

House Bill 1596

By: Representative Holcomb of the 101st

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 3 of Title 35 of the Official Code of Georgia Annotated, relating to the
2 Georgia Bureau of Investigation, so as to provide for the Georgia Bureau of Investigation to
3 provide local prosecutorial agencies with certain information regarding forensic database
4 evidence; to provide for local prosecutorial agency determinations; to require certain actions
5 by prosecutorial agencies; to provide for reports; to provide for certain exceptions; to provide
6 for definitions; to provide for a short title; to provide for legislative findings and purposes;
7 to provide for related matters; to repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 This Act shall be known and may be cited as the "No Evidence Ignored Act."

11 **SECTION 2.**

12 (a) The General Assembly finds that:

13 (1) Forensic database evidence plays an increasingly important role in solving violent
14 crime;

15 (2) Such evidence can identify perpetrators in unsolved and cold cases, and can even
16 expose wrongful convictions; and

17 (3) It is crucial that this evidence is used to its full potential.

18 (b) The purpose of this Act is to:

19 (1) Advance public safety and promote accuracy in the criminal justice system by ensuring
20 that evidence generated by police forensic databases is properly reviewed, disclosed, and
21 acted on; and

22 (2) Ensure that victims will never go without justice and innocent people will never remain
23 in prison when forensic evidence that could identify the true perpetrator is available to
24 police and prosecutors.

25 **SECTION 3.**

26 Chapter 3 of Title 35 of the Official Code of Georgia Annotated, relating to the Georgia
27 Bureau of Investigation, is amended by adding a new article to read as follows:

28 "ARTICLE 10

29 35-3-210.

30 As used in this article, the term:

31 (1) 'Conviction confirmatory' means the crime scene profile involved in the forensic
32 database hit matched the profile of a person already convicted of a crime in relation to a
33 case.

34 (2) 'Crime scene profile' means a profile contained in a forensic database that was
35 collected from a crime scene, as opposed to being collected from a suspect or a criminal
36 offender.

37 (3) 'Forensic database' means any government maintained digitized repository that
38 includes profiles collected from crime scenes for the purpose of identification.

39 investigation, or prosecution, and that periodically indexes such profiles to identify
40 potential matches, including, but not limited, the Combined DNA Index System and the
41 Automated Fingerprint Identification System.

42 (4) 'Hit' means a match between two or more profiles in a forensic database, including
43 a match between two crime scene profiles.

44 (5) 'Innocence organization' means an organization that operates in this state and
45 provides pro bono legal services to people challenging their criminal convictions on the
46 grounds of actual innocence. Such organization does not need to be based in this state.

47 (6) 'Potentially exculpatory' means a crime scene profile involved in a forensic database
48 hit matched a profile other than the profile of a person convicted of a crime related to a
49 case, including, but not limited to, a profile of a different person or a different crime
50 scene profile.

51 (7) 'Profile' means a unique identifier of an individual or object, including, but not
52 limited to, a DNA sequence or fingerprint.

53 (8) 'Prosecutorial agency' means the office of the Attorney General or district attorney
54 of this state.

55 35-3-211.

56 (a) Upon receiving a forensic database hit involving a crime scene profile submitted by a
57 state or local law enforcement agency of this state, the bureau shall transmit a report of
58 such hit to:

59 (1) The law enforcement agency that submitted the hit; and

60 (2) The prosecutorial agency with jurisdiction over the case.

61 (b) Each month, the bureau shall transmit to prosecutorial agencies a list of all forensic
62 database hits transmitted to such agency in the preceding calendar month.

63 35-3-212.

64 (a) Within 30 days of receiving a copy of a forensic database hit, a prosecutorial agency
65 shall determine whether such hit relates to a criminal case for which at least one person has
66 been convicted.

67 (b) If a hit relates to a criminal case for which no person has been convicted, the
68 prosecutorial agency shall:

69 (1) Locate and notify any victims in such case that the prosecutorial agency has received
70 a forensic database hit and ask such victims whether they would like to receive further
71 updates on such hit and, if available, connect the victims with a trained victim advocate;
72 and

73 (2) Determine whether such hit can help identify and prosecute any perpetrators in the
74 case and in any other related cases.

75 (c) If a hit relates to a criminal case for which at least one person has been convicted, the
76 prosecutorial agency shall review such hit to determine whether it is conviction
77 confirmatory or potentially exculpatory for each convicted person in the case.

78 (d) If a hit is potentially exculpatory, within 30 days of determining such hit was
79 potentially exculpatory the prosecutorial agency shall:

80 (1) Determine whether such hit calls the integrity of the conviction into question;

81 (2) Notify the convicted person of such hit by providing him or her with a copy of the
82 report and giving notice that the person may wish to obtain counsel to determine the
83 exculpatory value of the hit;

84 (3) Locate and notify any victims that the prosecutorial agency has received a forensic
85 database hit that does not match at least one of the people convicted in their case and ask
86 such victims whether they would like to receive further updates on such hit and, if
87 available, connect the victims with a trained victim advocate; and

88 (4) Notify an innocence organization or the convicted person's last known defense
89 counsel of record, if no such organization exists, of the hit.

90 (e) If a hit was conviction confirmatory, the prosecutorial agency shall notify the bureau
91 that the hit was conviction confirmatory.

92 (f) A prosecutorial agency shall not be required to notify a victim pursuant to
93 subsection (b) or (d) of this Code section if such victim had previously expressed a
94 preference to not receive case updates.

95 35-3-213.

96 (a) On or before February 28 of each year, the bureau shall compile the number of forensic
97 database hits transmitted to each prosecutorial agency during the preceding year. Such
98 compilation shall list the number of hits for each forensic database.

99 (b) On or before February 28 of each year, each prosecutorial agency shall provide the
100 bureau with a report of the hits received and actions taken on such hits. Such report shall
101 be organized by forensic database. The report shall include the number of:

102 (1) Hits received;

103 (2) Determinations made in the preceding year;

104 (3) Pending determinations;

105 (4) Determinations that involved:

106 (A) A case in which no person had been convicted of a crime;

107 (B) A potentially exculpatory hit; and

108 (C) A conviction confirmatory hit;

109 (5) Hits determined to be potentially exculpatory; and

110 (6) Cases in which charges were brought involving a hit.

111 (c) The bureau shall make all reports compiled or received pursuant to this Code section
112 publicly available.

113 35-3-214.

114 No provisions of this article shall apply if any provisions:

