

LEGISLATURE OF THE STATE OF IDAHO
Sixty-first Legislature First Regular Session - 2011

IN THE SENATE

SENATE BILL NO. 1067

BY JUDICIARY AND RULES COMMITTEE

AN ACT

RELATING TO THE IDAHO DNA DATABASE ACT OF 1996; AMENDING SECTION 19-5501, IDAHO CODE, TO REVISE LEGISLATIVE FINDINGS AND STATEMENT OF PURPOSE; AMENDING SECTION 19-5502, IDAHO CODE, TO REVISE DEFINITIONS; AMENDING SECTION 19-5506, IDAHO CODE, TO REVISE REQUIREMENTS RELATING TO OFFENDERS SUBJECT TO DNA SAMPLE COLLECTION AND RIGHT THUMBPRINT IMPRESSION, TO REMOVE LANGUAGE ENUMERATING CERTAIN CRIMES AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 19-5507, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE RESPONSIBILITY TO PROVIDE A DNA SAMPLE AND THUMBPRINT IMPRESSION; AND PROVIDING EFFECTIVE DATES.

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

SECTION 1. That Section 19-5501, Idaho Code, be, and the same is hereby amended to read as follows:

19-5501. LEGISLATIVE FINDINGS -- STATEMENT OF PURPOSE. The legislature finds that DNA (deoxyribonucleic acid) identification analysis is a useful law enforcement tool for identifying and prosecuting ~~sexual and violent~~ felony offenders. The purpose of this act is to assist federal, state and local criminal justice and law enforcement agencies within and outside the state in the detection and prosecution of individuals responsible for ~~sex and other violent~~ felony crimes, as well as in the exclusion of suspects who are being investigated for such crimes.

SECTION 2. That Section 19-5502, Idaho Code, be, and the same is hereby amended to read as follows:

19-5502. DEFINITIONS. (1) "CODIS" means the federal bureau of investigation's combined DNA index system that allows the storage and exchange of DNA records submitted by state and local forensic laboratories.

(2) "Director" means the director of the Idaho state police.

(3) "DNA" means deoxyribonucleic acid.

(4) "DNA analysis" means the scientific test of a DNA sample for the purpose of obtaining a DNA profile.

(5) "DNA profile" means the list of one (1) or more genetic types determined for an individual based on variations in DNA sequence.

(6) "DNA record" means DNA information stored in the statewide DNA database system of the bureau of forensic services or CODIS and includes information commonly referred to as a DNA profile.

(7) "DNA sample" means a body fluid or tissue sample provided by any person convicted of a ~~qualifying sex crime or violent~~ felony crime or any body fluid or tissue sample submitted to the statewide DNA database system for analysis pursuant to a criminal investigation or missing person investigation.

(8) "Forensic laboratory" means the bureau of forensic services of the Idaho state police.

(9) "Law enforcement purpose" means to assist federal, state or local criminal justice and law enforcement agencies within and outside the state of Idaho in identification or prosecution of ~~sex crimes, violent felony~~ crimes or other crimes and the identification and location of missing and unidentified persons.

(10) "Statewide DNA databank" means the state repository of DNA samples collected under this chapter.

(11) "Statewide DNA database system" means the DNA record system administered by the Idaho bureau of forensic services.

SECTION 3. That Section 19-5506, Idaho Code, be, and the same is hereby amended to read as follows:

19-5506. SCOPE OF LAW -- OFFENDERS SUBJECT TO SAMPLE COLLECTION -- EARLY COLLECTION OF SAMPLES -- RESTITUTION. (a) Any person, including any juvenile tried as an adult, who is convicted of, or pleads guilty to, any ~~of the following felony crimes, or the attempt to commit any felony crime,~~ regardless of the form of judgment or withheld judgment, and regardless of the sentence imposed or disposition rendered, shall be required to provide to the Idaho state police, a DNA sample and a right thumbprint impression.

~~(1) Arson (sections 18-802, 18-803, 18-804 and 18-805, Idaho Code);~~

~~(2) Aggravated assault (section 18-905, Idaho Code);~~

~~(3) Aggravated battery (section 18-907, Idaho Code);~~

~~(4) Assault with the intent to commit a serious felony (section 18-909, Idaho Code);~~

~~(5) Battery with the intent to commit a serious felony (section 18-911, Idaho Code);~~

~~(6) Felonious administering of drugs (sections 18-913 and 18-914, Idaho Code);~~

~~(7) Assault or battery upon certain personnel (section 18-915, Idaho Code);~~

~~(8) Removing a firearm from a law enforcement officer (section 18-915A, Idaho Code);~~

~~(9) Propelling bodily fluid or waste (section 18-915B, Idaho Code);~~

~~(10) Domestic violence (section 18-918, Idaho Code, constituting a felony);~~

~~(11) Burglary (sections 18-1401 and 18-1405, Idaho Code), except those convictions in which the defendant entered a retail mercantile establishment and the offense took place when the victim was open to the public for business and the defendant committed a theft and his actions did not constitute grand theft as defined in chapter 24, title 18, Idaho Code;~~

~~(12) Injury to a child (section 18-1501(1), Idaho Code);~~

~~(13) Sexual abuse of a child under the age of sixteen years (section 18-1506, Idaho Code);~~

~~(14) Ritualized abuse of a child (section 18-1506A, Idaho Code);~~

~~(15) Possession of sexually exploitive material for other than a commercial purpose (section 18-1507A, Idaho Code);~~

~~(16) Lewd conduct with minor child under sixteen (section 18-1508, Idaho Code);~~
~~(17) Sexual battery of a minor child sixteen or seventeen years of age (section 18-1508A, Idaho Code);~~
~~(18) Enticing of children (sections 18-1509 and 18-1509A, Idaho Code);~~
~~(19) Sale or barter of a child (section 18-1511, Idaho Code);~~
~~(20) Possession of a controlled substance or dangerous weapon (section 18-2511, Idaho Code);~~
~~(21) False reports of explosives (section 18-3313, Idaho Code);~~
~~(22) Unlawful possession of a firearm (section 18-3316, Idaho Code);~~
~~(23) Unlawful discharge of a firearm (section 18-3317, Idaho Code);~~
~~(24) Unlawful possession or use of bombs or destructive devices (sections 18-3319 and 18-3320, Idaho Code);~~
~~(25) Use of weapons of mass destruction (section 18-3322, Idaho Code);~~
~~(26) Murder, any degree (sections 18-4001 and 18-4003, Idaho Code);~~
~~(27) Manslaughter (sections 18-4006(1) or (2) and 18-4007, Idaho Code);~~
~~(28) Administering poison with intent to kill (section 18-4014, Idaho Code);~~
~~(29) Assault with intent to murder (section 18-4015, Idaho Code);~~
~~(30) Indecent exposure (section 18-4116, Idaho Code), constituting a felony;~~
~~(31) Kidnapping, any degree (sections 18-4501 and 18-4502, Idaho Code);~~
~~(32) Forest sabotage (section 18-4631, Idaho Code);~~
~~(33) Mayhem (sections 18-5001 and 18-5002, Idaho Code);~~
~~(34) Cannibalism (section 18-5003, Idaho Code);~~
~~(35) Poisoning food, medicine or wells (section 18-5501, Idaho Code);~~
~~(36) Interstate trafficking in prostitution (section 18-5601, Idaho Code);~~
~~(37) Inducing a minor into prostitution (section 18-5609, Idaho Code);~~
~~(38) Rape (section 18-6101, Idaho Code);~~
~~(39) Male rape (sections 18-6108 and 18-6109, Idaho Code);~~
~~(40) Sexual contact with a prisoner (section 18-6110, Idaho Code);~~
~~(41) Video voyeurism (section 18-6609, Idaho Code);~~
~~(42) Robbery (section 18-6501, Idaho Code);~~
~~(43) Incest (section 18-6602, Idaho Code);~~
~~(44) Crime against nature (section 18-6605, Idaho Code);~~
~~(45) Forcible sexual penetration (section 18-6608, Idaho Code);~~
~~(46) Removal, destruction or burning of electric lines or plants (sections 18-6803, 18-6804 and 18-6805, Idaho Code);~~
~~(47) Malicious injury to property (section 18-7001, Idaho Code), constituting a felony;~~
~~(48) Injuring dams, canals or other structures (section 18-7019, Idaho Code);~~
~~(49) Setting fire to underground workings of mines (sections 18-7024 and 18-7025, Idaho Code);~~
~~(50) Sabotage (section 18-7026, Idaho Code);~~
~~(51) Aircraft hijacking (section 18-7501, Idaho Code);~~
~~(52) Assault with intent to commit aircraft hijacking (section 18-7502, Idaho Code);~~

~~(53) Threats made against airline passengers and other persons, commercial airline companies, or aircraft (section 18-7504, Idaho Code);~~
~~(54) Racketeering (section 18-7804, Idaho Code);~~
~~(55) Malicious harassment (sections 18-7902 and 18-7903, Idaho Code);~~
~~(56) Stalking in the first degree (section 18-7905, Idaho Code);~~
~~(57) Prohibited terrorist activities (section 18-8103, Idaho Code);~~
~~(58) Providing material support to terrorists (section 18-8106, Idaho Code);~~
~~(59) Prohibited employment of adult criminal sex offenders (section 18-8327, Idaho Code);~~
~~(60) Transfer of body fluid which may contain the HIV virus (section 39-608, Idaho Code);~~
~~(61) Failure to register as sex offender (sections 18-8304 and 18-8308, Idaho Code).~~
 (b) In addition to those crimes enumerated in subsection (a) of this section, any person, including any juvenile tried as an adult, who is convicted for an attempt to commit any of the following crimes, regardless of the form of judgment or withheld judgment, and regardless of the sentence imposed or disposition rendered, shall be required to provide to the Idaho state police, a DNA sample and a right thumbprint impression:
~~(1) Arson (sections 18-802 through 18-805, Idaho Code);~~
~~(2) Felonious administering of drugs (sections 18-913 and 18-914, Idaho Code);~~
~~(3) Assault or battery upon certain personnel (section 18-915, Idaho Code);~~
~~(4) Removing a firearm from a law enforcement officer (section 18-915A, Idaho Code);~~
~~(5) Propelling bodily fluid or waste (section 18-915B, Idaho Code);~~
~~(6) Sexual abuse of a child under the age of sixteen years (section 18-1506, Idaho Code);~~
~~(7) Ritualized abuse of a child (section 18-1506A, Idaho Code);~~
~~(8) Injury to a child (section 18-1501(1), Idaho Code);~~
~~(9) Lewd conduct with minor child under sixteen (section 18-1508, Idaho Code);~~
~~(10) Sexual battery of a minor child sixteen or seventeen years of age (section 18-1508A, Idaho Code);~~
~~(11) Enticing of children (sections 18-1509 and 18-1509A, Idaho Code);~~
~~(12) Sale or barter of a child (section 18-1511, Idaho Code);~~
~~(13) Possession of a controlled substance or dangerous weapon (section 18-2511, Idaho Code);~~
~~(14) False reports of explosives (section 18-3313, Idaho Code);~~
~~(15) Unlawful possession of a firearm (section 18-3316, Idaho Code);~~
~~(16) Unlawful discharge of a firearm (section 18-3317, Idaho Code);~~
~~(17) Unlawful possession or use of bombs or destructive devices (sections 18-3319 and 18-3320, Idaho Code);~~
~~(18) Use of weapons of mass destruction (section 18-3322, Idaho Code);~~
~~(19) Murder, any degree (sections 18-4001 and 18-4003, Idaho Code);~~
~~(20) Administering poison with intent to kill (section 18-4014, Idaho Code);~~
~~(21) Assault with intent to murder (section 18-4015, Idaho Code);~~

~~(22) Indecent exposure (section 18-4116, Idaho Code), constituting a felony;~~
~~(23) Kidnapping, any degree (sections 18-4501 and 18-4502, Idaho Code);~~
~~(24) Forest sabotage (section 18-4631, Idaho Code);~~
~~(25) Mayhem (section 18-5001, Idaho Code);~~
~~(26) Cannibalism (section 18-5003, Idaho Code);~~
~~(27) Poisoning food, medicine or wells (section 18-5501, Idaho Code);~~
~~(28) Interstate trafficking in prostitution (section 18-5601, Idaho Code);~~
~~(29) Inducing a minor into prostitution (section 18-5609, Idaho Code);~~
~~(30) Rape (section 18-6101, Idaho Code);~~
~~(31) Male rape (sections 18-6108 and 18-6109, Idaho Code);~~
~~(32) Sexual contact with a prisoner (section 18-6110, Idaho Code);~~
~~(33) Video voyeurism (section 18-6609, Idaho Code);~~
~~(34) Robbery (section 18-6501, Idaho Code);~~
~~(35) Incest (section 18-6602, Idaho Code);~~
~~(36) Crime against nature (section 18-6605, Idaho Code);~~
~~(37) Forceful sexual penetration (section 18-6608, Idaho Code);~~
~~(38) Removal, destruction or burning of electric lines or plants (sections 18-6803, 18-6804 and 18-6805, Idaho Code);~~
~~(39) Malicious injury to property (section 18-7001, Idaho Code), constituting a felony;~~
~~(40) Injuring dams, canals or other structures (section 18-7019, Idaho Code);~~
~~(41) Setting fire to underground workings of mines (sections 18-7024 and 18-7025, Idaho Code);~~
~~(42) Sabotage (section 18-7026, Idaho Code);~~
~~(43) Aircraft hijacking (section 18-7501, Idaho Code);~~
~~(44) Assault with intent to commit aircraft hijacking (section 18-7502, Idaho Code);~~
~~(45) Threats made against airline passengers and other persons, commercial airline companies, or aircraft (section 18-7504, Idaho Code);~~
~~(46) Malicious harassment (sections 18-7902 and 18-7903, Idaho Code);~~
~~(47) Stalking in the first degree (section 18-7905, Idaho Code);~~
~~(48) Prohibited terrorist activities (section 18-8103, Idaho Code);~~
~~(49) Providing material support to terrorists (section 18-8106, Idaho Code);~~
~~(50) Prohibited employment of adult criminal sex offenders (section 18-8327, Idaho Code);~~
~~(51) Transfer of body fluid which may contain the HIV virus (section 39-608, Idaho Code).~~

(e²) This chapter's requirements for submission to tests and procedures for obtaining a DNA sample and thumbprint impression from the persons described above who are convicted of, or who plead guilty to, any felony crime or the attempt to commit any felony crime are mandatory and apply to those persons convicted of, or who plead guilty to, such felony crimes or the attempt to commit such felony crimes covered in this chapter prior to its effective date, and who, as a result of the offense conviction or plea, are incarcerated in a county jail facility or a penal facility or are under probation or parole supervision after the effective date of this chapter.

1 (~~d~~3) The collection of samples and impressions specified in this chap-
 2 ter are required regardless of whether the person previously has supplied a
 3 DNA sample to law enforcement agencies in any other jurisdiction.

4 (~~e~~4) The requirements of this chapter are mandatory and apply regard-
 5 less of whether a court advises a person that samples and impressions must be
 6 provided to the databank and database as a condition of probation or parole.

7 (~~f~~5) Unless the court determines that an order of restitution would be
 8 inappropriate or undesirable, it shall order any person subject to the pro-
 9 visions of this section to pay restitution to help offset costs incurred by
 10 law enforcement agencies for the expense of DNA analysis.

11 (~~g~~6) The court may order such person to pay restitution for DNA analysis
 12 in an amount not to exceed five hundred dollars (\$500) per DNA sample analy-
 13 sis, or in the aggregate not more than two thousand dollars (\$2,000), regard-
 14 less of whether:

15 (~~1~~a) The source of the sample is the person, the victim or other persons
 16 of interest in the case;

17 (~~2~~b) Results of the analysis are entered into evidence in the person's
 18 criminal case;

19 (~~3~~c) The DNA sample was previously analyzed for another criminal case;
 20 or

21 (~~4~~d) Restitution for that DNA sample analysis was ordered in any other
 22 criminal case.

23 (~~h~~7) Law enforcement agencies entitled to restitution under this sec-
 24 tion include the Idaho state police, county and city law enforcement agen-
 25 cies, the office of the attorney general, county prosecuting attorneys and
 26 city attorneys.

27 (~~i~~8) In the case of reimbursement for DNA analysis performed by the
 28 Idaho state police, those moneys shall be paid to the Idaho state police and
 29 deposited in the law enforcement fund. In the case of reimbursement to the
 30 office of the attorney general, those moneys shall be paid to the general
 31 fund.

32 (~~j~~9) Persons who have been sentenced to death, or life without the pos-
 33 sibility of parole, or to any life or indeterminate term are not exempt from
 34 the requirements of this chapter.

