

IN THE SENATE

SENATE BILL NO. 1088

BY JUDICIARY AND RULES COMMITTEE

AN ACT

1 RELATING TO THE IDAHO DNA DATABASE ACT OF 1996; AMENDING SECTION 19-5506,  
2 IDAHO CODE, TO PROVIDE THAT REGISTERED SEX OFFENDERS ARE REQUIRED  
3 TO SUBMIT DNA SAMPLES, TO PROVIDE THAT A COLLECTION FACILITY IS NOT  
4 REQUIRED TO COLLECT A DNA SAMPLE IN CERTAIN INSTANCES AND TO MAKE TECH-  
5 NICAL CORRECTIONS; AND AMENDING SECTION 19-5507, IDAHO CODE, TO PROVIDE  
6 CERTAIN CONDITIONS FOR THE COLLECTION OF A DNA SAMPLE AND TO MAKE TECH-  
7 NICAL CORRECTIONS.  
8

9 Be It Enacted by the Legislature of the State of Idaho:

10 SECTION 1. That Section 19-5506, Idaho Code, be, and the same is hereby  
11 amended to read as follows:

12 19-5506. SCOPE OF LAW -- OFFENDERS SUBJECT TO SAMPLE COLLECTION --  
13 EARLY COLLECTION OF SAMPLES -- RESTITUTION. (1) Any person, including any  
14 juvenile tried as an adult, who is convicted of, or pleads guilty to, any  
15 felony crime, ~~or~~ the attempt to commit any felony crime or any crime that re-  
16 quires sex offender registration pursuant to sections 18-8304 and 18-8410,  
17 Idaho Code, regardless of the form of judgment or withheld judgment, and re-  
18 gardless of the sentence imposed or disposition rendered, shall be required  
19 to provide to the Idaho state police, a DNA sample and a right thumbprint  
20 impression.

21 (2) Absent consent or a warrant authorizing DNA collection based upon  
22 probable cause, no person shall be required to provide a DNA sample unless  
23 the person has been convicted of, or pleads guilty to, any felony crime ~~or,~~  
24 the attempt to commit any felony crime or any crime that requires sex of-  
25 fender registration pursuant to sections 18-8304 and 18-8410, Idaho Code.

26 (3) This chapter's requirements for submission to tests and procedures  
27 for obtaining a DNA sample and thumbprint impression from the persons who  
28 are convicted of, or who plead guilty to, any felony crime ~~or,~~ the attempt to  
29 commit any felony crime or any crime that requires sex offender registration  
30 pursuant to sections 18-8304 and 18-8410, Idaho Code, are mandatory and ap-  
31 ply to those persons convicted of, or who plead guilty to, such felony crimes  
32 ~~or,~~ the attempt to commit such felony crimes or any crime that requires sex  
33 offender registration pursuant to sections 18-8304 and 18-8410, Idaho Code,  
34 covered in this chapter prior to its effective date, and who, as a result of  
35 the conviction or plea, are incarcerated in a county jail facility or a pen-  
36 ital facility ~~or,~~ are under probation or parole supervision or are required  
37 to register as a sex offender pursuant to sections 18-8304 and 18-8410, Idaho  
38 Code, after the effective date of this chapter.

39 (4) The collection of samples and impressions specified in this chap-  
40 ter are required, regardless of whether the person previously has supplied a  
41 DNA sample to law enforcement agencies in any other jurisdiction. The col-

1 lection facility is not required to collect a DNA sample if it can be verified  
 2 that a sample already exists for the individual in the Idaho DNA database.

3 (5) The requirements of this chapter are mandatory and apply, regardless  
 4 of whether a court advises a person that samples and impressions must be  
 5 provided to the databank and database as a condition of probation or parole.

6 (6) Unless the court determines that an order of restitution would be  
 7 inappropriate or undesirable, it shall order any person subject to the pro-  
 8 visions of this section to pay restitution to help offset costs incurred by  
 9 law enforcement agencies for the expense of DNA analysis.

10 (7) The court may order such person to pay restitution for DNA analysis  
 11 in an amount not to exceed five hundred dollars (\$500) per DNA sample analy-  
 12 sis, or in the aggregate not more than two thousand dollars (\$2,000), regard-  
 13 less of whether:

14 (a) The source of the sample is the person, the victim or other persons  
 15 of interest in the case;

16 (b) Results of the analysis are entered into evidence in the person's  
 17 criminal case;

18 (c) The DNA sample was previously analyzed for another criminal case;  
 19 or

20 (d) Restitution for that DNA sample analysis was ordered in any other  
 21 criminal case.

22 (8) Law enforcement agencies entitled to restitution under this sec-  
 23 tion include the Idaho state police, county and city law enforcement agen-  
 24 cies, the office of the attorney general, county prosecuting attorneys and  
 25 city attorneys.

26 (9) In the case of reimbursement for DNA analysis performed by the Idaho  
 27 state police, those moneys shall be paid to the Idaho state police and de-  
 28 posited in the law enforcement fund. In the case of reimbursement to the of-  
 29 fice of the attorney general, those moneys shall be paid to the general fund.

30 (10) Persons who have been sentenced to death, or life without the pos-  
 31 sibility of parole, or to any life or indeterminate term are not exempt from  
 32 the requirements of this chapter.

33 SECTION 2. That Section 19-5507, Idaho Code, be, and the same is hereby  
 34 amended to read as follows:

35 19-5507. RESPONSIBILITY FOR SAMPLE COLLECTION -- TIMING OF SAMPLE  
 36 COLLECTION -- SITE FOR SAMPLE COLLECTION. (1) A court shall order a DNA  
 37 sample and thumbprint impression to be taken after conviction and before  
 38 sentencing of any person upon application by the prosecuting attorney, the  
 39 attorney general, or the Idaho state police upon a showing that early collec-  
 40 tion of such samples will be in the best interest of justice. The DNA samples  
 41 shall be collected in accordance with procedures established by the bureau  
 42 of forensic services. The director may designate a state or county correc-  
 43 tional facility for sample collection.

44 (2) Any person, including any juvenile tried as an adult, who comes  
 45 within the terms of this chapter, and who is granted probation or who serves  
 46 an entire term of confinement in a state or county facility, or who otherwise  
 47 bypasses a prison inmate reception center shall, prior to physical release  
 48 from custody, be required to provide a DNA sample and thumbprint impression  
 49 at an Idaho state police designated sample collection location. If the

1 person is not incarcerated at the time of sentencing, the court shall order  
2 the person to report within ten (10) working days to the ~~facilities~~ facility  
3 designated for the collection of such specimens.

4 (3) The chief administrative officer of any state or local detention  
5 facility, jail or other facility shall cause a DNA sample and thumbprint im-  
6 pression to be collected from the person subject to this chapter during the  
7 intake process at the facility, or immediately thereafter at another facil-  
8 ity designated for such collection, if DNA samples previously have not been  
9 taken pursuant to this chapter.

10 (4) The director of the department of correction shall cause a DNA sam-  
11 ple and thumbprint impression to be collected from any person subject to the  
12 provisions of this chapter who has been sentenced to serve a term of impris-  
13 onment in a state correctional institution and who has not had a DNA sample  
14 taken after conviction and before sentencing. The DNA sample and thumbprint  
15 impression shall be collected from the person during the intake process at  
16 the reception center designated by the director of the department of correc-  
17 tion as soon as possible.

18 (5) Any person subject to the provisions of this chapter who is serv-  
19 ing a term of imprisonment or confinement, and who did not, for any reason,  
20 provide a DNA sample or thumbprint impression for analysis by the bureau of  
21 forensic services, shall submit to such tests as soon as practicable, but in  
22 any event prior to final discharge, parole, or release from imprisonment or  
23 confinement. A person who was convicted prior to the effective date of this  
24 chapter is not exempt from these requirements.

25 (6) As a condition of probation or parole, any person subject to the  
26 provisions of this chapter and who has not previously provided a DNA sample  
27 and thumbprint impression, shall, upon notice by a law enforcement agency or  
28 an agent of the department of correction, be required to provide a DNA sam-  
29 ple and thumbprint impression if it has been determined that such sample and  
30 thumbprint impression are not in the possession of the bureau of forensic  
31 services. That person is required to have the sample and impression taken  
32 within ten (10) working days at the designated county or state facility.

33 (7) When the state accepts an offender from another state under any  
34 interstate compact, or under any other reciprocal agreement with any county,  
35 state or federal agency, or any other provision of law, whether or not the  
36 offender is confined or released, the acceptance is conditional on the of-  
37 fender providing a DNA sample and thumbprint impression if the offender was  
38 convicted of an offense which would qualify as a felony crime if committed  
39 in this state, or if the person was convicted of an equivalent offense in  
40 any other jurisdiction. If the offender from another state is not confined,  
41 the samples and impression required by this chapter must be provided within  
42 ten (10) working days after the offender reports to the supervising agent  
43 or within ten (10) working days of notice to the offender, whichever occurs  
44 first. The person shall report to the designated sample collection facil-  
45 ity or facilities to have the sample and impression taken. If the offender  
46 from another state is confined, he or she shall provide the DNA sample and  
47 thumbprint impression as soon as practicable after receipt in a state or  
48 county correctional facility or other facility, and, in any event, before  
49 completion of the person's term of imprisonment, if that person is to be  
50 discharged.

1           (8) Any person who is convicted of or who pleads guilty to a felony of-  
2 fense who is released on parole, furlough or other release, and is returned  
3 to a state or local correctional institution for a violation of a condition  
4 of that release, and that person has not previously provided a DNA sample and  
5 thumbprint impression, shall provide a sample and impression upon returning  
6 to the state correctional institution.

7           (9) The collection facility and sex offender registration location  
8 shall verify that the individual's DNA sample has been collected in Idaho.  
9 The collection facility is not required to collect a DNA sample if it can be  
10 verified that a sample already exists for the individual in the Idaho DNA  
11 database.