

JAN 23 2009

A BILL FOR AN ACT

RELATING TO DNA COLLECTION FOR ARRESTEES OF VIOLENT CRIMES.

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

1 SECTION 1. The legislature finds that although every state
2 requires DNA collection for felony convictions, there is a
3 growing trend towards collecting DNA for felony arrests. The
4 legislature also finds that twelve states, including California,
5 Alaska, Arizona, and New Mexico, have already enacted laws that
6 require DNA collections from those arrested on felony charges,
7 and that over half of the states have begun the process of
8 considering such legislation.

9 The legislature also finds that the supporting rationale
10 for the enactment of Chapter 844D is the same for the enactment
11 of legislation calling for collection of DNA upon felony arrest
12 of violent crimes - the ability to solve cold cases, saving
13 lives by providing early identification of serial offenders,
14 absolving the innocent and minimizing wrongful incarceration,
15 and minimizing racial bias.

16 Specifically, in the case of rape, the legislature finds
17 that expanding DNA database requirements help prevent crimes.



1 An offender that is not apprehended in a timely manner remains
2 free to commit more crimes. For example, according to the U.S.
3 Department of Justice, the average rapist commits 8-12 sexual
4 assaults. If law enforcement were able to apprehend the rapist
5 after the first sexual assault, a minimum of 7 rapes could be
6 prevented per offender.

7 Accordingly, the purpose of this Act is to mandate DNA
8 collection for felony arrests of violent crimes.

9 SECTION 2. Section 844D-31, Hawaii Revised Statutes, is
10 amended to read as follows:

11 **"PART III. OFFENDERS SUBJECT TO COLLECTION OF SPECIMENS OR**
12 **SAMPLES, OR PRINT IMPRESSIONS**

13 **§844D-31 Offenders subject to collection.** (a) Any
14 person, except for any juvenile, who is convicted of, or pleads
15 guilty or no contest to, any felony offense, even if the plea is
16 deferred, or is found not guilty by reason of insanity of any
17 felony offense, shall provide buccal swab samples and print
18 impressions of each hand, and, if required by the collecting
19 agency's rules or internal regulations, blood specimens,
20 required for law enforcement identification analysis.

21 (b) Any person, except for any juvenile, arrested for a
22 violent crime listed in this section shall provide buccal swab



1 samples and print impressions and, if required by the collecting
2 agency's rules or internal regulations, blood specimens,
3 immediately at intake or as soon as administratively practicable
4 at the appropriate custodial or receiving institution or
5 program. The violent offenses for which an arrestee shall be
6 compelled to provide a buccal swab sample for include violations
7 of:

- 8 (1) sections 707-701, 707-701.5, 707-702;
9 (2) any offense listed under Part III of chapter 707; or
10 (3) any offense listed under Part V of chapter 707, with
11 the exception of 707-734.

12 ~~[(b)]~~ (c) Testing pursuant to this section shall begin
13 immediately for all persons who have been convicted of murder in
14 any degree or any felony offense defined in chapter 846E and all
15 persons convicted of any felony offense who are confined in a
16 correctional facility or other detention facility, including
17 private correctional facilities, but shall not begin for other
18 persons until thirty days after statewide publication of notice
19 by the attorney general pursuant to section 1-28.5.

20 ~~[(e)]~~ (d) The attorney general's notice, pursuant to
21 subsection ~~[(b)]~~ (c), may be provided in stages, beginning with
22 notice of the beginning of testing of all persons not already



1 mandated to be tested by subsection [~~(b)~~] (c) who have been
2 convicted of a class A felony, then notice of the beginning of
3 testing of all persons not already mandated to be tested by
4 subsection [~~(b)~~] (c) who have been convicted of a class B
5 felony, and finally notice of the beginning of testing of all
6 persons not already mandated to be tested by subsection [~~(b)~~] (c)
7 who have been convicted of a class C felony.

8 (d) Nothing in this section shall be construed as
9 prohibiting collection and analysis of specimens, samples, or
10 print impressions as a condition of a plea for a non-qualifying
11 offense."

12 SECTION 3. Section 844D-34, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "[§844D-34] **Collection from persons confined or in custody**
15 **after conviction or adjudication.** A person, except for any
16 juvenile, shall provide buccal swab samples and print
17 impressions and, if required by the collecting agency's rules or
18 internal regulations, blood specimens, immediately at intake, or
19 during the prison reception center process, or as soon as
20 administratively practicable at the appropriate custodial or
21 receiving institution or program if:



1 (1) The person is imprisoned or confined or placed in a
2 state correctional facility, a county correctional
3 facility, the department of public safety, a
4 residential treatment program, or any state, county,
5 private, or other facility after a conviction of any
6 felony offense, or arrest on any violent crime listed
7 in section 844D-31;

8 (2) The person has a record of any past or present
9 conviction of a qualifying offense described in
10 section 844D-31 or has a record of any past or present
11 conviction or adjudication in any other court,
12 including any state, federal, or military court, of
13 any offense, that, if committed or attempted in this
14 State, would have been punishable as an offense
15 described in section 844D-31; and

16 (3) The person's blood specimens or buccal swab samples,
17 and print impressions authorized by this chapter are not in the
18 possession of the department or have not been recorded as part
19 of the state DNA database and data bank identification program."

20 SECTION 4. Statutory material to be repealed is bracketed
21 and stricken. New statutory material is underscored.

22 SECTION 5. This Act shall take effect upon its approval.



1

INTRODUCED BY: Inzanne Chun delaland

Jim
Card Fukumaga

Rosely de Boh

Michelle N. Lani



Report Title:
Crime

Description:
Requires DNA collection from those arrested for violent crimes.

