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I N   S E N A T E

December 9, 2016

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Introduced by Sen. BOYLE -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the executive law, in relation to establishing the New York state familial search policy and the release of information for familial DNA searches

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

1     Section 1. Subdivision 13 of section 995-b of the executive law is  
2 amended by adding a new paragraph (e) to read as follows:  
3     (E) (I) THE DNA SUBCOMMITTEE SHALL PROVIDE NONBINDING RECOMMENDATIONS  
4 FOR A NEW YORK STATE FAMILIAL SEARCH POLICY. THE FAMILIAL SEARCH POLICY  
5 SHALL INCLUDE, BUT NOT BE LIMITED TO, ASSESSING AND EVALUATING THE ACCU-  
6 RACY OF FAMILIAL DNA SEARCHES, PROVIDING RECOMMENDATIONS ON THE PARAME-  
7 TERS FOR FAMILIAL DNA SEARCHING, CREATING PROCEDURES FOR WHEN FAMILIAL  
8 SEARCHES SHOULD AND SHOULD NOT BE USED, AND DETERMINING THE EXPECTED  
9 FISCAL IMPLICATIONS OF CONDUCTING FAMILIAL DNA SEARCHES IN NEW YORK  
10 STATE.  
11     (II) FOR THE ACCOMPLISHMENT OF ITS PURPOSES, THE DNA SUBCOMMITTEE  
12 SHALL BE AUTHORIZED AND EMPOWERED TO UNDERTAKE ANY STUDIES, INQUIRIES,  
13 SURVEYS OR ANALYSES IT MAY DEEM RELEVANT THROUGH ITS OWN PERSONNEL OR IN  
14 COOPERATION WITH OR BY AGREEMENT WITH ANY OTHER PUBLIC OR PRIVATE AGEN-  
15 CY.  
16     (III) THE DNA SUBCOMMITTEE SHALL MEET AND HOLD PUBLIC HEARINGS OR  
17 PRIVATE MEETINGS AND SHALL HAVE ALL THE POWERS OF A LEGISLATIVE COMMIT-  
18 TEE PURSUANT TO THE LEGISLATIVE LAW.  
19     (IV) THE COMMISSION SHALL MAKE A REPORT OF THE DNA SUBCOMMITTEES FIND-  
20 INGS, INCLUDING ANY RECOMMENDATIONS FOR LEGISLATIVE ACTION AS IT MAY  
21 DEEM NECESSARY AND APPROPRIATE, TO THE GOVERNOR AND THE LEGISLATURE NO  
22 LATER THAN DECEMBER FIRST, TWO THOUSAND SEVENTEEN.  
23     (V) FOR PURPOSES OF THIS PARAGRAPH "FAMILIAL DNA SEARCH" SHALL MEAN AN  
24 INTENTIONAL OR DELIBERATE SEARCH OF THE DNA DATABASE CONDUCTED AFTER A  
25 ROUTINE SEARCH FOR THE PURPOSE OF POTENTIALLY IDENTIFYING CLOSE BIOLOG-  
26 ICAL RELATIVES OF THE UNKNOWN FORENSIC SAMPLES ASSOCIATED WITH THE CRIME  
27 SCENE PROFILE.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets  
[ ] is old law to be omitted.

LBD16234-01-6

1 S 2. Subdivision 6 of section 995-c of the executive law is amended by  
2 adding a new paragraph (d) to read as follows:

3 (D) (I) TO A FEDERAL LAW ENFORCEMENT AGENCY, OR TO A STATE OR LOCAL  
4 LAW ENFORCEMENT AGENCY OR DISTRICT ATTORNEY'S OFFICE FOR LAW ENFORCEMENT  
5 FAMILIAL SEARCHING PURPOSES UPON SUBMISSION OF A DNA RECORD IN  
6 CONNECTION WITH THE INVESTIGATION OF THE COMMISSION OF ONE OR MORE  
7 CRIMES, PROVIDED THAT THERE EXISTS BETWEEN THE DIVISION AND SUCH AGENCY  
8 A WRITTEN AGREEMENT GOVERNING THE USE AND DISSEMINATION OF SUCH DNA  
9 RECORDS IN ACCORDANCE WITH THE PROVISIONS OF THIS ARTICLE;

10 (II) FAMILIAL DNA SEARCHES MAY BE CONDUCTED WHEN A LAW ENFORCEMENT  
11 AGENCY IS INVESTIGATING AN UNSOLVED CASE THAT HAS PUBLIC SAFETY IMPLI-  
12 CATIONS AND IS A VIOLENT CRIME, AND ALL OTHER INVESTIGATIVE LEADS HAVE  
13 BEEN EXHAUSTED AND THE CRIME SCENE PROFILE IS A SINGLE SOURCE PROFILE.

14 (III) THE COMMISSION, IN CONJUNCTION WITH THE DNA SUBCOMMITTEE, SHALL  
15 CREATE A NEW YORK STATE FAMILIAL SEARCH POLICY TO IMPLEMENT FAMILIAL  
16 SEARCHING IN THE STATE OF NEW YORK. THE DNA SUBCOMMITTEE REPORT, AS  
17 AUTHORIZED IN PARAGRAPH (E) OF SUBDIVISION THIRTEEN OF SECTION NINE  
18 HUNDRED NINETY-FIVE-B OF THIS ARTICLE, MAY PROVIDE ADDITIONAL GUIDELINES  
19 AND RECOMMENDATIONS FOR THE NEW YORK STATE FAMILIAL SEARCH POLICY.

20 S 3. This act shall take effect on the one hundred eightieth day after  
21 it shall have become a law. Effective immediately, the addition, amend-  
22 ment and/or repeal of any rule or regulation necessary for the implemen-  
23 tation of this act on its effective date are authorized to be made and  
24 completed on or before such effective date.