

1 ENGROSSED HOUSE AMENDMENT
TO
2 ENGROSSED SENATE BILL NO. 184 By: Shaw of the Senate
3 and
4 Bush of the House
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8 An Act relating to criminal procedure; amending
9 Section 1, Chapter 181, O.S.L. 2016 (22 O.S. Supp.
10 2018, Section 210), which relates to deoxyribonucleic
11 acid (DNA) testing upon arrest; clarifying purpose
12 for collecting DNA samples; designating persons
13 authorized to collect DNA samples; deleting DNA
14 collection exemption; directing use of certain
15 collection instruments by facilities utilizing Rapid
16 DNA technology; prohibiting facilities utilizing
17 Rapid DNA technology from retaining, testing or
18 storing DNA samples after completion of matching
19 process; making certain acts unlawful; providing
20 penalty; adding exception for DNA sample destruction
21 requirement; amending 74 O.S. 2011, Section 150.27a,
22 as last amended by Section 3, Chapter 194, O.S.L.
23 2017 (74 O.S. Supp. 2018, Section 150.27a), which
24 relates to the OSBI Combined DNA Index System (CODIS)
Database; adding exception for DNA sample destruction
requirement; and providing an effective date.

19 AMENDMENT NO. 1. Replace the title, enacting clause and entire bill
20 and insert
21

22 "An Act relating to criminal procedure; amending
23 Section 1, Chapter 181, O.S.L. 2016 (22 O.S. Supp.
24 2018, Section 210), which relates to
deoxyribonucleic acid (DNA) testing upon arrest;
clarifying purpose for collecting DNA samples;

1 designating persons authorized to collect DNA
2 samples; deleting DNA collection exemption;
3 directing use of certain collection instruments by
4 facilities utilizing Rapid DNA technology;
5 prohibiting facilities utilizing Rapid DNA
6 technology from retaining, testing or storing DNA
7 samples after completion of matching process; making
8 certain acts unlawful; providing penalty; adding
9 exception for DNA sample destruction requirement;
10 amending 74 O.S. 2011, Section 150.27a, as last
11 amended by Section 3, Chapter 194, O.S.L. 2017 (74
12 O.S. Supp. 2018, Section 150.27a), which relates to
13 the OSBI Combined DNA Index System (CODIS) Database;
14 adding exception for DNA sample destruction
15 requirement; and providing an effective date.

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BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY Section 1, Chapter 181, O.S.L.
2016 (22 O.S. Supp. 2018, Section 210), is amended to read as
follows:

Section 210. A. Subject to the availability of funds, a person
eighteen (18) years of age or older who is arrested for the
commission of a felony under the laws of this state or any other
jurisdiction shall, upon being booked into a jail or detention
facility, submit to deoxyribonucleic acid (DNA) sample collection
for testing for law enforcement identification DNA-identification-
matching purposes in accordance with Section 150.27a of Title 74 of
the Oklahoma Statutes and the rules promulgated by the Oklahoma
State Bureau of Investigation (OSBI) for the OSBI Combined DNA Index
System (CODIS) Database. DNA samples shall be collected by ~~the~~

1 ~~arresting authority~~ trained medical personnel, law enforcement,
2 tribal police officers, or employees or medical contractors of those
3 organizations as qualified pursuant to subsection B of this section.
4 ~~Convicted or arrested individuals who have previously submitted to~~
5 ~~DNA testing pursuant to this section or Section 991a of Title 22 of~~
6 ~~the Oklahoma Statutes and for whom a valid sample is on file in the~~
7 ~~OSBI CODIS Database shall not be required to submit to additional~~
8 ~~testing.~~

