

IN THE SENATE

SENATE BILL NO. 1240, As Amended

BY JUDICIARY AND RULES COMMITTEE

AN ACT

RELATING TO THE IDAHO DNA DATABASE ACT OF 1996; AMENDING SECTION 19-5506, IDAHO CODE, TO PROVIDE THAT ABSENT CONSENT OR A WARRANT AUTHORIZING DNA COLLECTION BASED UPON PROBABLE CAUSE, NO PERSON SHALL BE REQUIRED TO PROVIDE A DNA SAMPLE UNLESS THE PERSON HAS BEEN CONVICTED OF, OR PLEADS GUILTY TO, ANY FELONY CRIME OR THE ATTEMPT TO COMMIT ANY FELONY CRIME.

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

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

19-5506. SCOPE OF LAW -- OFFENDERS SUBJECT TO SAMPLE COLLECTION -- EARLY COLLECTION OF SAMPLES -- RESTITUTION. (1) Any person, including any juvenile tried as an adult, who is convicted of, or pleads guilty to, any felony crime, or the attempt to commit any felony crime, regardless of the form of judgment or withheld judgment, and regardless of the sentence imposed or disposition rendered, shall be required to provide to the Idaho state police, a DNA sample and a right thumbprint impression.

(2) Absent consent or a warrant authorizing DNA collection based upon probable cause, no person shall be required to provide a DNA sample unless the person has been convicted of, or pleads guilty to, any felony crime or the attempt to commit any felony crime.

(3) This chapter's requirements for submission to tests and procedures for obtaining a DNA sample and thumbprint impression from the persons who are convicted of, or who plead guilty to, any felony crime or the attempt to commit any felony crime are mandatory and apply to those persons convicted of, or who plead guilty to, such felony crimes or the attempt to commit such felony crimes covered in this chapter prior to its effective date, and who, as a result of the conviction or plea, are incarcerated in a county jail facility or a penal facility or are under probation or parole supervision after the effective date of this chapter.

(34) The collection of samples and impressions specified in this chapter are required regardless of whether the person previously has supplied a DNA sample to law enforcement agencies in any other jurisdiction.

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

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

(67) The court may order such person to pay restitution for DNA analysis in an amount not to exceed five hundred dollars (\$500) per DNA sample analy-

1 sis, or in the aggregate not more than two thousand dollars (\$2,000), regard-  
2 less of whether:

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

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

7 (c) The DNA sample was previously analyzed for another criminal case;  
8 or

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

11 (~~78~~) Law enforcement agencies entitled to restitution under this sec-  
12 tion include the Idaho state police, county and city law enforcement agen-  
13 cies, the office of the attorney general, county prosecuting attorneys and  
14 city attorneys.

15 (~~89~~) In the case of reimbursement for DNA analysis performed by the  
16 Idaho state police, those moneys shall be paid to the Idaho state police and  
17 deposited in the law enforcement fund. In the case of reimbursement to the  
18 office of the attorney general, those moneys shall be paid to the general  
19 fund.

20 (~~910~~) Persons who have been sentenced to death, or life without the pos-  
21 sibility of parole, or to any life or indeterminate term are not exempt from  
22 the requirements of this chapter.