

Todd Weiler proposes the following substitute bill:

**Law Enforcement DNA Amendments**

2025 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Jen Plumb**

House Sponsor: Steve Eliason

2

3 **LONG TITLE**

4 **General Description:**

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

6 **Highlighted Provisions:**

7 This bill:

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

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

15 ▶ makes technical and conforming changes.

16 **Money Appropriated in this Bill:**

17 None

18 **Other Special Clauses:**

19 None

20 **Utah Code Sections Affected:**

21 AMENDS:

22 **53-10-404.5**, as last amended by Laws of Utah 2022, Chapter 113

23 **53-10-406**, as last amended by Laws of Utah 2024, Chapter 256

24

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

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

27 **53-10-404.5 . Obtaining DNA specimen at time of booking -- Payment of fee upon**  
28 **conviction.**

29 (1)(a) When a sheriff books a person for any offense under Subsections 53-10-403(1)(c)

- 30 and (d), the sheriff shall:
- 31 (i) except as provided in Subsection (1)(b), obtain a DNA specimen from the person  
32 upon booking of the person at the county jail; and
- 33 (ii) provide the person, in a manner the bureau specifies, notice of the process  
34 described in Subsection 53-10-406(6)(b) to request destruction of the DNA  
35 specimen and removal of the person's DNA record from the database described in  
36 Subsection 53-10-406(1)(d).
- 37 (b) If at the time of booking the sheriff is able to obtain information from the bureau  
38 stating that the bureau has received a DNA specimen for the person and the sample  
39 analysis is either in process or complete, the sheriff is not required to obtain an  
40 additional DNA specimen.
- 41 (c) If at the time of booking the sheriff is able to obtain information from the bureau  
42 stating that the bureau has received a DNA specimen for the person and the sample  
43 analysis is pending, the sheriff may obtain an additional DNA specimen.
- 44 (2) The person booked under Subsection (1) shall pay a fee of \$150 for the cost of obtaining  
45 the DNA specimen if:
- 46 (a) the charge upon which the booking is based is resolved by a conviction or the person  
47 is convicted of any charge arising out of the same criminal episode regarding which  
48 the DNA specimen was obtained; and
- 49 (b) the person's DNA sample is not on file under Subsection (1)(b).
- 50 (3)(a) All fees collected under Subsection (2) shall be deposited into the DNA Specimen  
51 Restricted Account created in Section 53-10-407, except that the agency collecting  
52 the fee may retain not more than \$25 per individual specimen for the costs of  
53 obtaining the DNA specimen.
- 54 (b) The agency collecting the \$150 fee may not retain from each separate fee more than  
55 \$25, and no amount of the \$150 fee may be credited to any other fee or agency  
56 obligation.
- 57 (4) Any DNA specimen obtained under this section shall be held and may not be processed  
58 until:
- 59 (a) the court has bound the person over for trial following a preliminary hearing for any  
60 charge arising out of the same criminal episode regarding which the person was  
61 booked;
- 62 (b) the person has waived the preliminary hearing for any charge arising out of the same  
63 criminal episode regarding which the person was booked;

- 64 (c) a grand jury has returned an indictment for any charge arising out of the same  
65 criminal episode regarding which the person was booked; or  
66 (d) for a DNA specimen obtained before, on, or after May 7, 2025, sixty days has passed  
67 after [the issuance of an arrest warrant for failure to appear, provided] the day on  
68 which any warrant of arrest has been issued for the person if the warrant of arrest is  
69 still outstanding[-or has not been recalled].

