

**Law Enforcement DNA Amendments**

2025 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Jen Plumb**

House Sponsor: Steve Eliason

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**LONG TITLE**

**General Description:**

This bill addresses the collection and analysis of DNA by law enforcement.

**Highlighted Provisions:**

This bill:

- amends when a DNA specimen for an individual taken at the time of booking may be processed to include, among other circumstances, to allow the processing of the individual's DNA 60 days after the day on which any warrant of arrest has been issued for the individual if the warrant is still outstanding;

- clarifies the level of offense that must be charged or convicted before an individual who had the individual's DNA specimen taken may be assessed a fee;

- requires a prosecutor to notify an individual charged with an offense requiring collection of the individual's DNA of the individual's rights regarding the destruction of the individual's DNA specimen in certain circumstances; and

- makes technical and conforming changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**53-10-404.5**, as last amended by Laws of Utah 2022, Chapter 113

**53-10-406**, as last amended by Laws of Utah 2024, Chapter 256

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*Be it enacted by the Legislature of the state of Utah:*

Section 1. Section **53-10-404.5** is amended to read:

**53-10-404.5 . Obtaining DNA specimen at time of booking -- Payment of fee upon conviction.**

(1)(a) When a sheriff books a person for any offense under Subsections 53-10-403(1)(c) and (d), the sheriff shall:

(i) except as provided in Subsection (1)(b), obtain a DNA specimen from the person upon booking of the person at the county jail; and

(ii) provide the person, in a manner the bureau specifies, notice of the process described in Subsection 53-10-406(6)(b) to request destruction of the DNA specimen and removal of the person's DNA record from the database described in Subsection 53-10-406(1)(d).

(b) If at the time of booking the sheriff is able to obtain information from the bureau stating that the bureau has received a DNA specimen for the person and the sample analysis is either in process or complete, the sheriff is not required to obtain an additional DNA specimen.

(c) If at the time of booking the sheriff is able to obtain information from the bureau stating that the bureau has received a DNA specimen for the person and the sample analysis is pending, the sheriff may obtain an additional DNA specimen.

(2) The person booked under Subsection (1) shall pay a fee of \$150 for the cost of obtaining the DNA specimen if:

(a)(i) the charge upon which the booking is based is resolved by a conviction of a class A misdemeanor or felony level offense; or

(ii) [-]the person is convicted of any [charge] class A misdemeanor or felony level offense arising out of the same criminal episode regarding which the DNA specimen was obtained; and

(b) the person's DNA sample is not on file under Subsection (1)(b).

(3)(a) All fees collected under Subsection (2) shall be deposited into the DNA Specimen Restricted Account created in Section 53-10-407, except that the agency collecting the fee may retain not more than \$25 per individual specimen for the costs of obtaining the DNA specimen.

(b) The agency collecting the \$150 fee may not retain from each separate fee more than \$25, and no amount of the \$150 fee may be credited to any other fee or agency obligation.

(4) Any DNA specimen obtained under this section shall be held and may not be processed

62 until:

- 63 (a) the court has bound the person over for trial for a felony level offense following a  
64 preliminary hearing for any charge arising out of the same criminal episode regarding  
65 which the person was booked;
- 66 (b) the person has waived the preliminary hearing for any charge for a felony level  
67 offense arising out of the same criminal episode regarding which the person was  
68 booked;
- 69 (c) a grand jury has returned an indictment for any charge for a felony level offense  
70 arising out of the same criminal episode regarding which the person was booked; or
- 71 (d) for a DNA specimen obtained before, on, or after May 7, 2025, sixty days has passed  
72 after [the issuance of an arrest warrant for failure to appear, provided] the day on  
73 which any warrant of arrest has been issued for the person if the warrant of arrest is  
74 still outstanding[or has not been recalled].

75 Section 2. Section **53-10-406** is amended to read:

76 **53-10-406 . DNA specimen analysis -- Bureau responsibilities.**

77 (1) The bureau shall:

- 78 (a) administer and oversee the DNA specimen collection process;
- 79 (b) store each DNA specimen and associated records received;
- 80 (c) analyze each specimen, or contract with a qualified public or private laboratory to  
81 analyze the specimen, to establish the genetic profile of the donor or to otherwise  
82 determine the identity of the person;
- 83 (d) maintain a criminal identification database containing information derived from  
84 DNA analysis;
- 85 (e) ensure that the DNA identification system does not provide information allowing  
86 prediction of genetic disease or predisposition to illness;
- 87 (f) ensure that only DNA markers routinely used or accepted in the field of forensic  
88 science are used to establish the gender and unique individual identification of the  
89 donor;
- 90 (g) utilize only those DNA analysis procedures that are consistent with, and do not  
91 exceed, procedures established and used by the Federal Bureau of Investigation for  
92 the forensic analysis of DNA;
- 93 (h) destroy a DNA specimen obtained under this part if criminal charges have not been  
94 filed within 90 days after booking for an alleged offense under Subsection 53-10-403
- 95 (2)(c); and

