

JAN 25 2006

S.B. NO. 2241

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## A BILL FOR AN ACT

MAKING EMERGENCY APPROPRIATIONS FOR THE DEPARTMENT OF THE  
ATTORNEY GENERAL.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. This Act is recommended by the governor for  
2 immediate passage in accordance with section 9 of article VII of  
3 the Constitution of the State of Hawaii.

4           SECTION 2. The purposes of this Act are to make an  
5 appropriation out of the general revenues of the State of Hawaii  
6 to be deposited into the DNA registry special fund, to make an  
7 appropriation out of the DNA registry special fund to pay for  
8 costs associated with the implementation of Act 112, Session Laws  
9 of Hawaii 2005, and to make an appropriation out of the general  
10 revenues of the State of Hawaii to pay for costs associated with  
11 the implementation of Act 133, Session Laws of Hawaii 2005.

12           Act 112 provides that any person, except for any juvenile,  
13 who is convicted of, or pleads guilty or no contest to, any  
14 felony offense, even if the plea is deferred, or is found not  
15 guilty by reason of insanity of any felony offense, shall provide  
16 buccal swab samples; and provides for the analysis of the samples  
17 collected. Act 112 requires that testing shall begin immediately

1 for all persons who have been convicted of murder in any degree  
2 or any felony offense defined in chapter 846E, Hawaii Revised  
3 Statutes, and for other persons thirty days after statewide  
4 publication of notice, which may be provided in stages, by the  
5 attorney general. Act 112 provides no funding for these  
6 purposes.

7 Act 133 provides that the department of the attorney general  
8 may administer programs for the prevention of sexual violence and  
9 the protection and treatment of victims of sexual violence. Act  
10 133 provides no funding for this purpose.

11 These emergency appropriations are necessary to implement  
12 Act 112 and Act 133. Included in these emergency appropriations  
13 are the sum of \$186,620 for the purchase of buccal swab  
14 collection kits and for mailing costs; the sum of \$191,500 for  
15 costs related to collecting buccal swab samples; the sum of  
16 \$836,247 for costs related to analyzing the samples collected;  
17 and the sum of \$1,076,217 for programs for the prevention of  
18 sexual violence and the protection and treatment of victims of  
19 sexual violence.

20 SECTION 3. There is appropriated out of the general  
21 revenues of the State of Hawaii the sum of \$1,214,367, or so much  
22 thereof as may be necessary, for fiscal year 2005-2006 to be

1 deposited into the DNA registry special fund. The sum  
2 appropriated shall be expended by the department of the attorney  
3 general to carry out the purposes of this Act.

4 SECTION 4. There is appropriated out of the DNA registry  
5 special fund, established by section 706-603, Hawaii Revised  
6 Statutes, the sum of \$1,214,367, or so much thereof as may be  
7 necessary, for fiscal year 2005-2006 to carry out the purposes  
8 of this Act. The sum appropriated shall be expended by the  
9 department of the attorney general to carry out the purposes of  
10 the special fund, including, but not limited to, reimbursement  
11 to the county police departments and to the judiciary for costs  
12 incurred in carrying out the purposes of Act 112, Session Laws  
13 of Hawaii 2005.

14 SECTION 5. There is appropriated out of the general  
15 revenues of the State of Hawaii the sum of \$1,076,217, or so much  
16 thereof as may be necessary, for fiscal year 2005-2006 to carry  
17 out the purposes of Act 133, Session Laws of Hawaii 2005.

18 The sum appropriated shall be expended by the department of  
19 the attorney general.

20 SECTION 6. Any provision of this Act to the contrary  
21 notwithstanding, the appropriations authorized under this Act  
22 shall not lapse at the end of the fiscal year for which the

S . B . NO . 2241

1 appropriations are made. All unexpended and unencumbered  
2 balances of the appropriations made in this Act as of the close  
3 of business on June 30, 2007, shall lapse.

4 SECTION 7. This Act shall take effect upon its approval.

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INTRODUCED BY:

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BY REQUEST

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## JUSTIFICATION SHEET

DEPARTMENT: Attorney General

TITLE: A BILL FOR AN ACT MAKING EMERGENCY APPROPRIATIONS FOR THE DEPARTMENT OF THE ATTORNEY GENERAL.

PURPOSE: The purposes of this Act are to make an appropriation out of the general revenues of the State of Hawaii to be deposited into the DNA registry special fund, to make an appropriation out of the DNA registry special fund to pay for costs associated with the implementation of Act 112, Session Laws of Hawaii 2005, and to make an appropriation out of the general revenues of the State of Hawaii to pay for costs associated with the implementation of Act 133, Session Laws of Hawaii 2005.

MEANS: Emergency appropriations in accordance with section 9 of article VII of the Constitution of the State of Hawaii.

JUSTIFICATION: Act 112 provides that any person, except for any juvenile, who is convicted of, or pleads guilty or no contest to, any felony offense, even if the plea is deferred, or is found not guilty by reason of insanity of any felony offense, shall provide buccal swab samples; and provides for the analysis of the samples collected. Act 112 requires that testing shall begin immediately for all persons who have been convicted of murder in any degree or any felony offense defined in chapter 846E, Hawaii Revised Statutes, and for other persons thirty days after statewide publication of notice, which may be provided in stages, by the Attorney General. Act 112 provides no funding for these purposes. Act 133 provides that the Department of the Attorney General may administer programs for the prevention of sexual violence and the protection and treatment of victims of sexual violence.

**SB. NO. 2241**

Act 133 provides no funding for this purpose.

These emergency appropriations are necessary to implement Act 112 and Act 133. Included in these emergency appropriations are the sum of \$186,620 for the purchase of buccal swab collection kits and for mailing costs; the sum of \$191,500 for costs related to collecting buccal swab samples; the sum of \$836,247 for costs related to analyzing the samples collected, and the sum of \$1,076,217 for programs for the prevention of sexual violence and the protection and treatment of victims of sexual violence.

The general fund recommendation included in this measure has been made in accordance with the statutorily defined appropriation ceiling for the Executive Branch pursuant to section 37-92, Hawaii Revised Statutes. Including appropriations made up to and including the regular and special sessions of 2005, the Executive Branch appropriation ceiling for fiscal year 2005-2006 has already been exceeded by \$165,665,981 or 3.83 percent. Funding requested in this measure is to carryout the purposes of Act 112, and will result in the appropriation ceiling for the Executive Branch to now be exceeded in fiscal year 2005-2006 by \$2,290,584 or 0.053 percent. This current declaration takes into account additional general fund appropriations authorized for fiscal year 2005-2006 in this measure only, and does not include other general fund appropriations for fiscal year 2005-2006 that may be authorized for the Executive Branch in other legislation submitted to the Legislature during the regular session of 2006.

Impact on the public: The impact will be positive. Traditionally, DNA analysis has been used in cases where a suspect has already been identified, as additional evidence to link the suspect to the crime.

States that develop DNA data banks can use DNA technology not only to establish the guilt of a known suspect, but also to establish innocence and to solve crimes that cannot be solved by other means.

Impact on the department and other agencies:  
This appropriation will enable the department and other agencies to implement the provisions of Act 112 and Act 133.

GENERAL FUND: \$1,214,367 to be deposited into the DNA registry special fund and \$1,076,217 to be expended for programs related to sexual violence.

OTHER FUNDS: \$1,214,367 from the DNA registry special fund.

PPBS PROGRAM DESIGNATION: None.

OTHER AFFECTED AGENCIES: Judiciary, Department of Health, Department of Public Safety, Hawaii Paroling Authority, county police departments, and county prosecutors.

EFFECTIVE DATE: Upon approval.