

SB241_L.003

SENATE COMMITTEE OF REFERENCE REPORT

Chairman of Committee_____
DateCommittee on Judiciary.

After consideration on the merits, the Committee recommends the following:

SB09-241 be amended as follows:

1 Amend printed bill, page 3, after line 21, insert the following:

2 "(2) AT THE PERSON'S FIRST APPEARANCE, THE COURT SHALL
3 ADVISE THE PERSON THAT THE BIOLOGICAL SAMPLE COLLECTED PURSUANT
4 TO THIS SECTION SHALL BE DESTROYED AND THE RESULTS OF THE TESTING
5 OF THE SAMPLE SHALL BE EXPUNGED FROM THE FEDERAL COMBINED DNA
6 INDEX SYSTEM AND ANY STATE INDEX SYSTEM UNDER THE
7 CIRCUMSTANCES DESCRIBED IN SECTION 16-23-105."

8 Renumber succeeding subsections accordingly.

9 Page 4, strike lines 26 and 27 and substitute the following:

10 "SUBSECTION (2) OF THIS SECTION, THE COLORADO BUREAU OF
11 INVESTIGATION SHALL DESTROY THE BIOLOGICAL SAMPLE COLLECTED
12 PURSUANT TO SECTION 16-23-103 AND EXPUNGE THE RESULTS OF THE
13 TESTING OF THE SAMPLE FROM THE FEDERAL COMBINED DNA INDEX
14 SYSTEM AND ANY STATE INDEX SYSTEM IF:

15 (a) THE CHARGE OR CHARGES THAT RESULTED IN THE COLLECTION
16 OF THE BIOLOGICAL SAMPLE PURSUANT TO SECTION 16-23-103 ARE
17 DISMISSED OR RESULT IN AN ACQUITTAL;

18 (b) THE CONVICTION FOR THE CHARGE OR CHARGES THAT
19 RESULTED IN THE COLLECTION OF THE BIOLOGICAL SAMPLE PURSUANT TO
20 SECTION 16-23-103 ARE FINALLY REVERSED OR VACATED AND NO NEW
21 TRIAL IS PERMITTED; OR



1 (c) THE PERSON IS GRANTED AN UNCONDITIONAL PARDON FOR THE
2 CHARGE OR CHARGES THAT RESULTED IN THE COLLECTION OF THE
3 BIOLOGICAL SAMPLE PURSUANT TO SECTION 16-23-103."

4 Page 5, strike lines 1 through 18;

5 strike lines 24 through 27 and substitute the following:

6 "(3) FOR EACH CIRCUMSTANCE DESCRIBED IN SUBSECTION (1) OF
7 THIS SECTION, THE COURT HAVING JURISDICTION OVER THE CASE SHALL
8 ISSUE AN ORDER FOR DESTRUCTION AND EXPUNGEMENT AND SHALL
9 PROVIDE THE DIRECTOR OF THE COLORADO BUREAU OF INVESTIGATION
10 WITH A COPY OF THE ORDER.

11 (4) A DESTRUCTION OR EXPUNGEMENT ORDERED PURSUANT TO
12 THIS SECTION SHALL OCCUR WITHIN SIXTY DAYS AFTER THE DIRECTOR OF
13 THE COLORADO BUREAU OF INVESTIGATION RECEIVES THE ORDER
14 SPECIFIED IN SUBSECTION (3) OF THIS SECTION.

15 (5) THE DIRECTOR OF THE COLORADO BUREAU OF INVESTIGATION
16 SHALL ISSUE A LETTER DOCUMENTING THE DESTRUCTION OR
17 EXPUNGEMENT ORDERED PURSUANT TO THIS SECTION TO THE DEFENDANT
18 AND THE DEFENDANT'S ATTORNEY AT THE ADDRESS SPECIFIED BY THE
19 COURT IN THE ORDER OF EXPUNGEMENT.

20 (6) A RECORD OR SAMPLE THAT QUALIFIES FOR EXPUNGEMENT OR
21 DESTRUCTION UNDER THIS SECTION AND IS MATCHED CONCURRENT WITH
22 OR SUBSEQUENT TO THE DATE OF QUALIFICATION FOR EXPUNGEMENT:

23 (a) MAY NOT BE UTILIZED FOR A DETERMINATION OF PROBABLE
24 CAUSE REGARDLESS OF WHETHER IT IS EXPUNGED OR DESTROYED TIMELY;
25 AND

26 (b) IS NOT ADMISSIBLE IN ANY PROCEEDING FOR ANY PURPOSE.

27 (7) A WILLFUL VIOLATION OF SUBSECTION (4) OF THIS SECTION IS
28 A CLASS 1 MISDEMEANOR."

29 Page 6, strike lines 1 and 2.

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