

CS FOR SENATE BILL NO. 13(JUD) am(ct rule fld)

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - FIRST SESSION

BY THE SENATE JUDICIARY COMMITTEE

Amended: 2/21/95

Offered: 2/9/95

Sponsor(s): SENATORS LEMAN, Kelly, Halford, Sharp, Green

REPRESENTATIVE Toohey

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the admissibility into evidence of deoxyribonucleic acid (DNA)**
2 **profiles in civil and criminal proceedings."**

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 *** Section 1.** LEGISLATIVE FINDINGS AND STATEMENT OF PURPOSE. The
5 legislature finds that

6 (1) recent developments in molecular biology and genetics have important
7 applications for forensic science; except for identical twins, the DNA of every person is
8 unique. DNA typing methods can be used to characterize the DNA of an individual;

9 (2) the discriminating power of DNA typing is far superior to non-DNA
10 genetic marker testing methods and DNA typing methods have proven to be a reliable and
11 scientifically accepted tool for the investigation and prosecution of sex offenses and other
12 crimes;

13 (3) scientific evidence provides an increasingly critical source of information
14 in civil and criminal litigation;

1 (4) court decisions guiding the admissibility of scientific evidence in the state
2 courts impose a requirement on the introduction of expert scientific testimony that condition
3 the introduction of that testimony on the degree of its validation within the community, that
4 is, to its general acceptance by experts in the relevant scientific field;

5 (5) under the court decisions, trial courts are empowered to evaluate the quality
6 of expert witnesses' opinions and to exclude opinions that have not achieved general
7 acceptance in the scientific community;

8 (6) the ability of a trial court to exclude opinion evidence that has not achieved
9 general acceptance in the scientific community may prohibit introduction and consideration
10 of DNA profile evidence and testimony based on experimental scientific information that
11 could be useful to the trier of fact; and

12 (7) to better assure that relevant DNA profile evidence may be considered, the
13 "general acceptance" principle for admissibility of scientific testimony should be replaced and
14 a more flexible approach to the use of opinion testimony should be adopted.

15 * **Sec. 2.** AS 09.25 is amended by adding a new section to read:

16 Sec. 09.25.300. ADMISSIBILITY OF DNA PROFILES. (a) In a civil action
17 or proceeding, the evidence of a DNA profile is admissible to prove or disprove any
18 relevant fact.

19 (b) A party seeking to introduce the evidence of a DNA profile shall

20 (1) notify all other parties in writing, on or before a date determined by
21 order or rule of the court, of the party's intention to introduce the evidence; and

22 (2) provide all other parties, on or before a date determined by order
23 or rule of the court, copies of the DNA profiles and the report or statement of the
24 profile to be introduced.

25 (c) If the notice required by (b) of this section is not timely provided and a
26 party attempts to introduce the evidence, the court may, in its discretion, either allow
27 the opposing party a continuance or, under appropriate circumstances, bar the party
28 from presenting the evidence.

29 (d) If a party to whom notice is given under (b) of this section intends to
30 object to the admissibility of the DNA profile, the party shall give written notice of
31 the objection on or before the date determined by order or rule of the court.

1 (e) In this section,

2 (1) "deoxyribonucleic acid" or "DNA" means the molecules in all
3 cellular forms that contain genetic information in a patterned chemical structure for
4 each individual;

5 (2) "DNA profile" means an analysis of deoxyribonucleic acid material
6 in a human sample of blood, semen, tissue, or other DNA-bearing cells resulting in the
7 identification of the individual's patterned chemical structure of genetic information.

8 * **Sec. 3.** AS 12.45 is amended by adding a new section to read:

9 Sec. 12.45.035. **ADMISSIBILITY OF DNA PROFILES.** (a) In a criminal
10 action or proceeding, the evidence of a DNA profile is admissible to prove or disprove
11 any relevant fact.

12 (b) A party seeking to introduce the evidence of a DNA profile shall

13 (1) notify all other parties in writing, on or before a date determined
14 by order or rule of the court, of the party's intention to introduce the evidence; and

15 (2) provide all other parties, on or before a date determined by order or
16 rule of the court, copies of the DNA profiles and the report or statement of the profile
17 to be introduced.

18 (c) If the notice required by (b) of this section is not timely provided and a
19 party attempts to introduce the evidence, the court may, in its discretion, either allow
20 the opposing party a continuance or, under appropriate circumstances, bar the party
21 from presenting the evidence.

22 (d) If a party to whom notice is given under (b) of this section intends to
23 object to the admissibility of the DNA profile, the party shall give written notice of
24 the objection on or before the date determined by order or rule of the court.

25 (e) In this section,

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27 cellular forms that contain genetic information in a patterned chemical structure for
28 each individual;

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30 in a human sample of blood, semen, tissue, or other DNA-bearing cells resulting in the
31 identification of the individual's patterned chemical structure of genetic information.