

Representative Eric K. Hutchings proposes the following substitute bill:

DNA PROCESSING AMENDMENTS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jacob L. Anderegg

House Sponsor: Eric K. Hutchings

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

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



26 [67-5-1.2](#), Utah Code Annotated 1953



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

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

30 **53-10-403. DNA specimen analysis -- Application to offenders, including minors.**

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

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

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

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

40 (d) has been booked:

41 (i) by a law enforcement agency that is obtaining a DNA specimen on or after May 13,
42 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

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

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

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

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

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

50 (ii) regarding which the court allows the defendant to enter a plea in abeyance as
51 defined in Section [77-2a-1](#); or

52 (c) (i) any violent felony as defined in Section [53-10-403.5](#);

53 (ii) sale or use of body parts, Section [26-28-116](#);

54 (iii) failure to stop at an accident that resulted in death, Section [41-6a-401.5](#);

55 (iv) driving with any amount of a controlled substance in a person's body and causing
56 serious bodily injury or death, Subsection [58-37-8\(2\)\(g\)](#);

- 57 (v) a felony violation of enticing a minor over the Internet, Section 76-4-401;
- 58 (vi) a felony violation of propelling a substance or object at a correctional officer, a
- 59 peace officer, or an employee or a volunteer, including health care providers, Section
- 60 76-5-102.6;
- 61 (vii) aggravated human trafficking and aggravated human smuggling, Section
- 62 76-5-310;
- 63 (viii) a felony violation of unlawful sexual activity with a minor, Section 76-5-401;
- 64 (ix) a felony violation of sexual abuse of a minor, Section 76-5-401.1;
- 65 (x) unlawful sexual contact with a 16 or 17-year old, Section 76-5-401.2;
- 66 (xi) sale of a child, Section 76-7-203;
- 67 (xii) aggravated escape, Subsection 76-8-309(2);
- 68 (xiii) a felony violation of assault on an elected official, Section 76-8-315;
- 69 (xiv) influencing, impeding, or retaliating against a judge or member of the Board of
- 70 Pardons and Parole, Section 76-8-316;
- 71 (xv) advocating criminal syndicalism or sabotage, Section 76-8-902;
- 72 (xvi) assembly for advocating criminal syndicalism or sabotage, Section 76-8-903;
- 73 (xvii) a felony violation of sexual battery, Section 76-9-702.1;
- 74 (xviii) a felony violation of lewdness involving a child, Section 76-9-702.5;
- 75 (xix) a felony violation of abuse or desecration of a dead human body, Section
- 76 76-9-704;
- 77 (xx) manufacture, possession, sale, or use of a weapon of mass destruction, Section
- 78 76-10-402;
- 79 (xxi) manufacture, possession, sale, or use of a hoax weapon of mass destruction,
- 80 Section 76-10-403;
- 81 (xxii) possession of a concealed firearm in the commission of a violent felony,
- 82 Subsection 76-10-504(4);
- 83 (xxiii) assault with the intent to commit bus hijacking with a dangerous weapon,
- 84 Subsection 76-10-1504(3);
- 85 (xxiv) commercial obstruction, Subsection 76-10-2402(2);
- 86 (xxv) a felony violation of failure to register as a sex or kidnap offender, Section
- 87 77-41-107;

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

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

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

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

95 (b) in the legal custody of the Division of Juvenile Justice Services on or after July 1,
96 2002, for an offense under Subsection (2).

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

98 **53-10-403.5. Definitions.**

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

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

101 (2) "Combined DNA Index System" or "CODIS" means the program operated by the
102 Federal Bureau of Investigation to support criminal justice DNA databases and the software
103 used to run the databases.

104 [~~2~~] (3) "Conviction" means:

105 (a) a verdict or conviction;

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

107 (c) a plea of no contest; or

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

109 [~~3~~] (4) "DNA" means deoxyribonucleic acid.

110 [~~4~~] (5) "DNA specimen" or "specimen" means a biological sample of a person's
111 saliva or blood, a biological sample from a crime scene, or a sample collected as part of an
112 investigation.

113 [~~5~~] (6) "Final judgment" means a judgment, including any supporting opinion,
114 concerning which all appellate remedies have been exhausted or the time for appeal has
115 expired.

116 (7) "Rapid DNA" means the fully automated process of developing a DNA profile.

117 [~~6~~] (8) "Violent felony" means any offense under Section 76-3-203.5.

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

119 53-10-403.6. Use of Rapid DNA.

120 (1) Rapid DNA technology may be used for the purposes of conducting testing of a
121 DNA specimen obtained:

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

123 (b) for non-CODIS comparison during an investigation, if a second specimen is also
124 obtained and is submitted to the bureau or another laboratory that is a National DNA Index
125 System participating laboratory for testing.

126 (2) Notwithstanding Subsection (1)(b) a second sample is not required if the sample
127 collected was a touch DNA sample and no other specimen or sample is available.

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

132 (4) If the investigating agency submits a DNA specimen to the bureau in accordance
133 with the provisions of this section, the bureau shall provide the results of the test directly to the
134 local law enforcement agency that submitted the DNA specimen.

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

136 **67-5-1.2. Local investigation assistance.**

137 The attorney general may:

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

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

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

141 (2) provide Rapid DNA assistance for a local investigation in accordance with Section
142 53-10-403.6 upon request of and as authorized by, both the investigating agency and the county
143 or district attorney.