

JAN 26 2011

S.B. NO. 1344

A BILL FOR AN ACT

RELATING TO DNA COLLECTION FOR ARRESTEES.

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

1 SECTION 1. Section 844D-31, Hawaii Revised Statutes, is
2 amended to read as follows:
3 "§844D-31 Offenders subject to collection. (a) Any
4 person, except for any juvenile, who is convicted of, or pleads
5 guilty or no contest to, any felony offense, even if the plea is
6 deferred, or is found not guilty by reason of insanity of any
7 felony offense, shall provide buccal swab samples and print
8 impressions of each hand, and, if required by the collecting
9 agency's rules or internal regulations, blood specimens,
10 required for law enforcement identification analysis.
11 (b) Any person, except for any juvenile, arrested for an
12 offense listed in this subsection shall provide buccal swab
13 samples, print impressions of each hand and, if required by the
14 collecting agency's rules or internal regulations, blood
15 specimens, required for law enforcement identification analysis.
16 The offenses for which an arrestee shall be compelled to provide
17 a buccal swab sample shall be:



1 (1) Offenses under sections 707-701, 707-701.5, and 707-
2 702;

3 (2) Any felony offense listed under part III of chapter
4 707; and

5 (3) Any felony offense listed under part V of chapter 707.

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

14 [~~(e)~~] (d) The attorney general's notice, pursuant to
15 subsection [~~(b)~~], (c), may be provided in stages, beginning with
16 notice of the beginning of testing of all persons not already
17 mandated to be tested by subsection [~~(b)~~] (c) who have been
18 convicted of a class A felony, then notice of the beginning of
19 testing of all persons not already mandated to be tested by
20 subsection [~~(b)~~] (c) who have been convicted of a class B
21 felony, and finally notice of the beginning of testing of all



1 persons not already mandated to be tested by subsection [~~(b)~~]
2 (c) who have been convicted of a class C felony.

3 [~~(d)~~] (e) Nothing in this section shall be construed as
4 prohibiting collection and analysis of specimens, samples, or
5 print impressions as a condition of a plea for a non-qualifying
6 offense."

7 SECTION 2. Section 844D-34, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "[+]§844D-34[+] Collection from persons confined or in
10 custody after conviction [~~or~~], adjudication[-], or arrest for
11 certain crimes. A person, except for any juvenile, shall
12 provide buccal swab samples and print impressions and, if
13 required by the collecting agency's rules or internal
14 regulations, blood specimens, immediately at intake, or during
15 the prison reception center process, or as soon as
16 administratively practicable at the appropriate custodial or
17 receiving institution or program if:

- 18 (1) The person is imprisoned or confined or placed in a
19 state correctional facility, a county correctional
20 facility, the department of public safety, a
21 residential treatment program, or any state, county,
22 private, or other facility after a conviction of any



1 felony offense[+] or any arrest for an offense listed
2 under section 844D-31(b);

3 (2) The person has a record of any past or present arrest
4 for any offense listed under section 844D-31(b), has a
5 record of any past or present conviction of a
6 qualifying offense described in section 844D-31, or
7 has a record of any past or present conviction or
8 adjudication in any other court, including any state,
9 federal, or military court, of any offense, that, if
10 committed or attempted in this State, would have been
11 punishable as an offense described in section 844D-31;
12 and

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

18 SECTION 3. Section 844D-71, Hawaii Revised Statutes, is
19 amended by amending subsection (a) to read as follows:

20 "(a) A person whose DNA profile has been included in the
21 state DNA database and data bank identification program pursuant
22 to this chapter shall have the person's DNA specimen and sample



1 destroyed and searchable database profile expunged from the
2 program pursuant to section 844D-72 if:

- 3 (1) The person has no past or present offense which
4 qualifies that person for inclusion within the state
5 DNA database and data bank identification program;
6 provided that no DNA specimens or samples collected as
7 a result of an arrest for an offense pursuant to
8 section 844D-31 or 844D-34 shall be expunged; and
9 (2) There otherwise is no legal basis for retaining the
10 specimen or sample or searchable profile."

11 SECTION 4. There is appropriated out of the general
12 revenues of the State of Hawaii the sum of \$ or so
13 much thereof as may be necessary for fiscal year 2011-2012 to be
14 deposited into the DNA registry special fund.

15 SECTION 5. There is appropriated out of the DNA registry
16 special fund the sum of \$ or so much thereof as may be
17 necessary for fiscal year 2011-2012 for reimbursements to county
18 police departments for expenses related to collection and
19 processing of DNA buccal swab samples and specimens made
20 pursuant to this Act.

21 The sum appropriated shall be expended by the department of
22 the attorney general for the purposes of this Act.



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1 SECTION 6. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 7. This Act shall take effect upon its approval;
4 provided that sections 4 and 5 of this Act shall take effect on
5 July 1, 2011.
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INTRODUCED BY:

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Report Title:

Violent Crimes; DNA Collection; Arrests

Description:

Requires DNA collection from those arrested for certain violent crimes.

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