9 B. Samples of blood or saliva for DNA testing or for DNA-
10 identification-matching purposes required by subsection A of this
11 section shall be taken by ~~peace officers, the county sheriff~~ trained
12 medical personnel, law enforcement, tribal police officers, or
13 employees or medical contractors of the county sheriff's office
14 those organizations. The individuals shall be properly trained to
15 collect blood or saliva samples. Persons collecting blood or saliva
16 for DNA testing or for DNA-identification-matching purposes pursuant
17 to this section shall be immune from civil liabilities arising from
18 this activity. All collectors of DNA samples shall ensure the
19 collected samples are mailed or delivered to the OSBI within ten
20 (10) days after the DNA sample is collected from the person. ~~All~~
21 ~~collectors of DNA samples shall use~~ using sample kits provided by
22 the OSBI and procedures promulgated by the OSBI, or if the jail,
23 detention facility, booking facility of a federally recognized
24 American Indian tribe in Oklahoma or other designated facility is

1 using Rapid DNA technology, the collector shall use the provided
2 collection instruments. Once the DNA-identification-matching
3 process has concluded and a sample has been mailed or delivered to
4 the OSBI, the collector shall discard the Rapid DNA sample taken in
5 the jail, detention facility, booking facility of a federally
6 recognized American Indian tribe in Oklahoma or other designated
7 facility.

8 If a jail, detention facility, booking facility of a federally
9 recognized American Indian tribe in Oklahoma or other designated
10 facility is using Rapid DNA technology to take the DNA sample for
11 DNA identification purposes, said sample shall not be retained,
12 tested or stored after completion of the Rapid DNA identification
13 process. Any person charged with the custody and dissemination of
14 DNA samples and profiles shall not divulge or disclose any such
15 information except to federal, state, county or municipal law
16 enforcement or criminal justice agencies, nor shall the person
17 tamper with the samples and profiles taken. Any person violating
18 the provisions of this section shall, upon conviction, be guilty of
19 a misdemeanor punishable by imprisonment in the county jail for not
20 more than one (1) year.

21 C. A DNA sample shall not be analyzed and shall be destroyed
22 unless one of the following conditions has been met:

23 1. The arrest was made upon a valid felony arrest or warrant;
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1 2. The person has appeared before a judge or magistrate judge
2 who made a finding that there was probable cause for the arrest; ~~or~~

3 3. The person posted bond or was released prior to appearing
4 before a judge or magistrate judge and then failed to appear for a
5 scheduled hearing; or

6 4. The DNA sample was provided as a condition of a plea
7 agreement.

8 D. All DNA samples, records and identifiable information
9 generated pursuant to the provisions of this section shall be
10 automatically expunged from the OSBI Combined DNA Index System
11 (CODIS) Database under the following circumstances:

12 1. The felony offense for which the person was arrested does
13 not result in charges either by information or indictment and the
14 statute of limitations has expired;

15 2. The state voluntarily dismissed the felony charge filed
16 against the person; or

17 3. The court dismissed the felony charge filed against the
18 person.

19 The Oklahoma State Bureau of Investigation shall promulgate
20 rules establishing procedures relating to the automatic expungement
21 of DNA samples, records and identifiable information collected under
22 the provisions of this section. Fees related to the expungement of
23 DNA samples, records and identifiable information shall not be
24

1 assessed for persons who qualify for an automatic expungement under
2 the provisions of this subsection.

3 SECTION 2. AMENDATORY 74 O.S. 2011, Section 150.27a, as
4 last amended by Section 3, Chapter 194, O.S.L. 2017 (74 O.S. Supp.
5 2018, Section 150.27a), is amended to read as follows:

6 Section 150.27a A. There is hereby established within the
7 Oklahoma State Bureau of Investigation the OSBI Combined DNA Index
8 System (CODIS) Database for the purpose of collecting and storing
9 blood or saliva samples and DNA profiles, analyzing and typing of
10 the genetic markers contained in or derived from DNA, and
11 maintaining the records and samples of DNA of individuals:

12 1. Convicted of any felony offense;

13 2. Required to register pursuant to the Sex Offenders
14 Registration Act;

15 3. Subject to the availability of funds, eighteen (18) years of
16 age or older arrested for the commission of a felony under the laws
17 of this state or any other jurisdiction, upon being booked into a
18 jail or detention facility. Provided, the DNA sample shall not be
19 analyzed and shall be destroyed unless one of the following
20 conditions has been met:

21 a. the arrest was made upon a valid felony arrest or
22 warrant,
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- 1 b. the person has appeared before a judge or magistrate
2 judge who made a finding that there was probable cause
3 for the arrest, ~~or~~
4 c. the person posted bond or was released prior to
5 appearing before a judge or magistrate judge and then
6 failed to appear for a scheduled hearing, or
7 d. the DNA sample was provided as a condition of a plea
8 agreement; and

9 4. Subject to the availability of funds, convicted of a
10 misdemeanor offense of assault and battery, domestic abuse,
11 stalking, possession of a controlled substance prohibited under
12 Schedule IV of the Uniform Controlled Dangerous Substances Act,
13 outraging public decency, resisting arrest, escaping or attempting
14 to escape, eluding a police officer, Peeping Tom, pointing a
15 firearm, threatening an act of violence, breaking and entering a
16 dwelling place, destruction of property, negligent homicide, or
17 causing a personal injury accident while driving under the influence
18 of any intoxicating substance, or, upon arrest, any alien unlawfully
19 present under federal immigration law.

20 The purpose of this database is the detection or exclusion of
21 individuals who are subjects of the investigation or prosecution of
22 sex-related crimes, violent crimes, or other crimes in which
23 biological evidence is recovered, and such information shall be used
24 for no other purpose.

1 B. Any DNA specimen taken in good faith by the Department of
2 Corrections, its employees or contractors, the county sheriff, its
3 employees or contractors or a peace officer, and submitted to the
4 OSBI may be included, maintained, and kept by the OSBI in a database
5 for criminal investigative purposes despite the specimen having not
6 been taken in strict compliance with the provisions of this section
7 or Section 991a of Title 22 of the Oklahoma Statutes.

8 C. Upon the request to OSBI by the federal or state authority
9 having custody of the person, any individual who was convicted of
10 violating laws of another state or the federal government, but is
11 currently incarcerated or residing in Oklahoma, shall submit to DNA
12 profiling for entry of the data into the OSBI DNA Offender Database.
13 This provision shall only apply when such federal or state
14 conviction carries a requirement of sex offender registration or DNA
15 profiling. The person to be profiled shall pay a fee of One Hundred
16 Fifty Dollars (\$150.00) to the OSBI.

17 D. The OSBI CODIS Database is specifically exempt from any
18 statute requiring disclosure of information to the public. The
19 information contained in the database is privileged from discovery
20 and inadmissible as evidence in any civil court proceeding. The
21 information in the database is confidential and shall not be
22 released to the public. Any person charged with the custody and
23 dissemination of information from the database shall not divulge or
24 disclose any such information except to federal, state, county or

1 municipal law enforcement or criminal justice agencies. Any person
2 violating the provisions of this section upon conviction shall be
3 deemed guilty of a misdemeanor punishable by imprisonment in the
4 county jail for not more than one (1) year.

5 E. The OSBI shall promulgate rules concerning the collection,
6 storing, expungement and dissemination of information and samples
7 for the OSBI CODIS Database. The OSBI shall determine the type of
8 equipment, collection procedures, and reporting documentation to be
9 used by the Department of Corrections, a county sheriff's office or
10 a law enforcement agency in submitting DNA samples to the OSBI in
11 accordance with Section 991a of Title 22 of the Oklahoma Statutes.
12 The OSBI shall provide training to designated employees of the
13 Department of Corrections, a county sheriff's office and a law
14 enforcement agency in the proper methods of performing the duties
15 required by this section.

16 F. The OSBI CODIS Database may include secondary databases and
17 indexes including, but not limited to:

18 1. Forensic index database consisting of unknown evidence
19 samples;

20 2. Suspect index database consisting of samples taken from
21 individuals as a result of criminal investigations;

22 3. Convicted offender index database authorized pursuant to
23 subsection A of this section; and
24

1 4. Missing persons and unidentified remains index or database
2 consisting of DNA profiles from unidentified remains and relatives
3 of missing persons.

