



Legislation Text

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Int. No. 786

By Council Members Johnson, Chin, Constantinides, Mendez, Rose, Levin and Rodriguez

A Local Law to amend the administrative code of the city of New York, in relation to the retention of DNA profiles by the office of chief medical examiner

Be it enacted by the Council as follows:

Section 1. Chapter 2 of title 17 of the administrative code of the city of New York is amended by adding a new section 17-209 to read as follows:

§ 17-209 Retention of non-convicted offender DNA profiles prohibited. a. Definitions. For the purposes of this section, the following terms shall mean:

“DNA profile” means a set of DNA identification characteristics which may permit the DNA of one person to be distinguished from that of another person.

“Forensic DNA profile” means a DNA profile that is derived from biological evidence originating from and associated with the commission of a crime.

“Identified living person’s DNA profile” means the DNA profile of a person whose identity is known by law enforcement authorities or by the office of the chief medical examiner, including profiles developed from DNA extracted from materials abandoned by persons whose identity is known to law enforcement authorities.

“Keyboard search” means a search of a DNA profile against a database in which the profile that is searched is not uploaded to or maintained in the database. The phrase does not include a one-to-one comparison of two DNA profiles.

b. If the chief medical examiner develops or obtains an identified living person’s DNA profile, the chief medical examiner may not compare such DNA profile to DNA profiles contained in a computerized DNA index

containing forensic DNA profiles or a similar database by keyboard search or similar method. If the chief medical examiner develops or obtains a forensic DNA profile, the chief medical examiner may not compare such DNA profile to a computerized DNA index containing identified living persons' DNA profiles or a similar database by keyboard search or similar method. Additionally, the chief medical examiner may not:

1. Make a computerized DNA index containing forensic DNA profiles or a similar database available for comparison to an identified living person's DNA profile; or

2. Make a computerized DNA index containing identified living persons' DNA profiles or a similar database available for comparison to a forensic DNA profile.

c. Notwithstanding the provisions of this section, the chief medical examiner may:

1. Maintain an index of DNA profiles derived from evidence recovered from crime victims, crime scenes or accident scenes, or upload such profiles to state or national databases pursuant to article forty-nine-b of the New York state executive law, or any successor provision thereto; and

2. Maintain an index containing DNA profiles of missing persons or their family members, or of volunteers who have provided DNA samples for quality assurance purposes; provided, however, such index is maintained in compliance with state and federal law and such DNA profiles shall not be uploaded to any other DNA index system, nor shall such DNA profiles be disclosed outside the office of the chief medical examiner, without the consent of the person whose profile has been identified.

§ 2. This local law takes effect immediately upon enactment.