



MODEL LEGISLATION, 2008 STATE LEGISLATIVE SESSIONS

**AN ACT TO FUND PILOT FIELD PROGRAMS TO IMPROVE THE PRESERVATION
OF BIOLOGICAL EVIDENCE**

SECTION 1. LEGISLATIVE INTENT

The legislature finds that:

1. The value of properly preserved biological evidence has been enhanced by the discovery of modern DNA testing methods, which, coupled with a comprehensive system of DNA databases that store crime scene and offender profiles, allow law enforcement to improve its crime-solving potential;
2. Tapping the potential of preserved biological evidence requires the proper identification, collection, preservation, storage, cataloguing and organization of such evidence;
3. Law enforcement agencies indicate that “cold” case investigations are hindered by an inability to access biological evidence that was collected in connection with criminal investigations;
4. Innocent people mistakenly convicted of the serious crimes for which biological evidence is probative cannot prove their innocence if such evidence is not accessible for testing in appropriate circumstances;
5. It is well established that the failure to update preservation policies squanders valuable law enforcement resources, manpower hours and storage space;
6. Simple but crucial enhancements to protocols for properly preserving biological evidence can solve old crimes, enhance public safety and settle claims of innocence;
7. The legislature deems it useful to conduct pilot field programs to determine whether the re-



cataloguing of evidence and the creation of a county-wide (city-wide) centralized tracking system:

- a. Improves the preservation and retrieval of evidence;
- b. Saves manpower hours dedicated to inordinate searches by police, district attorneys, and defense attorneys;
- c. Diminishes the legal and court costs associated with multiple petitions and hearings dedicated to finding evidence;
- d. Yields more criminal case resolutions; and
- e. Enhances [State's] potential for justice in the criminal process.

SECTION 2. DEFINITIONS

For the purposes of this Act:

1. "Biological evidence" means the contents of a sexual assault examination kit; and any item that contains blood, semen, hair, saliva, skin tissue, fingernail scrapings, bone, bodily fluids or other identifiable biological material that was collected as part of the criminal investigation or may reasonably be used to incriminate or exculpate any person for the offense. This definition applies whether that material is catalogued separately (e.g., on a slide, swab or in a test tube) or is present on other evidence (including, but not limited to, clothing, ligatures, bedding or other household material, drinking cups, cigarettes, etc.); and
2. "DNA" means deoxyribonucleic acid.

SECTION 3. ESTABLISHMENT OF PILOT JURISDICTIONS

A. The Department of Public Safety shall establish a grant program to provide funding for pilot field programs to re-catalogue and create a centralized system through which biological evidence

may be retrieved.

B. Four jurisdictions will be granted funding from the Department of Public Safety for these pilot field programs:

1. A police district within a police department in a municipality whose population is at least 500,000 residents;
2. A police department in a municipality whose population is at least 100,000 residents but less than 500,000 residents;
3. A police department in a municipality whose population is at least 50,000 residents but less than 100,000 residents;
4. A police department in a municipality whose population is less than 50,000 residents.

C. All such pilot jurisdictions shall be designated by [date].

SECTION 4. PROCEDURES FOR PILOT JURISDICTIONS

A. The Department of Public Safety shall create and provide to the jurisdictions participating in these pilot field programs recommended procedures which establish:

1. Protocols, models, resources and potential funding sources for the cataloguing and accessibility of preserved biological evidence already in the possession of local, county, and state entities that preserve such evidence.
2. Guidelines to be used for training programs for law enforcement officers and other relevant employees that are charged with preserving, storing, cataloguing, organizing and retrieving biological evidence regarding the methods and procedures referenced in this Act.



3. Recommendations for creating a centralized tracking system through which laboratories, facilities and other related entities may locate biological evidence connected to criminal investigations.

- a. The tracking system shall also include methods for the retrieval of biological evidence for cases that have already resulted in convictions.
- b. The tracking system shall also include methods for the retrieval of biological evidence for unsolved cases.

SECTION 5. REPORT ON THE PILOT FIELD PROGRAMS

The Department of Public Safety shall collect reports from each of the participating police departments regarding their findings on the efficacy, practicability and realized and potential benefits of the studied procedures, and shall file and post [on State website] a report with the Governor, the Chief Justice, the Senate President and Speaker of the House that describes the procedural changes undertaken no later than December 1, 2009.