4 G. 1. Any person convicted of a felony offense who is in
5 custody shall provide a blood or saliva sample prior to release.

6 2. Subject to the availability of funds, any person convicted
7 of a misdemeanor offense of assault and battery, domestic abuse,
8 stalking, possession of a controlled substance prohibited under
9 Schedule IV of the Uniform Controlled Dangerous Substances Act,
10 outraging public decency, resisting arrest, escaping or attempting
11 to escape, eluding a police officer, Peeping Tom, pointing a
12 firearm, threatening an act of violence, breaking and entering a
13 dwelling place, destruction of property, negligent homicide, or
14 causing a personal injury incident while driving under the influence
15 of any intoxicating substance who is in custody shall provide a
16 blood or saliva sample prior to release.

17 3. Every person who is convicted of a felony offense whose
18 sentence does not include a term of incarceration shall provide a
19 blood or saliva sample as a condition of sentence.

20 4. Subject to the availability of funds, every person who is
21 convicted of a misdemeanor offense of assault and battery, domestic
22 abuse, stalking, possession of a controlled substance prohibited
23 under Schedule IV of the Uniform Controlled Dangerous Substances
24 Act, outraging public decency, resisting arrest, escape or

1 attempting to escape, eluding a police officer, Peeping Tom,
2 pointing a firearm, threatening an act of violence, breaking and
3 entering a dwelling place, destruction of property, negligent
4 homicide, or causing a personal injury accident while driving under
5 the influence of any intoxicating substance whose sentence does not
6 include a term of incarceration shall provide a blood or saliva
7 sample as a condition of sentence.

8 5. Subject to the availability of funds, any person eighteen
9 (18) years of age or older who is arrested for the commission of a
10 felony under the laws of this state or any other jurisdiction shall,
11 upon being booked into a jail or detention facility, submit to DNA
12 testing for law enforcement identification purposes. Provided, the
13 DNA sample shall not be analyzed and shall be destroyed unless one
14 of the following conditions has been met:

- 15 a. the arrest was made upon a valid felony arrest or
16 warrant,
- 17 b. the person has appeared before a judge or magistrate
18 judge who made a finding that there was probable cause
19 for the arrest, ~~or~~
- 20 c. the person posted bond or was released prior to
21 appearing before a judge or magistrate judge and then
22 failed to appear for a scheduled hearing, or
- 23 d. the DNA sample was provided as a condition of a plea
24 agreement.

SECTION 3. This act shall become effective November 1, 2019."

Passed the House of Representatives the 16th day of April, 2019.

Presiding Officer of the House of
Representatives

Passed the Senate the _____ day of _____, 2019.

Presiding Officer of the Senate

1 ENGROSSED SENATE
2 BILL NO. 184

By: Shaw of the Senate

3 and

4 Bush of the House

5
6 An Act relating to criminal procedure; amending
7 Section 1, Chapter 181, O.S.L. 2016 (22 O.S. Supp.
8 2018, Section 210), which relates to deoxyribonucleic
9 acid (DNA) testing upon arrest; clarifying purpose
10 for collecting DNA samples; designating persons
11 authorized to collect DNA samples; deleting DNA
12 collection exemption; directing use of certain
13 collection instruments by facilities utilizing Rapid
14 DNA technology; prohibiting facilities utilizing
15 Rapid DNA technology from retaining, testing or
16 storing DNA samples after completion of matching
17 process; making certain acts unlawful; providing
18 penalty; adding exception for DNA sample destruction
19 requirement; amending 74 O.S. 2011, Section 150.27a,
20 as last amended by Section 3, Chapter 194, O.S.L.
21 2017 (74 O.S. Supp. 2018, Section 150.27a), which
22 relates to the OSBI Combined DNA Index System (CODIS)
23 Database; adding exception for DNA sample destruction
24 requirement; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 4. AMENDATORY Section 1, Chapter 181, O.S.L.
2016 (22 O.S. Supp. 2018, Section 210), is amended to read as
follows:

Section 210. A. Subject to the availability of funds, a person
eighteen (18) years of age or older who is arrested for the
commission of a felony under the laws of this state or any other

1 jurisdiction shall, upon being booked into a jail or detention
2 facility, submit to deoxyribonucleic acid (DNA) sample collection
3 for testing for law enforcement identification DNA-identification-
4 matching purposes in accordance with Section 150.27a of Title 74 of
5 the Oklahoma Statutes and the rules promulgated by the Oklahoma
6 State Bureau of Investigation (OSBI) for the OSBI Combined DNA Index
7 System (CODIS) Database. DNA samples shall be collected by ~~the~~
8 ~~arresting authority~~ trained medical personnel, law enforcement or
9 employees or medical contractors of these organizations as qualified
10 pursuant to subsection B of this section. ~~Convicted or arrested~~
11 ~~individuals who have previously submitted to DNA testing pursuant to~~
12 ~~this section or Section 991a of Title 22 of the Oklahoma Statutes~~
13 ~~and for whom a valid sample is on file in the OSBI CODIS Database~~
14 ~~shall not be required to submit to additional testing.~~

15 B. Samples of blood or saliva for DNA testing or for DNA-
16 identification-matching purposes required by subsection A of this
17 section shall be taken by ~~peace officers, the county sheriff~~ trained
18 medical personnel, law enforcement or employees or medical
19 ~~contractors of the county sheriff's office~~ these organizations. The
20 individuals shall be properly trained to collect blood or saliva
21 samples. Persons collecting blood or saliva for DNA testing or for
22 DNA-identification-matching purposes pursuant to this section shall
23 be immune from civil liabilities arising from this activity. All
24 collectors of DNA samples shall ensure the collected samples are

1 mailed or delivered to the OSBI within ten (10) days after the DNA
2 sample is collected from the person. ~~All collectors of DNA samples~~
3 ~~shall use~~ using sample kits provided by the OSBI and procedures
4 promulgated by the OSBI, or if the jail, detention facility or other
5 designated facility is using Rapid DNA technology, the collector
6 shall use the provided collection instruments. Once the DNA-
7 identification-matching process has concluded and a sample has been
8 mailed or delivered to the OSBI, the collector shall discard the
9 Rapid DNA sample taken in the jail, detention facility or other
10 designated facility.

11 If a jail, detention facility or other designated facility is
12 using Rapid DNA technology to take the DNA sample for DNA
13 identification purposes, said sample shall not be retained, tested
14 or stored after completion of the Rapid DNA identification process.
15 Any person charged with the custody and dissemination of DNA samples
16 and profiles shall not divulge or disclose any such information
17 except to federal, state, county or municipal law enforcement or
18 criminal justice agencies nor shall the person tamper with the
19 samples and profiles taken. Any person violating the provisions of
20 this section shall, upon conviction, be guilty of a misdemeanor
21 punishable by imprisonment in the county jail for not more than one
22 (1) year.

23 C. A DNA sample shall not be analyzed and shall be destroyed
24 unless one of the following conditions has been met:

1 1. The arrest was made upon a valid felony arrest or warrant;

2 2. The person has appeared before a judge or magistrate judge
3 who made a finding that there was probable cause for the arrest; ~~or~~

4 3. The person posted bond or was released prior to appearing
5 before a judge or magistrate judge and then failed to appear for a
6 scheduled hearing; or

7 4. The DNA sample is provided as a condition of a plea
8 agreement.

9 D. All DNA samples, records and identifiable information
10 generated pursuant to the provisions of this section shall be
11 automatically expunged from the OSBI Combined DNA Index System
12 (CODIS) Database under the following circumstances:

13 1. The felony offense for which the person was arrested does
14 not result in charges either by information or indictment and the
15 statute of limitations has expired;

16 2. The state voluntarily dismissed the felony charge filed
17 against the person; or

18 3. The court dismissed the felony charge filed against the
19 person.