- (i) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing procedures for obtaining, transmitting, and analyzing DNA specimens and for storing and destroying DNA specimens and associated records, and criminal identification information obtained from the analysis.
- (2) Procedures for DNA analysis may include all techniques which the department determines are accurate and reliable in establishing identity.
- (3)(a) In accordance with Section 63G-2-305, each DNA specimen and associated record is classified as protected.
- (b) The department may not transfer or disclose any DNA specimen, associated record, or criminal identification information obtained, stored, or maintained under this section, except under the provisions of this section.
- (4) Notwithstanding Subsection 63G-2-202(1), the department may deny inspection if the department determines that there is a reasonable likelihood that the inspection would prejudice a pending criminal investigation.
- (5) The department shall adopt procedures governing the inspection of records, DNA specimens, and challenges to the accuracy of records. The procedures shall accommodate the need to preserve the materials from contamination and destruction.
- (6) A person whose DNA specimen is obtained under this part may, personally or through a legal representative, submit:
- (a) to the court a motion for a court order requiring the destruction of the person's DNA specimen, associated record, and any criminal identification record created in connection with that specimen, and removal of the person's DNA record from the database described in Subsection (1)(d) if:
- (i) a final judgment reverses the conviction, judgment, or order that created an obligation to provide a DNA specimen; or
- (ii) all charges arising from the same criminal episode for which the DNA specimen was obtained under Subsection 53-10-404.5(1)(a) have been resolved by a final judgment of dismissal with prejudice or acquittal; or
- (b) to the department a request for the destruction of the person's DNA specimen, and associated record, and removal of the person's DNA record from the database described in Subsection (1)(d) if:
- (i) no charge arising from the same criminal episode for which the DNA specimen was obtained under Subsection 53-10-404.5(1)(a) is filed against the person within one year after the day on which the person is booked; or

- (ii) all charges arising from the same criminal episode for which the DNA specimen was obtained under Subsection 53-10-404.5(1)(a) have been resolved by a final judgment of dismissal with prejudice or acquittal.

(7) If charges have been filed against a person whose DNA specimen is obtained under this part and the charges have later been resolved by a final judgment of dismissal with prejudice or acquittal, or a final judgment is issued reversing a conviction, judgment, or other order arising from the charges that created an obligation to provide a DNA specimen, the prosecutor who filed the charges against the person shall notify the person of the process described in Subsection (6) to request destruction of the DNA specimen and removal of the person's DNA record from the database described in Subsection (1)(d).

~~[(7)]~~ (8) A court order issued under Subsection (6)(a) may be accompanied by a written notice to the person advising that state law provides for expungement of criminal charges if the charge is resolved by a final judgment of dismissal or acquittal.

~~[(8)]~~ (9) The department shall destroy the person's DNA specimen, and associated record, and remove the person's DNA record from the database described in Subsection (1)(d), if:

(a) the person provides the department with:

(i) a court order for destruction described in Subsection (6)(a), and a certified copy of:

(A) the court order reversing the conviction, judgment, or order;

(B) a court order to set aside the conviction; or

(C) the dismissal or acquittal of the charge regarding which the person was arrested; or

(ii) a written request for destruction of the DNA specimen, and associated record, and removal of the DNA record from the database described in Subsection (6)(b), and a certified copy of:

(A) a declination to prosecute from the prosecutor; or

(B) a court document that indicates all charges have been resolved by a final judgment of dismissal with prejudice or acquittal; and

(b) the department determines that the person is not obligated to submit a DNA specimen as a result of a separate conviction or adjudication for an offense listed in Subsection 53-10-403(2).

~~[(9)]~~ (10) The department may not destroy a person's DNA specimen or remove a person's DNA record from the database described in Subsection (1)(d) if the person has a prior

conviction or a pending charge for which collection of a sample is authorized in accordance with Section 53-10-404.

~~[(10)]~~ (11) A DNA specimen, associated record, or criminal identification record created in connection with that specimen may not be affected by an order to set aside a conviction, except under the provisions of this section.

~~[(11)]~~ (12) If funding is not available for analysis of any of the DNA specimens collected under this part, the bureau shall store the collected specimens until funding is made available for analysis through state or federal funds.

~~[(12)]~~ (13)(a)(i) A person who, due to the person's employment or authority, has possession of or access to individually identifiable DNA information contained in the state criminal identification database or the state DNA specimen repository may not willfully disclose the information in any manner to any individual, agency, or entity that is not entitled under this part to receive the information.

(ii) A person may not willfully obtain individually identifiable DNA information from the state criminal identification database or the state DNA repository other than as authorized by this part.

(iii) A person may not willfully analyze a DNA specimen for any purpose, or to obtain any information other than as required under this part.

(iv) A person may not willfully fail to destroy or fail to ensure the destruction of a DNA specimen when destruction is required by this part or by court order.

(b)(i) A person who violates Subsection ~~[(12)(a)(i),]~~ (13)(a)(i), (ii), or (iii) is guilty of a third degree felony.

(ii) A person who violates Subsection ~~[(12)(a)(iv)]~~ (13)(a)(iv) is guilty of a class B misdemeanor.

### Section 3. **Effective Date.**

This bill takes effect on May 7, 2025.