

1 HOUSE BILL NO. 735
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5
6 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO THE COLLECTION AND
7 TESTING OF BIOLOGICAL SAMPLES FOR DNA ANALYSIS; REQUIRING THE COLLECTION OF
8 BIOLOGICAL SAMPLES FOR INDIVIDUALS ARRESTED ON A ~~FELONY OFFENSE~~ CERTAIN FELONY
9 OFFENSES; ALLOWING RAPID DNA TESTING AT BOOKING STATIONS; PROVIDING RULEMAKING
10 AUTHORITY; AND AMENDING SECTION 44-6-103, MCA."

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12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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14 **Section 1.** Section 44-6-103, MCA, is amended to read:

15 **"44-6-103. Collection of samples and maintenance of data.** (1) (a) Following Except as provided in
16 subsection (1)(c), the following persons shall provide a biological sample for DNA analysis to determine
17 identification characteristics specific to the person:

18 (i) a person arrested for a crime listed in Title 45, chapter 5, parts 1 or 2 5, for arson pursuant to
19 45-6-103, or for burglary pursuant to 45-6-204;

20 (i) A person arrested for:

21 (A) a felony offense listed in Title 45, chapter 5, parts 1, 2, 3, 4, 5, or 7;

22 (B) sexual abuse of children pursuant to 45-5-625; or

23 (C) burglary pursuant to 45-6-204;

24 (ii) following entry of judgment, a person convicted of a felony offense;

25 (iii) a youth found under 41-5-1502 to have committed a sexual or violent offense;

26 (iv) a defendant ordered under 46-18-202 to provide a biological sample for DNA testing;

27 (v) a person required to register as a sexual or violent offender under 46-23-504; or

28 (vi) an adult offender convicted in another state and sentenced to death or imprisonment for more

1 than 1 year who is subject to supervision by the department of corrections pursuant to the Interstate Compact
2 for Adult Offender Supervision provided for in 46-23-1115 ~~shall provide a biological sample for DNA analysis to~~
3 ~~determine identification characteristics specific to the person.~~

4 (b) A county sheriff shall ensure that a biological sample is collected at the time of booking for a
5 person arrested on suspicion of a crime listed in subsection (1)(a)(i).

6 (c) A biological sample is not required to be collected if the department of corrections or a county
7 sheriff confirms that a biological sample from the person is already on file with the DNA identification index.

8 (2) (a) The A biological sample must be provided:

9 (i) to the department of corrections if the person is incarcerated in a facility administered by the
10 department of corrections. If, or

11 (ii) if the person is not incarcerated in a facility administered by the department of corrections, the
12 sample must be provided to a person or entity designated by the county sheriff.

13 (b) The county sheriff may establish a process for immediately analyzing a biological sample
14 collected at booking.

15 (2)(3) The biological sample must be collected, stored, and sent by the department of corrections or
16 the person or entity designated by the county sheriff under subsection (1) to the department for entry in the
17 DNA identification index in accordance with rules adopted by the department with the advice of the department
18 of public health and human services. The rules may allow for the implementation of rapid DNA systems at
19 booking stations in accordance with procedures established by the federal bureau of investigation for
20 participation in the national DNA database systems.

21 (3)(4) The offender is responsible, if able to pay, for the cost of the collection of the sample. The fees
22 charged for the collection may not exceed the actual costs of collection.

23 (4)(5) The forensic DNA laboratory may perform DNA analysis only for those markers that have value
24 for law enforcement identification purposes.

25 (5)(6) The knowing refusal or failure to provide a biological sample under this part is grounds for
26 revocation of a suspended or deferred imposition of sentence.

27 (7) (a) If any of the following dispositions occur in the case of an individual listed in subsection
28 (1)(a), the court shall notify the DNA identification index within 14 business days:

