

**53-10-405 DNA specimen analysis -- Saliva sample to be obtained by agency -- Blood sample to be drawn by professional.**

- (1)
  - (a) A saliva sample shall be obtained by the responsible agency under Subsection 53-10-404(5).
  - (b) The sample shall be obtained in a professionally acceptable manner, using appropriate procedures to ensure the sample is adequate for DNA analysis.
- (2)
  - (a) A blood sample shall be drawn in a medically acceptable manner by any of the following:
    - (i) a physician;
    - (ii) a registered nurse;
    - (iii) a licensed practical nurse;
    - (iv) a paramedic;
    - (v) as provided in Subsection (2)(b), emergency medical service personnel other than paramedics; or
    - (vi) a person with a valid permit issued by the Department of Health under Section 26-1-30.
  - (b) The Department of Health may designate by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, which emergency medical service personnel, as defined in Section 26-8a-102, are authorized to draw blood under Subsection (2)(a)(v), based on their type of certification under Section 26-8a-302.
  - (c) A person authorized by this section to draw a blood sample may not be held civilly liable for drawing a sample in a medically acceptable manner.
- (3) A test result or opinion based upon a test result regarding a DNA specimen may not be rendered inadmissible as evidence solely because of deviations from procedures adopted by the department that do not affect the reliability of the opinion or test result.
- (4) A DNA specimen is not required to be obtained if:
  - (a) the court or the responsible agency confirms with the department that the department has previously received an adequate DNA specimen obtained from the person in accordance with this section; or
  - (b) the court determines that obtaining a DNA specimen would create a substantial and unreasonable risk to the health of the person.

Amended by Chapter 267, 2012 General Session