

## Session 117 - (2007-2008)

**S\*0429 (Rat #0429, Act #0413 of 2008) General Bill, By Malloy and Jackson**

**Similar (S 0879)**

**Summary:** Post-Conviction DNA Procedures Act

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 1, CHAPTER 28 TO TITLE 17 SO AS TO ENACT THE "ACCESS TO JUSTICE POST-CONVICTION DNA TESTING ACT", TO DEFINE NECESSARY TERMS, PROVIDE PROCEDURES FOR POST-CONVICTION DNA TESTING, PROVIDE A MANNER FOR THE PRESERVATION OF PHYSICAL AND BIOLOGICAL EVIDENCE, PROVIDE THE METHOD OF DISCLOSING THE RESULTS OF DNA TESTING, PROVIDE IMMUNITY FROM CIVIL LIABILITY UNLESS THERE IS AN ACT OF GROSS NEGLIGENCE OR INTENTIONAL MISCONDUCT, AND PROVIDE LIMITS ON EXPENDITURES IN ONE YEAR TO ADMINISTER THE ACT; BY ADDING ARTICLE 3, CHAPTER 28 TO TITLE 17 SO AS TO ENACT THE "PRESERVATION OF EVIDENCE ACT", TO DEFINE NECESSARY TERMS, PROVIDE PROCEDURES FOR PRESERVATION OF EVIDENCE, DELINEATE THE OFFENSES FOR WHICH PHYSICAL EVIDENCE AND BIOLOGICAL MATERIAL MUST BE PRESERVED, CREATE THE OFFENSE OF DESTROYING OR TAMPERING WITH PHYSICAL EVIDENCE OR BIOLOGICAL MATERIAL AND TO PROVIDE A PENALTY, AND PROVIDE IMMUNITY FROM CIVIL LIABILITY UNLESS THERE IS AN ACT OF GROSS NEGLIGENCE OR INTENTIONAL MISCONDUCT; TO ENACT THE "UNIDENTIFIED HUMAN REMAINS DNA DATABASE ACT" BY ADDING SECTION 23-3-625 SO AS TO PROVIDE THAT FAMILY MEMBERS OF A MISSING PERSON MAY SUBMIT DNA SAMPLES TO THE STATE LAW ENFORCEMENT DIVISION (SLED), TO REQUIRE SLED TO CONDUCT DNA IDENTIFICATION, TYPING, AND TESTING ON THE DNA SAMPLE PROVIDED BY FAMILY MEMBERS IF THE PERSON HAS BEEN MISSING THIRTY DAYS, TO PROVIDE A PROCEDURE FOR ENTERING THE DNA SAMPLES OF FAMILY MEMBERS INTO THE COMBINED DNA INDEXING SYSTEM (CODIS); BY ADDING SECTION 23-3-635 SO AS TO PROVIDE PROCEDURES FOR DNA TESTING OF THE BODIES OF UNIDENTIFIED PERSONS BY SLED WHEN NOTIFIED BY THE MEDICAL UNIVERSITY OF SOUTH CAROLINA (MUSC) OR ANOTHER FACILITY THAT THE BODY REMAINS UNIDENTIFIED AFTER THIRTY DAYS; BY ADDING SECTION 17-7-25 SO AS TO PROVIDE THAT A CORONER PERFORMING AN AUTOPSY ON AN UNIDENTIFIED BODY MUST OBTAIN TISSUE AND FLUID SAMPLES FROM THE BODY SUITABLE FOR DNA IDENTIFICATION, TYPING, AND TESTING AND TO PROVIDE THAT THE CORONER MUST SEND THE SAMPLES TO SLED; TO AMEND SECTION 17-5-570, RELATING TO THE RELEASE AND BURIAL OF DEAD BODIES AND THE PRESERVATION AND DISPOSITION OF UNIDENTIFIED DEAD BODIES, SO AS TO PROVIDE THAT MUSC OR ANOTHER FACILITY PRESERVING AN UNIDENTIFIED DEAD BODY MUST NOTIFY SLED IF THE BODY REMAINS UNIDENTIFIED AFTER THIRTY DAYS, AND TO PROVIDE THAT THERE MAY BE NO DISPOSITION OF THE BODY UNTIL AT LEAST THIRTY DAYS AFTER THE BODY'S DNA PROFILE HAS BEEN ENTERED INTO CODIS; TO ENACT THE "SOUTH CAROLINA PROTECTION FROM VIOLENCE AGAINST WOMEN AND CHILDREN ACT" BY ADDING SECTION 23-3-615 TO DEFINE NECESSARY TERMS; TO AMEND SECTION 23-3-620, RELATING TO OFFENDERS REQUIRED TO SUBMIT SAMPLES FOR INCLUSION IN THE STATE DNA DATABASE, SO AS TO REQUIRE SAMPLES UPON LAWFUL CUSTODIAL ARREST, SERVICE OF A COURTESY SUMMONS, OR A DIRECT INDICTMENT FOR A FELONY OFFENSE, AN OFFENSE THAT CARRIES A SENTENCE OF FIVE YEARS OR MORE, OR AN ARREST FOR EAVESDROPPING, PEEPING, OR STALKING, TO PROVIDE THAT THESE PROVISIONS APPLY TO JUVENILES UNDER CERTAIN CIRCUMSTANCES, AND TO REQUIRE SAMPLES TO BE PROVIDED BEFORE A PERSON IS RELEASED ON PAROLE, RELEASED FROM CONFINEMENT, OR RELEASED FROM AN APPROPRIATE AGENCY'S JURISDICTION; TO AMEND SECTION 23-3-630, RELATING TO PERSONS AUTHORIZED TO TAKE DNA SAMPLES AND THEIR IMMUNITY FROM LIABILITY, SO AS TO DELETE REQUIREMENTS THAT THE PERSONS AUTHORIZED MUST BE CERTAIN TYPES OF HEALTH PROFESSIONALS AND TO PROVIDE THAT THEY MUST BE APPROPRIATELY TRAINED; TO AMEND SECTION 23-3-650, RELATING TO THE CONFIDENTIALITY OF DNA PROFILES, SO AS TO PROVIDE FOR COORDINATION BETWEEN SLED AND LOCAL LAW ENFORCEMENT AGENCIES TO PREVENT COLLECTION AND PROCESSING OF DUPLICATE DNA SAMPLES AND TO INCREASE THE PENALTY FOR THE OFFENSE OF WILFULLY DISCLOSING OR OBTAINING CONFIDENTIAL DNA INFORMATION; TO AMEND SECTIONS 23-3-660 AND 23-3-670, RELATING TO EXPUNGEMENTS AND FEES FOR DNA SAMPLES, RESPECTIVELY, SO AS TO PROVIDE FOR EXPUNGEMENT AT NO COST TO THE ACCUSED WHEN CHARGES ARE DISMISSED, NOLLE PROSSED, OR REDUCED BELOW THE REQUIREMENT FOR THE TAKING OF THE DNA SAMPLE, TO PROVIDE THAT THE STATE WILL PAY FOR THE COSTS OF COLLECTING AND PROCESSING A DNA SAMPLE INITIALLY AND THE PERSON TESTED MUST PAY A PROCESSING FEE UPON CONVICTION, PLEA OF NOLO CONTENDERE, OR FORFEITURE OF BOND; AND TO AMEND SECTION 23-3-120, RELATING TO THE TAKING OF FINGERPRINTS, SO AS TO PROVIDE FOR THE PLACE AND TIMING FOR THE FINGERPRINTING OF A PERSON PLACED UNDER CUSTODIAL ARREST. - ratified title

