

## ACT 231

S.B. NO. 1839

A Bill for an Act Relating to Blood and Saliva Testing.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that there is a compelling need to develop and maintain accurate and complete identification information for those classes of offenders most likely to repeat and escalate their offenses: sex and violent offenders. While law enforcement officials maintain records of the fingerprints and photographs of offenders, these offenders frequently do not leave fingerprints at the scene of their crimes and their victims often are too traumatized to review or make an identification from photographs. The legislature also finds that the increased likelihood of identification of these offenders by comparison of a known DNA profile obtained from their blood, and the DNA profile of bodily fluids and tissues frequently deposited at the scene of a crime is likely to deter commission of additional offenses. The legislature further finds that the limited intrusion caused by the taking of a sample of saliva and blood represents a reasonable means of assisting in the identification of the defendant and is consistent both with the rules of discovery, which permit the testing and examination of defendants for identification purposes, and the diminished expectation of privacy enjoyed by convicted defendants. Accordingly, it is the purpose of this Act to permit the taking of a sample of saliva and two samples of blood from certain

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convicted defendants for the purpose of secretor status, blood type, and DNA analysis that will assist law enforcement officials in the identification of reoffenders by comparison of their DNA profile to that obtained from bodily fluids or tissues deposited at the scene of a crime.

SECTION 2. Section 706-603, Hawaii Revised Statutes, is amended to read as follows:

**“§706-603 Pre-sentence mental and medical examination.** (a) Before imposing sentence, the court may order a defendant who has been convicted of a felony or misdemeanor to submit to mental or other medical observation and examination for a period not exceeding sixty days or [such] a longer period, not to exceed the length of permissible imprisonment, as the court determines to be necessary for the purpose. [The defendant may be remanded for this purpose to any available clinic or hospital, intake service center, or community correctional center and, in] in addition thereto or in the alternative, the court may appoint one or more qualified psychiatrists, physicians, or licensed psychologists to make the examination. The three examiners shall be appointed from a list of certified sanity examiners as determined by the state department of health. The report of the examination shall be submitted to the court. As used in this section, the term “licensed psychologist” includes psychologists exempted from licensure by section 465-3(a)(3).

(b) After entry of a plea of guilty or no contest or return of a verdict of guilty, the court shall order a defendant who has been convicted of an offense, including attempts, under section 707-701, 707-701.5, 707-730, 707-731, 707-732, 707-733, 707-741, or 707-750 to provide a sample of saliva and two samples of blood for the purpose of secretor status, blood type, and DNA analysis. Blood shall be withdrawn only by a person authorized to withdraw blood under section 286-152. The arresting agency shall arrange for the sample to be collected and analyzed. The results shall be recorded, preserved, and disseminated in a manner established by the Hawaii criminal justice data center in a manner consistent with the requirements of chapter 846.

(c) For the purposes of this section, the defendant may be remanded to any available clinic or hospital, intake service center, community correctional center, or state or county health department facility.”

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect on July 1, 1992.

(Approved June 6, 1991.)