202 or § 39-13-210;

(ii) Rape, as defined in § 39-13-503;

(iii) Aggravated rape, as defined in § 39-13-502;

(iv) Rape of a child, as defined in § 39-13-522; or

(v) Aggravated rape of a child, as defined in § 39-13-531.

(3) The bureau in consultation with the attorney general shall adopt uniform procedures for conducting a familial DNA search and investigating the results of such a search. The procedures shall include, but not be limited to, procedures that:

(A) Provide a useful investigative tool, but limit the number of potential results that are partially related to the perpetrator of the crime;

(B) Assure the highest level of scientific accuracy for a familial DNA search; and

(C) Assure that results obtained after conducting a familial DNA search are kept confidential by the bureau or the district attorney general while the investigation of a crime is pending.

(4) After the bureau performs a familial DNA search, it shall be the responsibility of the district attorney general, or the bureau if the bureau made the request for a familial DNA search, to continue the investigation by using the results of such a search. If the bureau did not make the request for the familial DNA search, the bureau shall have no other responsibilities in assisting in the investigation other than performing such a search, unless otherwise involved in the investigation or required by law.

SECTION 2. This act shall take effect July 1, 2011, the public welfare requiring it.