

ACT 144

S.B. NO. 2243

A Bill for an Act Relating to Biological Evidence.

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

SECTION 1. Section 844D-31, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

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

SECTION 2. Section 844D-62, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read:

“(a) The department of the attorney general shall provide all blood specimen collectors, buccal swab sample collectors, mailing [~~tubes,~~] envelopes, labels, and instructions for the collection of the blood specimens, buccal swab samples, and print impressions. The specimens, samples, and print impressions shall thereafter be forwarded to the department [~~for analysis of DNA and other forensic identification markers. Additionally, the department of the attorney general shall provide all print impression cards, mailing envelopes, and instructions for the collection of print impressions. The print impressions shall be forwarded to the department for maintenance in a file for identification purposes].~~”

2. By amending subsection (d) to read:

“(d) [~~Print impressions of each hand shall be taken on forms prescribed by the department of the attorney general. The print impression forms shall be forwarded to and maintained by the department of the attorney general.]~~ Print impres-

sions taken at the time of the collection of samples or specimens shall be placed on the samples and specimens container and forms as directed by the department. The samples, specimens, and forms shall be forwarded to and maintained by the department.”

SECTION 3. Section 844D-111, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) A person commits the offense of refusal or failure to provide specimen for forensic identification if the person is required by this chapter to provide any blood specimens, buccal swab samples, or print impressions and intentionally or knowingly refuses or fails to provide any of the required blood specimens, buccal swab samples, or print impressions after the person has received written notice from the department, the department of public safety, any law enforcement personnel, or officer of the court that the person is required to provide each and every one of the blood specimens, buccal swab samples, and print impressions required by this chapter.”

SECTION 4. Section 844D-121, Hawaii Revised Statutes, is amended to read as follows:

“~~[(§844D-121)]~~ **Petition for post-conviction DNA testing.** Notwithstanding any other law or rule of court governing post-conviction relief to the contrary, a person who was convicted of and sentenced for a crime, or acquitted of a crime on the ground of physical or mental disease, disorder, or defect excluding responsibility, may file a motion, at any time, for DNA analysis of any evidence that:

- (1) Is in the custody or control of a police department, prosecuting attorney, laboratory, or court;
- (2) Is related to the investigation or prosecution that resulted in the judgment of conviction~~[-and]~~ or of acquittal of a crime on the ground of physical or mental disease, disorder, or defect excluding responsibility;
and
- (3) May contain biological evidence.”

SECTION 5. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 6. This Act shall take effect upon approval.

(Approved May 26, 2006.)