

# SB0140S03 compared with SB0140

~~{Omitted text}~~ shows text that was in SB0140 but was omitted in SB0140S03

inserted text shows text that was not in SB0140 but was inserted into SB0140S03

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## Law Enforcement DNA Amendments

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jen Plumb

House Sponsor: Steve Eliason

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### 3 LONG TITLE

#### 4 General Description:

5 This bill addresses the collection and ~~{analyzing-}~~ analysis of DNA by law enforcement.

#### 6 Highlighted Provisions:

7 This bill:

8 ~~{adds individuals who have committed any misdemeanor offense described in Title 76, Chapter 5, Offenses Against the Individual, and have been booked into a county jail on the offense to the list of individuals from whom the sheriff is required to collect a DNA specimen;}~~

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

12 ~~{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;}~~

14 ~~{}~~

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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

17       ▶ makes technical and conforming changes.

### 18 Money Appropriated in this Bill:

19       None

### 20 Other Special Clauses:

21       None

### 23 AMENDS:

24       ~~{53-10-403, as last amended by Laws of Utah 2024, Chapters 96, 153, 187, and 256, as last amended by Laws of Utah 2024, Chapters 96, 153, 187, and 256}~~

24       **53-10-404.5**, as last amended by Laws of Utah 2022, Chapter 113, as last amended by Laws of Utah 2022, Chapter 113

25       **53-10-406, as last amended by Laws of Utah 2024, Chapter 256, as last amended by Laws of Utah 2024, Chapter 256**

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

28       ~~{Section 1. Section 53-10-403 is amended to read: }~~

### 29       **53-10-403. DNA specimen analysis -- Application to offenders, including minors.**

30       (1) Sections 53-10-403.6, 53-10-404, 53-10-404.5, 53-10-405, and 53-10-406 apply to:

31       (a) a person who has pled guilty to or has been convicted of any of the offenses under Subsection (2)(a) or (b) on or after July 1, 2002;

33       (b) a person who has pled guilty to or has been convicted by any other state or by the United States government of an offense which if committed in this state would be punishable as one or more of the offenses listed in Subsection (2)(a) or (b) on or after July 1, 2003;

37       (c) a person who has been booked on or after January 1, 2011, through December 31, 2014, for any offense under Subsection (2)(c);

39       (d) a person who has been booked:

40       (i) by a law enforcement agency that is obtaining a DNA specimen on or after May 13, 2014, through December 31, 2014, under Subsection 53-10-404(4)(b) for any felony offense;[-or]

43       (ii) on or after January 1, 2015, for any felony offense; or

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- 44 (iii) on or after May 7, 2025, for any misdemeanor offense described in Title 76, Chapter 5, Offenses  
45 Against the Individual; or
- 46 (e) a minor:
- 47 (i)
- (A) who is adjudicated by the juvenile court for an offense described in Subsection (2) that is within the  
jurisdiction of the juvenile court on or after July 1, 2002; or
- 50 (B) who is adjudicated by the juvenile court for an offense described in Subsection (2) and is in the  
legal custody of the Division of Juvenile Justice Services for the offense on or after July 1, 2002;  
and
- 53 (ii) who is 14 years old or older at the time of the commission of the offense described in Subsection  
(2).
- 55 (2) Offenses referred to in Subsection (1) are:
- 56 (a) any felony~~[-or]~~, class A misdemeanor under the Utah Code, or any misdemeanor offense described  
57 in Title 76, Chapter 5, Offenses Against the Individual;
- 58 (b) any offense under Subsection (2)(a):
- 59 (i) for which the court enters a judgment for conviction to a lower degree of offense under Section  
76-3-402; or
- 61 (ii) regarding which the court allows the defendant to enter a plea in abeyance as defined in Section  
77-2a-1; or
- 63 (c)
- (i) any violent felony as defined in Section 53-10-403.5;
- 64 (ii) sale or use of body parts, Section 26B-8-315;
- 65 (iii) failure to stop at an accident that resulted in death, Section 41-6a-401.5;
- 66 (iv) operating a motor vehicle with any amount of a controlled substance in an individual's body and  
causing serious bodily injury or death, as codified before May 4, 2022, Laws of Utah 2021, Chapter  
236, Section 1, Subsection 58-37-8(2)(g);
- 70 (v) a felony violation of enticing a minor, Section 76-4-401;
- 71 (vi) negligently operating a vehicle resulting in injury, Subsection 76-5-102.1(2)(b);
- 72 (vii) a felony violation of propelling a substance or object at a correctional officer, a peace officer, or an  
employee or a volunteer, including health care providers, Section 76-5-102.6;
- 75 (viii) automobile homicide, Subsection 76-5-207(2)(b);