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

71 **53-10-406 . DNA specimen analysis -- Bureau responsibilities.**

- 72 (1) The bureau shall:
- 73 (a) administer and oversee the DNA specimen collection process;
  - 74 (b) store each DNA specimen and associated records received;
  - 75 (c) analyze each specimen, or contract with a qualified public or private laboratory to  
76 analyze the specimen, to establish the genetic profile of the donor or to otherwise  
77 determine the identity of the person;
  - 78 (d) maintain a criminal identification database containing information derived from  
79 DNA analysis;
  - 80 (e) ensure that the DNA identification system does not provide information allowing  
81 prediction of genetic disease or predisposition to illness;
  - 82 (f) ensure that only DNA markers routinely used or accepted in the field of forensic  
83 science are used to establish the gender and unique individual identification of the  
84 donor;
  - 85 (g) utilize only those DNA analysis procedures that are consistent with, and do not  
86 exceed, procedures established and used by the Federal Bureau of Investigation for  
87 the forensic analysis of DNA;
  - 88 (h) destroy a DNA specimen obtained under this part if criminal charges have not been  
89 filed within 90 days after booking for an alleged offense under Subsection 53-10-403  
90 (2)(c); and
  - 91 (i) make rules in accordance with Title 63G, Chapter 3, Utah Administrative  
92 Rulemaking Act, establishing procedures for obtaining, transmitting, and analyzing  
93 DNA specimens and for storing and destroying DNA specimens and associated  
94 records, and criminal identification information obtained from the analysis.
- 95 (2) Procedures for DNA analysis may include all techniques which the department  
96 determines are accurate and reliable in establishing identity.
- 97 (3)(a) In accordance with Section 63G-2-305, each DNA specimen and associated

98 record is classified as protected.

99 (b) The department may not transfer or disclose any DNA specimen, associated record,  
100 or criminal identification information obtained, stored, or maintained under this  
101 section, except under the provisions of this section.

102 (4) Notwithstanding Subsection 63G-2-202(1), the department may deny inspection if the  
103 department determines that there is a reasonable likelihood that the inspection would  
104 prejudice a pending criminal investigation.

105 (5) The department shall adopt procedures governing the inspection of records, DNA  
106 specimens, and challenges to the accuracy of records. The procedures shall  
107 accommodate the need to preserve the materials from contamination and destruction.

108 (6) A person whose DNA specimen is obtained under this part may, personally or through a  
109 legal representative, submit:

110 (a) to the court a motion for a court order requiring the destruction of the person's DNA  
111 specimen, associated record, and any criminal identification record created in  
112 connection with that specimen, and removal of the person's DNA record from the  
113 database described in Subsection (1)(d) if:

114 (i) a final judgment reverses the conviction, judgment, or order that created an  
115 obligation to provide a DNA specimen; or

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

119 (b) to the department a request for the destruction of the person's DNA specimen, and  
120 associated record, and removal of the person's DNA record from the database  
121 described in Subsection (1)(d) if:

122 (i) no charge arising from the same criminal episode for which the DNA specimen  
123 was obtained under Subsection 53-10-404.5(1)(a) is filed against the person  
124 within one year after the day on which the person is booked; or

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

128 (7) If charges have been filed against a person whose DNA specimen is obtained under this  
129 part and the charges have later been resolved by a final judgment of dismissal with  
130 prejudice or acquittal, or a final judgment is issued reversing a conviction, judgment, or  
131 other order arising from the charges that created an obligation to provide a DNA

132 specimen, the prosecutor who filed the charges against the person shall notify the person  
133 of the process described in Subsection (6) to request destruction of the DNA specimen  
134 and removal of the person's DNA record from the database described in Subsection  
135 (1)(d).

136 [~~7~~] (8) A court order issued under Subsection (6)(a) may be accompanied by a written  
137 notice to the person advising that state law provides for expungement of criminal  
138 charges if the charge is resolved by a final judgment of dismissal or acquittal.

139 [~~8~~] (9) The department shall destroy the person's DNA specimen, and associated record,  
140 and remove the person's DNA record from the database described in Subsection (1)(d),  
141 if:

142 (a) the person provides the department with:

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

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

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

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

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

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

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

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

157 [~~9~~] (10) The department may not destroy a person's DNA specimen or remove a person's  
158 DNA record from the database described in Subsection (1)(d) if the person has a prior  
159 conviction or a pending charge for which collection of a sample is authorized in  
160 accordance with Section 53-10-404.

161 [~~10~~] (11) A DNA specimen, associated record, or criminal identification record created in  
162 connection with that specimen may not be affected by an order to set aside a conviction,  
163 except under the provisions of this section.

164 [~~11~~] (12) If funding is not available for analysis of any of the DNA specimens collected  
165 under this part, the bureau shall store the collected specimens until funding is made

166 available for analysis through state or federal funds.

167 ~~[(12)]~~ (13)(a)(i) A person who, due to the person's employment or authority, has  
168 possession of or access to individually identifiable DNA information contained in  
169 the state criminal identification database or the state DNA specimen repository  
170 may not willfully disclose the information in any manner to any individual,  
171 agency, or entity that is not entitled under this part to receive the information.

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

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

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

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

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

183 Section 3. **Effective Date.**

184 This bill takes effect on May 7, 2025.