20 The Oklahoma State Bureau of Investigation shall promulgate
21 rules establishing procedures relating to the automatic expungement
22 of DNA samples, records and identifiable information collected under
23 the provisions of this section. Fees related to the expungement of
24 DNA samples, records and identifiable information shall not be

1 assessed for persons who qualify for an automatic expungement under
2 the provisions of this subsection.

3 SECTION 5. AMENDATORY 74 O.S. 2011, Section 150.27a, as
4 last amended by Section 3, Chapter 194, O.S.L. 2017 (74 O.S. Supp.
5 2018, Section 150.27a), is amended to read as follows:

6 Section 150.27a. A. There is hereby established within the
7 Oklahoma State Bureau of Investigation the OSBI Combined DNA Index
8 System (CODIS) Database for the purpose of collecting and storing
9 blood or saliva samples and DNA profiles, analyzing and typing of
10 the genetic markers contained in or derived from DNA, and
11 maintaining the records and samples of DNA of individuals:

12 1. Convicted of any felony offense;

13 2. Required to register pursuant to the Sex Offenders
14 Registration Act;

15 3. Subject to the availability of funds, eighteen (18) years of
16 age or older arrested for the commission of a felony under the laws
17 of this state or any other jurisdiction, upon being booked into a
18 jail or detention facility. Provided, the DNA sample shall not be
19 analyzed and shall be destroyed unless one of the following
20 conditions has been met:

21 a. the arrest was made upon a valid felony arrest or
22 warrant,
23
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- 1 b. the person has appeared before a judge or magistrate
2 judge who made a finding that there was probable cause
3 for the arrest, ~~or~~
4 c. the person posted bond or was released prior to
5 appearing before a judge or magistrate judge and then
6 failed to appear for a scheduled hearing, or
7 d. the DNA sample is provided as a condition of a plea
8 agreement; and

9 4. Subject to the availability of funds, convicted of a
10 misdemeanor offense of assault and battery, domestic abuse,
11 stalking, possession of a controlled substance prohibited under
12 Schedule IV of the Uniform Controlled Dangerous Substances Act,
13 outraging public decency, resisting arrest, escaping or attempting
14 to escape, eluding a police officer, Peeping Tom, pointing a
15 firearm, threatening an act of violence, breaking and entering a
16 dwelling place, destruction of property, negligent homicide, or
17 causing a personal injury accident while driving under the influence
18 of any intoxicating substance, or, upon arrest, any alien unlawfully
19 present under federal immigration law.

20 The purpose of this database is the detection or exclusion of
21 individuals who are subjects of the investigation or prosecution of
22 sex-related crimes, violent crimes, or other crimes in which
23 biological evidence is recovered, and such information shall be used
24 for no other purpose.

1 B. Any DNA specimen taken in good faith by the Department of
2 Corrections, its employees or contractors, the county sheriff, its
3 employees or contractors or a peace officer, and submitted to the
4 OSBI may be included, maintained, and kept by the OSBI in a database
5 for criminal investigative purposes despite the specimen having not
6 been taken in strict compliance with the provisions of this section
7 or Section 991a of Title 22 of the Oklahoma Statutes.

8 C. Upon the request to OSBI by the federal or state authority
9 having custody of the person, any individual who was convicted of
10 violating laws of another state or the federal government, but is
11 currently incarcerated or residing in Oklahoma, shall submit to DNA
12 profiling for entry of the data into the OSBI DNA Offender Database.
13 This provision shall only apply when such federal or state
14 conviction carries a requirement of sex offender registration or DNA
15 profiling. The person to be profiled shall pay a fee of One Hundred
16 Fifty Dollars (\$150.00) to the OSBI.

17 D. The OSBI CODIS Database is specifically exempt from any
18 statute requiring disclosure of information to the public. The
19 information contained in the database is privileged from discovery
20 and inadmissible as evidence in any civil court proceeding. The
21 information in the database is confidential and shall not be
22 released to the public. Any person charged with the custody and
23 dissemination of information from the database shall not divulge or
24 disclose any such information except to federal, state, county or

1 municipal law enforcement or criminal justice agencies. Any person
2 violating the provisions of this section upon conviction shall be
3 deemed guilty of a misdemeanor punishable by imprisonment in the
4 county jail for not more than one (1) year.

