

## SB0247S01 compared with SB0247

~~deleted text~~ shows text that was in SB0247 but was deleted in SB0247S01.

inserted text shows text that was not in SB0247 but was inserted into SB0247S01.

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Senator Jacob L. Anderegg proposes the following substitute bill:

### DNA PROCESSING AMENDMENTS

2020 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Jacob L. Anderegg**

House Sponsor: \_\_\_\_\_

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#### LONG TITLE

##### General Description:

This bill provides that the attorney general may assist a local law enforcement agency with an investigation and sets standards for the use of Rapid DNA testing.

##### Highlighted Provisions:

This bill:

- ▶ allows the Bureau of Forensic Services to authorize DNA testing and analysis at locations other than the state lab; and
- ▶ provides standards for the use of Rapid DNA testing.

##### Money Appropriated in this Bill:

None

##### Other Special Clauses:

None

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### Utah Code Sections Affected:

#### AMENDS:

**53-10-403**, as last amended by Laws of Utah 2017, Chapter 289

**53-10-403.5**, as last amended by Laws of Utah 2010, Chapter 405

#### ENACTS:

**53-10-403.6**, Utah Code Annotated 1953

**67-5-1.2**, Utah Code Annotated 1953

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

Section 1. Section **53-10-403** is amended to read:

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

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

(a) 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;

(b) 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;

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

(d) has been booked:

(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

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

(e) is a minor under Subsection (3).

(2) Offenses referred to in Subsection (1) are:

(a) any felony or class A misdemeanor under the Utah Code;

(b) any offense under Subsection (2)(a):

(i) for which the court enters a judgment for conviction to a lower degree of offense under Section 76-3-402; or

(ii) regarding which the court allows the defendant to enter a plea in abeyance as

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defined in Section 77-2a-1; or

- (c) (i) any violent felony as defined in Section 53-10-403.5;
- (ii) sale or use of body parts, Section 26-28-116;
- (iii) failure to stop at an accident that resulted in death, Section 41-6a-401.5;
- (iv) driving with any amount of a controlled substance in a person's body and causing serious bodily injury or death, Subsection 58-37-8(2)(g);
- (v) a felony violation of enticing a minor over the Internet, Section 76-4-401;
- (vi) 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;
- (vii) aggravated human trafficking and aggravated human smuggling, Section 76-5-310;
- (viii) a felony violation of unlawful sexual activity with a minor, Section 76-5-401;
- (ix) a felony violation of sexual abuse of a minor, Section 76-5-401.1;
- (x) unlawful sexual contact with a 16 or 17-year old, Section 76-5-401.2;
- (xi) sale of a child, Section 76-7-203;
- (xii) aggravated escape, Subsection 76-8-309(2);
- (xiii) a felony violation of assault on an elected official, Section 76-8-315;
- (xiv) influencing, impeding, or retaliating against a judge or member of the Board of Pardons and Parole, Section 76-8-316;
- (xv) advocating criminal syndicalism or sabotage, Section 76-8-902;
- (xvi) assembly for advocating criminal syndicalism or sabotage, Section 76-8-903;
- (xvii) a felony violation of sexual battery, Section 76-9-702.1;
- (xviii) a felony violation of lewdness involving a child, Section 76-9-702.5;
- (xix) a felony violation of abuse or desecration of a dead human body, Section 76-9-704;
- (xx) manufacture, possession, sale, or use of a weapon of mass destruction, Section 76-10-402;
- (xxi) manufacture, possession, sale, or use of a hoax weapon of mass destruction, Section 76-10-403;
- (xxii) possession of a concealed firearm in the commission of a violent felony,

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Subsection 76-10-504(4);

(xxiii) assault with the intent to commit bus hijacking with a dangerous weapon,

Subsection 76-10-1504(3);

(xxiv) commercial obstruction, Subsection 76-10-2402(2);

(xxv) a felony violation of failure to register as a sex or kidnap offender, Section 77-41-107;

(xxvi) repeat violation of a protective order, Subsection 77-36-1.1(2)(c); or

(xxvii) violation of condition for release after arrest under Section 77-20-3.5.

(3) A minor under Subsection (1) is a minor 14 years of age or older whom a Utah court has adjudicated to be within the jurisdiction of the juvenile court due to the commission of any offense described in Subsection (2), and who is:

(a) within the jurisdiction of the juvenile court on or after July 1, 2002, for an offense under Subsection (2); or

(b) in the legal custody of the Division of Juvenile Justice Services on or after July 1, 2002, for an offense under Subsection (2).

Section 2. Section **53-10-403.5** is amended to read:

### **53-10-403.5. Definitions.**

As used in Sections 53-10-403, 53-10-404, 53-10-404.5, 53-10-405, and 53-10-406:

(1) "Bureau" means the Bureau of Forensic Services.

(2) "Conviction" means:

(a) a verdict or conviction;

(b) a plea of guilty or guilty and mentally ill;

(c) a plea of no contest; or

(d) the acceptance by the court of a plea in abeyance.

(3) "DNA" means deoxyribonucleic acid.

(4) "DNA specimen" or "specimen" means a biological sample of a person's saliva or blood, or a biological sample from a crime scene.

(5) "Final judgment" means a judgment, including any supporting opinion, concerning which all appellate remedies have been exhausted or the time for appeal has expired.

(6) "Rapid DNA" means the fully automated process of developing a DNA profile from a reference sample buccal swab without human intervention.

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~~[(6)] (7)~~ "Violent felony" means any offense under Section 76-3-203.5.

Section 3. Section **53-10-403.6** is enacted to read:

### **53-10-403.6. Use of Rapid DNA.**

(1) Rapid DNA technology may be used for the purposes of conducting testing of a DNA specimen obtained~~{ during an investigation or }~~:

(a) at the time of booking in accordance with Section 53-10-405; or

(b) during an investigation, if~~{, at the time the specimen is obtained, }~~ a second specimen is also obtained ~~{which}~~and is submitted to the bureau for testing.

(2) Rapid DNA technology may be used for other purposes only when conducted by ~~{a}~~the bureau in its capacity as the state's National DNA Index System participating laboratory that follows the Federal Bureau of Investigation Quality Assurance Standards for Forensic DNA Testing Laboratories.

(3) If the ~~{attorney general}~~investigating agency submits a DNA specimen in accordance with the provisions of ~~{Section 67-5-1.2 on behalf of a local investigation}~~this section, the bureau shall provide the results of the test directly to the local law enforcement agency ~~{or county or district attorney that requested the attorney general's assistance}~~that submitted the DNA specimen.

Section 4. Section **67-5-1.2** is enacted to read:

### **67-5-1.2. Local investigation assistance.**

The attorney general may:

(1) assist or intervene in a local investigation only if:

(a) the local law enforcement agency requests assistance; or

(b) the county or district attorney requests assistance; and

(2) provide Rapid DNA assistance for a local investigation ~~{upon request and }~~ in accordance with Section 53-10-403.6 upon request of and as authorized by, both the investigating agency and the county or district attorney.