STATE OF NEW YORK

9089

IN SENATE

May 9, 2022

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

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:

Section 1. Subdivision 13 of section 995-b of the executive law is amended by adding a new paragraph (e) to read as follows:

(e) (i) The DNA subcommittee shall provide nonbinding recommendations for a New York state familial search policy. The familial search policy shall include, but not be limited to, assessing and evaluating the accuracy of familial DNA searches, providing recommendations on the parameters for familial DNA searching, creating procedures for when familial searches should and should not be used, and determining the expected fiscal implications of conducting familial DNA searches in New York state.

(ii) For the accomplishment of its purposes, the DNA subcommittee shall be authorized and empowered to undertake any studies, inquiries, surveys or analyses it may deem relevant through its own personnel or in cooperation with or by agreement with any other public or private agency.

(iii) The DNA subcommittee shall meet and hold public hearings or private meetings and shall have all the powers of a legislative committee pursuant to the legislative law.

(iv) The commission shall make a report of the DNA subcommittees findings, including any recommendations for legislative action as it may deem necessary and appropriate, to the governor and the legislature no later than December first, two thousand twenty-two.

(v) For purposes of this paragraph "familial DNA search" shall mean an intentional or deliberate search of the DNA database conducted for the purpose of potentially identifying close biological relatives of the unknown forensic samples associated with the crime scene profile.

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

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

(d) (i) to a federal law enforcement agency, or to a state or local law enforcement agency or district attorney's office for law enforcement familial DNA searching purposes upon submission of a DNA record in connection with the investigation of the commission of one or more crimes, provided that there exists between the division and such agency a written agreement governing the use and dissemination of such DNA records in accordance with the provisions of this article;

(ii) Familial DNA searches may be conducted when a law enforcement agency is investigating the commission of a violent felony offense as defined in section 70.02 of the penal law, and where there is no match of a single source DNA profile from the crime scene, and where all other leads have been exhausted.

(iii) The commission, in conjunction with the DNA subcommittee, shall create a New York state familial search policy to implement familial DNA searching in the state of New York. The DNA subcommittee report, as authorized in paragraph (e) of subdivision thirteen of section nine hundred ninety-five-b of this article, may provide additional guidelines and recommendations for the New York state familial search policy.

§ 3. This act shall take effect on the one hundred eightieth day after it shall have become a law. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date.