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- 76 (ix) aggravated human trafficking, Section 76-5-310, and aggravated human smuggling, Section  
76-5-310.1;
- 78 (x) a felony violation of unlawful sexual activity with a minor, Section 76-5-401;
- 79 (xi) a felony violation of sexual abuse of a minor, Section 76-5-401.1;
- 80 (xii) unlawful sexual contact with a 16 or 17-year old, Section 76-5-401.2;
- 81 (xiii) sale of a child, Section 76-7-203;
- 82 (xiv) aggravated escape, Section 76-8-309.3;
- 83 (xv) a felony violation of threatened or attempted assault on an elected official, Section 76-8-313;
- 85 (xvi) threat with intent to impede, intimidate, interfere, or retaliate against a judge or a member of the  
Board of Pardons and Parole or acting against a family member of a judge or a member of the Board  
of Pardons and Parole, Section 76-8-316;
- 88 (xvii) assault with intent to impede, intimidate, interfere, or retaliate against a judge or a member of the  
Board of Pardons and Parole or acting against a family member of a judge or a member of the Board  
of Pardons and Parole, Section 76-8-316.2;
- 92 (xviii) aggravated assault with intent to impede, intimidate, interfere, or retaliate against a judge or  
a member of the Board of Pardons and Parole or acting against a family member of a judge or a  
member of the Board of Pardons and Parole, Section 76-8-316.4;
- 96 (xix) attempted murder with intent to impede, intimidate, interfere, or retaliate against a judge or a  
member of the Board of Pardons and Parole or acting against a family member of a judge or a  
member of the Board of Pardons and Parole, Section 76-8-316.6;
- 100 (xx) advocating criminal syndicalism or sabotage, Section 76-8-902;
- 101 (xxi) assembling for advocating criminal syndicalism or sabotage, Section 76-8-903;
- 102 (xxii) a felony violation of sexual battery, Section 76-9-702.1;
- 103 (xxiii) a felony violation of lewdness involving a child, Section 76-9-702.5;
- 104 (xxiv) a felony violation of abuse or desecration of a dead human body, Section 76-9-704;
- 106 (xxv) manufacture, possession, sale, or use of a weapon of mass destruction, Section 76-10-402;
- 108 (xxvi) manufacture, possession, sale, or use of a hoax weapon of mass destruction, Section 76-10-403;
- 110 (xxvii) possession of a concealed firearm in the commission of a violent felony, Subsection  
76-10-504(4);
- 112 (xxviii) assault with the intent to commit bus hijacking with a dangerous weapon, Subsection  
76-10-1504(3);

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114 (xxix) commercial obstruction, Subsection 76-10-2402(2);  
115 (xxx) a felony violation of failure to register as a sex or kidnap offender, Section 77-41-107;  
117 (xxxi) repeat violation of a protective order, Subsection 77-36-1.1(4); or  
118 (xxxii) violation of condition for release after arrest under Section 78B-7-802.

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

29 **53-10-404.5. Obtaining DNA specimen at time of booking -- Payment of fee upon conviction.**

122 (1)

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

124 (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

126 (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).

130 (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.

134 (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.

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

139 (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

50 (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

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

143 (3)

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- (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.
- 147 (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.
- 150 (4) Any DNA specimen obtained under this section shall be held and may not be processed until:
- 152 (a) the court has bound the person over for trial for a felony level offense following a preliminary hearing for any charge arising out of the same criminal episode regarding which the person was booked;
- 155 (b) the person has waived the preliminary hearing for any charge for a felony level offense arising out of the same criminal episode regarding which the person was booked;
- 157 (c) a grand jury has returned an indictment for any charge for a felony level offense arising out of the same criminal episode regarding which the person was booked; or
- 159 (d) for a DNA specimen obtained before, on, or after May 7, 2025, sixty days has passed after [the issuance of an arrest warrant for failure to appear, provided-] the day on which any warrant of arrest has been issued for the person if{:}
- 162 ~~{(i) {the warrant of arrest has been issued after the person's DNA specimen has been obtained; and}~~
- 164 ~~{(ii) the warrant of arrest is still outstanding[-or has not been recalled].~~

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

**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 analyze the specimen, to establish the genetic profile of the donor or to otherwise determine the identity of the person;
- 83 (d) maintain a criminal identification database containing information derived from DNA analysis;
- 85 (e) ensure that the DNA identification system does not provide information allowing prediction of genetic disease or predisposition to illness;
- 87 (f) ensure that only DNA markers routinely used or accepted in the field of forensic science are used to establish the gender and unique individual identification of the donor;

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- 90 (g) utilize only those DNA analysis procedures that are consistent with, and do not exceed, procedures  
established and used by the Federal Bureau of Investigation for the forensic analysis of DNA;
- 93 (h) destroy a DNA specimen obtained under this part if criminal charges have not been filed within 90  
days after booking for an alleged offense under Subsection 53-10-403(2)(c); and
- 96 (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.
- 100 (2) Procedures for DNA analysis may include all techniques which the department determines are  
accurate and reliable in establishing identity.
- 102 (3)
- (a) In accordance with Section 63G-2-305, each DNA specimen and associated record is classified as  
protected.
- 104 (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.
- 107 (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.
- 110 (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.
- 113 (6) A person whose DNA specimen is obtained under this part may, personally or through a legal  
representative, submit:
- 115 (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:
- 119 (i) a final judgment reverses the conviction, judgment, or order that created an obligation to provide a  
DNA specimen; or
- 121

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- (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
- 124 (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:
- 127 (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
- 130 (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.
- 133 (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).
- 141 [(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.
- 144 [(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:
- 147 (a) the person provides the department with:
- 148 (i) a court order for destruction described in Subsection (6)(a), and a certified copy of:
- 149 (A) the court order reversing the conviction, judgment, or order;
- 150 (B) a court order to set aside the conviction; or
- 151 (C) the dismissal or acquittal of the charge regarding which the person was arrested; or
- 153 (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:
- 156 (A) a declination to prosecute from the prosecutor; or



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- 157 (B) a court document that indicates all charges have been resolved by a final judgment of dismissal with  
prejudice or acquittal; and
- 159 (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).
- 162 ~~[(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.
- 166 ~~[(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.
- 169 ~~[(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.
- 172 ~~[(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.
- 177 (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.
- 180 (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.
- 182 (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.
- 184 (b)
- (i) A person who violates Subsection ~~[(12)(a)(i),]~~ (13)(a)(i), (ii), or (iii) is guilty of a third degree  
felony.
- 186 (ii) A person who violates Subsection ~~[(12)(a)(iv)]~~ (13)(a)(iv) is guilty of a class B misdemeanor.
- 188 Section 3. **Effective date.**

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This bill takes effect on May 7, 2025.

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