

17.170 Maintenance of DNA samples collected before March 27, 2009 -- Persons required to provide DNA sample -- Persons and procedures authorized for DNA sample collection -- Administrative regulation -- Penalties for refusing to provide DNA sample or tampering with samples or containers.

- (1) Any DNA sample collected pursuant to the law in effect prior to March 27, 2009, shall be maintained and used pursuant to this section and KRS 17.175 and 17.510.
- (2) The following persons shall have a DNA sample collected by authorized personnel:
 - (a) Any person convicted on or after March 27, 2009, of a felony offense under the Kentucky Revised Statutes; or
 - (b) Any juvenile who was at least fourteen (14) years of age at the time of the commission of the offense and who stands adjudicated delinquent of being a public offender by a court of competent jurisdiction, of:
 1. Any felony offense in KRS Chapter 510;
 2. Incest as defined in KRS 530.020;
 3. Criminal attempt or criminal conspiracy to commit an offense identified in subparagraph 1. or 2. of this paragraph; or
 4. Being a juvenile sexual offender under KRS 635.510.
- (3) Any person who is required to register as a sex offender under KRS 17.510 who is not otherwise required to submit to a DNA sample collection under this section or KRS 17.510, including those persons convicted of a felony or adjudicated as a public offender on offenses in other jurisdictions as identified in KRS 17.510(6) and (7), shall have a DNA sample collected by authorized personnel.
- (4) Any person who is required to provide a DNA sample pursuant to subsection (2) of this section and who is released from custody upon sentencing or adjudication shall immediately report to the local probation and parole office and shall have a DNA sample collected by authorized personnel.
- (5) A DNA sample shall be obtained in an approved manner by authorized personnel, a physician, registered nurse, phlebotomist, medical technician, or medical technologist, and packaged with supplies and containers provided by the Department of Kentucky State Police forensic laboratory in accordance with administrative regulations promulgated by the cabinet. No civil liability shall attach to any person authorized to obtain the DNA sample as provided by this section as a result of the act of obtaining the DNA sample from any person, provided the procedure was done according to administrative regulations by the cabinet.
- (6) Authorized personnel collecting DNA samples under this section or KRS 17.510 are not engaging in the practice of medicine pursuant to KRS 311.550.
- (7) Any person required to provide a DNA sample under this section or KRS 17.510 who, after receiving notice of the requirement to provide a DNA sample, knowingly refuses to provide such DNA sample, shall be guilty of a Class A misdemeanor for each separate violation of the offense.

- (8) Any person who tampers or attempts to tamper with any DNA sample collected under this section or its container without lawful authority shall be guilty of a Class D felony.

Effective: March 27, 2009

History: Repealed reenacted, and amended 2009 Ky. Acts ch. 105, sec. 2, effective March 27, 2009. -- Amended 2008 Ky. Acts ch. 158, sec. 10, effective July 1, 2008. -
- Amended 2007 Ky. Acts ch. 85, sec. 91, effective June 26, 2007. -- Amended 2006 Ky. Acts ch. 182, sec. 2, effective July 12, 2006. -- Amended 2002 Ky. Acts ch. 154, sec. 4, effective July 15, 2002. -- Amended 1996 Ky. Acts ch. 334, sec. 4, effective July 15, 1996. -- Created 1992 Ky. Acts ch. 175, sec. 1, effective July 14, 1992.

Legislative Research Commission Note (7/1/2008). During the processing of the proposed Senate Committee Substitute to House Bill 683, which became 2008 Ky. Acts ch. 158, the reference to "KRS 439.3401(1)" in subsection (2) of this statute was inadvertently changed to "KRS 439.340(1)." After examination of the materials in the bill folder, consultation with the drafter, and examination of KRS 439.340(1) and 439.3401(1), this manifest clerical or typographical error has been corrected during codification by the Reviser of Statutes under the authority of KRS 7.136(1)(h).