AN ACT establishing the Kansas closed case task force; relating to identification and investigation relating to hits to the combined DNA index system (CODIS).

WHEREAS, The legislature finds that law enforcement agencies routinely submit biological evidence to forensic laboratories for DNA testing, prompting laboratories to report back to submitting law enforcement agencies the results of the requested testing and any match made to the combined DNA index system (CODIS); and

WHEREAS, It has been revealed, through a number of cases, that CODIS hits can occur in cases in which someone else, not the person to whom the DNA match was made, has already been convicted, which raises questions about whether the proper person was convicted and whether the match is in fact an important lead to the real perpetrator of the crime who eluded detection; and

WHEREAS, Wrongful convictions are a threat to individual liberty and cause irreparable harm to the innocent and their families; and

WHEREAS, Wrongful convictions also enable additional criminal activity and harm to the public. Of the 362 DNA-based exonerations, 158 true perpetrators connected to those cases were ultimately identified. In the time that the innocent were behind bars, these true perpetrators committed at least 150 additional violent crimes, the majority of which involved rape and murder; and

WHEREAS, CODIS hits to closed cases, when accompanied by proper reinvestigations, can lead to the revelation of wrongful convictions; and

WHEREAS, CODIS is a powerful tool for solving decades-old crimes and identifying repeat offenders by establishing links between closed cases and ongoing investigations; and

WHEREAS, Kansas will benefit from a task force dedicated to creating and assuring the implementation of a plan to achieve uniform protocols for law enforcement agencies, forensic laboratories and prosecutors' offices for the handling of CODIS hits reported out to submitting law enforcement agencies by forensic laboratories to ensure that all CODIS hits are reported to appropriate parties, accounted for and, where appropriate, investigated.

Now, therefore:

Be it enacted by the Legislature of the State of Kansas:
Section 1. (a) There is hereby established the Kansas closed case task force. The task force shall be composed of 14 voting members, as follows:

1. The chairperson of the standing senate committee on judiciary;
2. The ranking minority member of the standing senate committee on judiciary;
3. The chairperson of the standing house committee on judiciary;
4. The ranking minority member of the standing house committee on judiciary;
5. The governor or the governor's designee;
6. The attorney general or the attorney general's designee;
7. The director of the Kansas bureau of investigation or the director's designee;
8. A sheriff as designated by the Kansas sheriff's association;
9. A chief of police as designated by the Kansas association of chiefs of police;
10. A prosecutor as designated by the Kansas county and district attorneys association;
11. The executive director of the state board of indigents' defense services or the executive director's designee;
12. The president of the Kansas bar association or the president's designee;
13. The director of victims services of the department of corrections or the director's designee; and
14. One member designated by the governor who represents an organization that litigates claims of innocence.

(b) (1) Members shall be appointed to the task force on or before September 1, 2019. The initial meeting of the task force shall be convened on or before October 1, 2019.

(2) The chairperson of the standing senate committee on judiciary and the chairperson of the standing house committee on judiciary shall serve as co-chairs of the task force.

(3) The task force may meet in an open meeting at any time and at any place within the state of Kansas upon the call of either co-chairperson of the task force. A majority of the voting members of the task force constitutes a quorum. Any action by the task force shall be by motion adopted by a majority of the voting members present when there is a quorum.

(c) The task force, in consultation with practitioners and experts, shall develop a plan to ensure uniform statewide policies and procedures that address, at a minimum:

1. Timely receipt of the data relating to hits to the combined DNA index system (CODIS) from the forensic laboratory;
2. Directly connecting the data relating to hits to the combined DNA
index system (CODIS) to the relevant case file;

(3) proper policies and procedures to ensure all hits are accounted for and followed up;

(4) procedures to address how the key parties can conduct a reasonable and timely investigation into the significance of the hit; and

(5) sharing the hits in data from both solved and unsolved cases with other key parties, including the relevant prosecutors' offices, the original defense attorney and the last known attorney of record, crime victims and surviving relatives, and a local organization that litigates claims of innocence.

(d) The task force shall complete a plan for implementation of a protocol relating to hits to closed cases by October 1, 2020. The plan shall include a mechanism to ensure uniform compliance at the local law enforcement agency level.

(e) On or before December 1, 2020, the task force shall submit a report containing a plan for uniform implementation of the protocol throughout the state, including articulated benchmarks to facilitate and measure adoption. This report shall be posted on a public website maintained by the Kansas bureau of investigation and presented to the governor, the speaker of the house of representatives and the president of the senate.

(f) Legislative members of the task force attending meetings authorized by the task force shall be paid amounts provided in K.S.A. 75-3223(e), and amendments thereto. Non-legislative members of the task force may be reimbursed by their appointing authority.

(g) The provisions of this section shall expire on December 30, 2020.

Sec. 2. This act shall take effect and be in force from and after its publication in the statute book.