THE SENATE TWENTY-SIXTH LEGISLATURE, 2011 STATE OF HAWAII

S.B. NO. 1344

JAN 2 6 2011

A BILL FOR AN ACT

RELATING TO DNA COLLECTION FOR ARRESTEES.

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

SECTION 1. Section 844D-31, Hawaii Revised Statutes, is amended to read as follows:

"§844D-31 Offenders subject to collection. (a) Any 3 person, except for any juvenile, who is convicted of, or pleads 4 5 quilty or no contest to, any felony offense, even if the plea is deferred, or is found not quilty by reason of insanity of any 6 7 felony offense, shall provide buccal swab samples and print impressions of each hand, and, if required by the collecting 8 9 agency's rules or internal regulations, blood specimens, required for law enforcement identification analysis. 10

(b) Any person, except for any juvenile, arrested for an
offense listed in this subsection shall provide buccal swab
samples, print impressions of each hand and, if required by the
collecting agency's rules or internal regulations, blood
specimens, required for law enforcement identification analysis.
The offenses for which an arrestee shall be compelled to provide
a buccal swab sample shall be:



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(1) Offenses under sections 707-701, 707-701.5, and 707-1 2 702; Any felony offense listed under part III of chapter 3 (2) 4 707; and Any felony offense listed under part V of chapter 707. 5 (3) [(b)] (c) Testing pursuant to this section shall begin 6 immediately for all persons who have been convicted of murder in 7 any degree or any felony offense defined in chapter 846E and all 8 9 persons convicted of any felony offense who are confined in a correctional facility or other detention facility, including 10 private correctional facilities, but shall not begin for other 11 persons until thirty days after statewide publication of notice 12 13 by the attorney general pursuant to section 1-28.5. $\left[\frac{d}{d}\right]$ (d) The attorney general's notice, pursuant to 14 subsection [(b),] (c), may be provided in stages, beginning with 15 notice of the beginning of testing of all persons not already 16 mandated to be tested by subsection [(b)] (c) who have been 17 convicted of a class A felony, then notice of the beginning of 18 testing of all persons not already mandated to be tested by 19 subsection [(b)] (c) who have been convicted of a class B 20 felony, and finally notice of the beginning of testing of all 21



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persons not already mandated to be tested by subsection [(b)] 1 2 (c) who have been convicted of a class C felony. 3 $\left[\frac{(d)}{d}\right]$ (e) Nothing in this section shall be construed as prohibiting collection and analysis of specimens, samples, or 4 5 print impressions as a condition of a plea for a non-qualifying 6 offense." Section 844D-34, Hawaii Revised Statutes, is 7 SECTION 2. 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 regulations, blood specimens, immediately at intake, or during 14 15 the prison reception center process, or as soon as 16 administratively practicable at the appropriate custodial or receiving institution or program if: 17 The person is imprisoned or confined or placed in a 18 (1)state correctional facility, a county correctional 19 20 facility, the department of public safety, a 21 residential treatment program, or any state, county, private, or other facility after a conviction of any 22



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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 <u>arrest</u>
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	SECT	ION 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 c	hapter shall have the person's DNA specimen and sample
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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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SECTION 6. Statutory material to be repealed is bracketed
 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.

INTRODUCED BY:

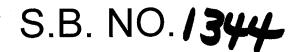
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Report Title:

Violent Crimes; DNA Collection; Arrests

Description:

Requires DNA collection from those arrested for certain violent crimes.

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