02/13/07	Senate	Introduced and read first time SJ-11
02/13/07	Senate	Referred to Committee on Judiciary SJ-11
02/16/07	Senate	Referred to Subcommittee: Hutto (ch), Jackson, Knotts, Bryant
03/04/08	Senate	Referred to Subcommittee: Malloy (ch), Ford, Rankin, Knotts, Cleary
04/23/08	Senate	Committee report: Favorable with amendment Judiciary SJ-14
04/24/08	Senate	Committee Amendment Adopted SJ-49
04/24/08	Senate	Read second time SJ-49
04/25/08		Scrivener's error corrected
04/29/08	Senate	Amended SJ-62
04/29/08	Senate	Read third time and sent to House SJ-62
04/30/08	House	Introduced and read first time HJ-3
04/30/08	House	Referred to Committee on Judiciary HJ-4
05/29/08	House	Recalled from Committee on Judiciary HJ-109
06/03/08	House	Debate adjourned HJ-30
06/04/08	House	Amended HJ-68
06/04/08	House	Read second time HJ-73
06/05/08	House	Read third time and returned to Senate with amendments HJ-53
06/05/08	Senate	House amendment amended SJ-131
06/05/08	Senate	Returned to House with amendments SJ-131
06/05/08	House	Non-concurrence in Senate amendment HJ-187
06/05/08	Senate	Senate insists upon amendment and conference committee appointed Knotts, Malloy, and Cleary SJ-138
06/05/08	House	Conference committee appointed Reps. GM Smith, Crawford, and Jennings HJ-211
06/25/08	Senate	Conference report adopted
06/25/08	House	Conference report received and adopted
06/25/08	House	Ordered enrolled for ratification
06/25/08		Ratified R 429
07/02/08		Vetoed by Governor
10/20/08	Senate	Veto overridden by originating body Yeas-44 Nays-0
10/21/08	House	Veto overridden Yeas-86 Nays-25 HJ-57
10/23/08		Copies available
10/23/08		Effective date See Act for Effectvie Date
10/23/08		Act No. 413