5 E. The OSBI shall promulgate rules concerning the collection,
6 storing, expungement and dissemination of information and samples
7 for the OSBI CODIS Database. The OSBI shall determine the type of
8 equipment, collection procedures, and reporting documentation to be
9 used by the Department of Corrections, a county sheriff's office or
10 a law enforcement agency in submitting DNA samples to the OSBI in
11 accordance with Section 991a of Title 22 of the Oklahoma Statutes.
12 The OSBI shall provide training to designated employees of the
13 Department of Corrections, a county sheriff's office and a law
14 enforcement agency in the proper methods of performing the duties
15 required by this section.

16 F. The OSBI CODIS Database may include secondary databases and
17 indexes including, but not limited to:

18 1. Forensic index database consisting of unknown evidence
19 samples;

20 2. Suspect index database consisting of samples taken from
21 individuals as a result of criminal investigations;

22 3. Convicted offender index database authorized pursuant to
23 subsection A of this section; and
24

1 4. Missing persons and unidentified remains index or database
2 consisting of DNA profiles from unidentified remains and relatives
3 of missing persons.

4 G. 1. Any person convicted of a felony offense who is in
5 custody shall provide a blood or saliva sample prior to release.

6 2. Subject to the availability of funds, any person convicted
7 of a misdemeanor offense of assault and battery, domestic abuse,
8 stalking, possession of a controlled substance prohibited under
9 Schedule IV of the Uniform Controlled Dangerous Substances Act,
10 outraging public decency, resisting arrest, escaping or attempting
11 to escape, eluding a police officer, Peeping Tom, pointing a
12 firearm, threatening an act of violence, breaking and entering a
13 dwelling place, destruction of property, negligent homicide, or
14 causing a personal injury incident while driving under the influence
15 of any intoxicating substance who is in custody shall provide a
16 blood or saliva sample prior to release.

17 3. Every person who is convicted of a felony offense whose
18 sentence does not include a term of incarceration shall provide a
19 blood or saliva sample as a condition of sentence.

20 4. Subject to the availability of funds, every person who is
21 convicted of a misdemeanor offense of assault and battery, domestic
22 abuse, stalking, possession of a controlled substance prohibited
23 under Schedule IV of the Uniform Controlled Dangerous Substances
24 Act, outraging public decency, resisting arrest, escape or

1 attempting to escape, eluding a police officer, Peeping Tom,
2 pointing a firearm, threatening an act of violence, breaking and
3 entering a dwelling place, destruction of property, negligent
4 homicide, or causing a personal injury accident while driving under
5 the influence of any intoxicating substance whose sentence does not
6 include a term of incarceration shall provide a blood or saliva
7 sample as a condition of sentence.

8 5. Subject to the availability of funds, any person eighteen
9 (18) years of age or older who is arrested for the commission of a
10 felony under the laws of this state or any other jurisdiction shall,
11 upon being booked into a jail or detention facility, submit to DNA
12 testing for law enforcement identification purposes. Provided, the
13 DNA sample shall not be analyzed and shall be destroyed unless one
14 of the following conditions has been met:

- 15 a. the arrest was made upon a valid felony arrest or
16 warrant,
- 17 b. the person has appeared before a judge or magistrate
18 judge who made a finding that there was probable cause
19 for the arrest, ~~or~~
- 20 c. the person posted bond or was released prior to
21 appearing before a judge or magistrate judge and then
22 failed to appear for a scheduled hearing, or
- 23 d. the DNA sample is provided as a condition of a plea
24 agreement.

SECTION 6. This act shall become effective November 1, 2019.

Passed the Senate the 12th day of March, 2019.

Presiding Officer of the Senate

Passed the House of Representatives the ____ day of _____,
2019.

Presiding Officer of the House
of Representatives