

PROPOSED

THE SENATE  
TWENTY-THIRD LEGISLATURE, 2006  
STATE OF HAWAII

S.B. NO. 2243  
S.D. 1

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## A BILL FOR AN ACT

RELATING TO BIOLOGICAL EVIDENCE.

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

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

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

11           SECTION 2. Section 844D-62, Hawaii Revised Statutes, is  
12 amended by amending subsection (a) to read as follows:

13           "(a) The department of the attorney general shall provide  
14 all blood specimen collectors, buccal swab sample collectors,  
15 mailing [~~tubes~~] envelopes, labels, and instructions for the  
16 collection of the blood specimens, buccal swab samples, and  
17 print impressions. The specimens, samples, and print  
18 impressions shall thereafter be forwarded to the department [~~for~~



1 ~~analysis of DNA and other forensic identification markers.~~  
2 ~~Additionally, the department of the attorney general shall~~  
3 ~~provide all print impression cards, mailing envelopes, and~~  
4 ~~instructions for the collection of print impressions. The print~~  
5 ~~impressions shall be forwarded to the department for maintenance~~  
6 ~~in a file for identification purposes]."~~

7 SECTION 3. Section 844D-62, Hawaii Revised Statutes, is  
8 amended by amending subsection (d) to read as follows:

9 "(d) [~~Print impressions of each hand shall be taken on~~  
10 ~~forms prescribed by the department of the attorney general. The~~  
11 ~~print impression forms shall be forwarded to and maintained by~~  
12 ~~the department of the attorney general.] Print impressions taken~~  
13 at the time of the collection of samples or specimens shall be  
14 placed on the samples and specimens container and forms as  
15 directed by the department. The samples, specimens, and forms  
16 shall be forwarded to and maintained by the department."

17 SECTION 4. Section 844D-111, Hawaii Revised Statutes, is  
18 amended by amending subsection (a) to read as follows:

19 "(a) A person commits the offense of refusal or failure to  
20 provide specimen for forensic identification if the person is  
21 required by this chapter to provide any blood specimens, buccal  
22 swab samples, or print impressions and intentionally or



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1 knowingly refuses or fails to provide any of the required blood  
2 specimens, buccal swab samples, or print impressions after the  
3 person has received written notice from the department, the  
4 department of public safety, any law enforcement personnel, or  
5 officer of the court that the person is required to provide each  
6 and every one of the blood specimens, buccal swab samples, and  
7 print impressions required by this chapter."

8 SECTION 5. Section 844D-121, Hawaii Revised Statutes, is  
9 amended to read as follows:

10 "~~+~~§844D-121~~+~~ **Petition for post-conviction DNA testing.**  
11 Notwithstanding any other law or rule of court governing post-  
12 conviction relief to the contrary, a person who was convicted of  
13 and sentenced for a crime or acquitted of a crime on the ground  
14 of physical or mental disease, disorder, or defect excluding  
15 responsibility, may file a motion, at any time, for DNA analysis  
16 of any evidence that:

- 17 (1) Is in the custody or control of a police department,  
18 prosecuting attorney, laboratory, or court;
- 19 (2) Is related to the investigation or prosecution that  
20 resulted in the judgment of conviction~~+~~ or of  
21 acquittal of a crime on the ground of physical or

1           mental disease, disorder, or defect excluding  
2           responsibility; and

3           (3) May contain biological evidence."

4           SECTION 6. Statutory material to be repealed is bracketed  
5 and stricken. New statutory material is underscored.

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

# PROPOSED

**Report Title:**

DNA Testing

**Description:**

Provides for the immediate DNA testing of all felons who are currently incarcerated. Allows for post conviction DNA testing for those who were not convicted but were acquitted of a crime on the ground of physical or mental disease, disorder, or defect. (SD1)