35 SECTION 4. That Section 19-5507, Idaho Code, be, and the same is hereby
 36 amended to read as follows:

37 19-5507. RESPONSIBILITY FOR SAMPLE COLLECTION -- TIMING OF SAMPLE
 38 COLLECTION -- SITE FOR SAMPLE COLLECTION. (1) A court shall order a DNA
 39 sample and thumbprint impression to be taken after conviction and before
 40 sentencing of any person upon application by the prosecuting attorney, the
 41 attorney general, or the Idaho state police upon a showing that early collec-
 42 tion of such samples will be in the best interest of justice. The DNA samples
 43 shall be collected in accordance with procedures established by the bureau
 44 of forensic services. The director may designate a state or county correc-
 45 tional facility for sample collection.

46 (2) Any person, including any juvenile tried as an adult, who comes
 47 within the terms of this chapter, and who is granted probation or who serves
 48 an entire term of confinement in a state or county facility, or who otherwise
 49 bypasses a prison inmate reception center shall, prior to physical release

1 from custody, be required to provide a DNA sample and thumbprint impression
2 at a Idaho state police designated sample collection location. If the per-
3 son is not incarcerated at the time of sentencing, the court shall order the
4 person to report within ten (10) working days to the facilities designated
5 for the collection of such specimens.

6 (3) The chief administrative officer of any state or local detention
7 facility, jail or other facility shall cause a DNA sample and thumbprint im-
8 pression to be collected from the person subject to this chapter during the
9 intake process at the facility, or immediately thereafter at another facil-
10 ity designated for such collection, if DNA samples previously have not been
11 taken pursuant to this chapter.

12 (4) The director of the department of correction shall cause a DNA
13 sample and thumbprint impression to be collected from any person subject to
14 the terms provisions of this chapter who has been sentenced to serve a term
15 of imprisonment in a state correctional institution and who has not had a
16 DNA sample taken after conviction and before sentencing. The DNA sample and
17 thumbprint impression shall be collected from the person during the intake
18 process at the reception center designated by the director of the department
19 of correction as soon as possible.

20 (5) Any person subject to the terms provisions of this chapter who is
21 serving a term of imprisonment or confinement, and who did not, for any rea-
22 son, provide a DNA sample or thumbprint impression for analysis by the bureau
23 of forensic services, shall submit to such tests as soon as practicable, but
24 in any event prior to final discharge, parole, or release from imprisonment
25 or confinement. A person who was convicted prior to the effective date of
26 this chapter is not exempt from these requirements.

27 (6) As a condition of probation or parole, any person subject to the
28 terms provisions of this chapter and who has not previously ~~submitted~~
29 provided a DNA sample and thumbprint impression, shall upon notice by a law
30 enforcement agency or an agent of the department of correction, be required
31 to provide a DNA sample and thumbprint impression if it has been determined
32 that such sample and thumbprint impression are not in the possession of the
33 bureau of forensic services. That person is required to have the sample and
34 impression taken within ten (10) working days at the designated county or
35 state facility.

36 (7) When the state accepts an offender from another state under any
37 interstate compact, or under any other reciprocal agreement with any county,
38 state or federal agency, or any other provision of law, whether or not the
39 offender is confined or released, the acceptance is conditional on the of-
40 fender providing a DNA sample and thumbprint impression if the offender was
41 convicted of an offense which would qualify as a felony crime ~~described in~~
42 ~~section 19-5506, Idaho Code,~~ if committed in this state, or if the person
43 was convicted of an equivalent offense in any other jurisdiction. If the
44 offender from another state is not confined, the samples and impression re-
45 quired by this chapter must be provided within ten (10) working days after
46 the offender reports to the supervising agent or within ten (10) working days
47 of notice to the offender, whichever occurs first. The person shall report
48 to the designated sample collection facility or facilities to have the sam-
49 ple and impression taken. If the offender from another state is confined,
50 he or she shall provide the DNA sample and thumbprint impression as soon

1 as practicable after receipt in a state or county correctional facility or
2 other facility, and, in any event, before completion of the person's term of
3 imprisonment, if that person is to be discharged.

4 (8) ~~Any inmate serving a term of incarceration for committing an person~~
5 ~~who is convicted of or who pleads guilty to a felony offense listed in section~~
6 ~~19-5506, Idaho Code,~~ who is released on parole, furlough, or other release,
7 and is returned to a state or local correctional institution for a violation
8 of a condition of that release, and that ~~inmate~~ person has not previously
9 provided a DNA sample and thumbprint impression, shall provide a sample and
10 impression upon returning to the state correctional institution.

11 SECTION 5. This act shall be in full force and effect on and after July
12 1, 2013, except that funding to implement the provisions of this act shall
13 take effect on and after July 1, 2012.