



Qualifying Misdemeanors and Owed DNA Collection: A Systematic Review of State-Level Statutes

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November, 2024

This report is part of a larger project, the ISP Sexual Assault Kit Initiative (SAKI), funded by the Bureau of Justice Assistance (#15PBJA-22-GG-03846-SAKI), and in partnership with the Idaho State Police Forensic Services (ISPFS). We wish to thank ISP Colonel Bill Gardiner, ISPFS Director Matthew Gamette, and members of the SAKI team for their assistance. For information about this report, contact Dr. William King (billking@boisestate.edu) or Dr. Lisa Growette Bostaph (lisabostaph@boisestate.edu).



Introduction¹

Lawfully owed DNA is DNA that an offender is required to submit to the state when they are arrested or convicted of a qualifying offense (Melton et al., 2022). This DNA is then entered into CODIS where it is stored in the hope of connecting an individual to a case or connecting two cases together (Forensic Technology Center of Excellence [FTCoE], 2021). Although all 50 states have legislation on the collection and submission of owed DNA, these statutes vary greatly (Melton et al., 2022). One of the main differences between owed DNA collection and submission procedures across each state is the offenses that trigger the submission of owed DNA. All 50 states require the submission of DNA for the conviction and/or arrest for certain felonies, but some states require the submission of DNA for the conviction of various misdemeanors as well (Melton et al., 2022). This report will examine the variety of misdemeanor crimes that require DNA submission across all 50 states.

Literature Review and Method of Analysis

There is limited work on disparities in owed DNA legislation and an even more limited body of work on qualifying misdemeanors. Maples' (2023) thesis on differences in owed DNA legislation is the only work that assesses misdemeanor crimes that require DNA submission. Even this assessment is limited though, as she only breaks down the states that have legislation that require submission for sex crime misdemeanors and enumerated misdemeanors. Maples (2023) does not specify what the specific qualifying offenses in each state are.

Due to the limited literature on misdemeanor crimes that require DNA submission, we conducted an analysis of each state's statutes. Each state's owed DNA legislation was read and the types of misdemeanors (if any) that trigger the submission of offender DNA were noted. This information was then compiled into a table, along with its corresponding statute and funding that the state provides. We then analyzed which types of misdemeanors were most prevalent. This analysis is detailed below.

Qualifying Misdemeanors

Of the statutes for all 50 states, 30% (15 states) *do not* have any misdemeanors that trigger the submission of DNA. This means that only those arrested for or convicted (depending on the state's statute) of a felony are required to submit a sample of their DNA to the state. Only one state, Wisconsin, requires that all individuals who have been found guilty of a misdemeanor submit their DNA. New York also requires that DNA be collected for all individuals who have committed a misdemeanor save for two exceptions: prostitution and crimes committed as a result of being a victim of human trafficking. The remaining states require the collection of DNA for specific types of misdemeanors. Because Wisconsin and New York require submission of DNA for all misdemeanors, they will be included in the following calculations.

Sexual Offenses. The most common type of misdemeanors that require DNA submission are sexual offenses. Some statutes mandate collection for all misdemeanor sexual offenses, others for misdemeanors requiring sex offender registration, and some for only specific types of

¹ For access to our two other reports on owed DNA (*Missing offender DNA and nationwide efforts to address the issue* and *Lawfully owed DNA collection: A systematic review of state-level statutes and procedures*), contact Dr. William King (billking@boisestate.edu) or Dr. Lisa Growette Bostaph (lisabostaph@boisestate.edu).

sexual offenses. Of the 35 states that order DNA submission for misdemeanors, 94.3% (33 states) require submission for at least one type of sexual offense. This number includes states that mandate submission for all misdemeanors, all misdemeanor crimes against a person, and/or all Class A or B misdemeanors.

Of the states that order DNA submission for misdemeanors, 57.1% (20 states) mandate all misdemeanor sexual offenses or all misdemeanors requiring sex offender registration to submit DNA. This number only includes states who demand DNA submission for all misdemeanors, all misdemeanor sexual offenses, or all misdemeanors requiring sex offender registration.

States Requiring DNA Submission for At Least One Type of Misdemeanor Sexual Offense

- Alabama
- Alaska
- Arizona
- California
- Connecticut
- Florida
- Illinois
- Iowa
- Kansas
- Kentucky
- Maine
- Oregon
- Pennsylvania
- South Dakota
- Tennessee
- Texas
- Utah
- Vermont
- Virginia
- Washington
- West Virginia
- Wisconsin
- Michigan
- Missouri
- Montana
- Nebraska
- Nevada
- New Hampshire
- New Mexico
- New York
- North Carolina
- Ohio
- Oklahoma

Crime categories. There are seven states that require DNA collection for a crime falling under a certain category or classification. In Alaska, DNA must be submitted for all misdemeanor crimes against a person. Connecticut and New Hampshire both mandate the submission of DNA for misdemeanor crimes against minors. Iowa statutes demand DNA collection for all aggravated misdemeanors. In Pennsylvania, DNA must be collected for all 1st degree misdemeanor crimes and offenses and all 1st degree misdemeanor vehicle offenses. Last, Utah orders DNA be collected for all Class A misdemeanors and Texas requires collection for all Class A misdemeanors against a person.

Table 1. States Requiring DNA Collection on Misdemeanors – Specific Crime Category

Misdemeanor Crimes Against a Person	Alaska
Misdemeanor Crimes Against Minors	Connecticut and New Hampshire
Aggravated Misdemeanors	Iowa
First Degree Misdemeanors Crimes and First-Degree Vehicle Misdemeanors	Pennsylvania
Class A Misdemeanors	Utah
Class A Misdemeanors Against a Person	Texas

Enumerated Misdemeanors. Aside from misdemeanor sex crimes and other categories of misdemeanors, some states require that DNA be collected for specific misdemeanor offenses. These will be referred to as enumerated misdemeanors. Of the states that mandate DNA submission for misdemeanors, 51.4% (18) of states include an enumerated misdemeanor². There are a few common enumerated misdemeanors for which DNA is required to be submitted: stalking (including cyberstalking, eight states), peeping (five states), prostitution (four states), and criminal restraint/false imprisonment (four states). Four states also specify misdemeanors related to domestic violence. Oklahoma, Vermont, and Washington all mandate DNA be collected from individuals who are convicted of misdemeanor domestic assault. Additionally, Vermont, Virginia, and Washington require collection from those convicted of violating a protection order. Beyond these commonalities, there are a variety of other misdemeanors that trigger DNA collection, and these vary from state to state.

Conclusion

The offenses that trigger the submission of offender DNA vary greatly across all 50 states. Every state requires individuals who have been convicted of a felony to provide their DNA, but 35 states also have at least one misdemeanor that triggers submission. The most common type of qualifying misdemeanor is a sex offense. Several states also have enumerated misdemeanors that require the submission of DNA and some require submission for misdemeanors that fall under a certain category. Although the types of qualifying misdemeanors vary across each state, some patterns were identified. In Appendix A, we provide a table with links to each state's statute identifying misdemeanor crimes that require DNA submission.

² States that require DNA collection for all misdemeanors or in which sex offenses were the only qualifying misdemeanors were not included. Additionally, states whose qualifying misdemeanors fall under a category, such as the ones discussed above, and did not have any additional qualifying misdemeanors, were not included.

References

- Forensic Technology Center of Excellence (2021). *Perspectives on addressing the collection, tracking, and processing of lawfully owed DNA samples*. U.S. Department of Justice, National Institute of Justice, Office of Investigative and Forensic Sciences.
- Maples, A.C. (2023). *Timing is everything: State-by-state analysis of the collection of lawfully owed DNA from offenders*. [Unpublished Master's Thesis]. Sam Houston University.
- Melton, P., Krauss, S., Martin, M., Zablocka, R., Sheppard, M., Gourdet, C., & Kurland, J. (2022). *A review of legislation associated with lawfully owed DNA samples*. Forensic Technology Center of Excellence, U.S. Department of Justice, Office of Justice Programs, National Institute of Justice, Office of Investigative and Forensic Sciences.

Appendix A

The following table lists each state, the statute in which the qualifying offenses are described, and the types of qualifying misdemeanors that trigger the submission of owed DNA. Qualifying misdemeanors are listed as they are in the statute, such that qualifying offenses list specific offenses and qualifying crime categories list the offense category. All crimes included in this table are the misdemeanor classifications.

Information on state funding to carry out DNA analysis is also provided. “Offender fee” indicates that the state’s statute requires that the offender pay either part or all the cost associated with the collection and testing of the DNA. States in which no funding is listed does not necessarily mean that there is no funding provided by the state, but rather that we were unable to locate a funding source within the statute. Many states also receive federal grants to assist in collecting and testing owed DNA; these were not included in the table.

Table 2. Qualifying Misdemeanors by State, as of 2023^a

State	Law	Qualifying Misdemeanors	State Funding
Alabama	Code of Alabama 1975 36-18-25	Misdemeanor sex crimes and any misdemeanor requiring sex offender registration	Alabama DNA Database Fund
Alaska	Alaska Statutes 44.41.035	Misdemeanor crime against a person	-
Arizona	Arizona Revised Code 13-610	Misdemeanor sex offenses; Prostitution	-
Arkansas	Code of Arkansas 12-12-1006	None	Crime Information System Fund
California	California Law 296-296.2	Misdemeanor requiring sex offender registration	DNA Identification Fund
Colorado	Colorado Revised Statutes 16-23-103	None	Colorado Bureau of Investigation
Connecticut	General Statutes of Connecticut 54-102g	Misdemeanor crimes against a minor; sexual assault	-
Delaware	Delaware Code 29-4713	None	-

Florida	Florida Statutes 943.325	Misdemeanor stalking; Voyeurism; Acts in connection with obscene, lewd, etc. materials, exposing minors to harmful shows, presentations, etc.; Direct observation, videotaping, or visual surveillance of customers in merchant's dressing room, etc.; Computer pornography; Prohibited computer usage; Traveling to meet minor; Misdemeanor offenses committed for a gang	Offender fees; Rapid DNA Grant Program
Georgia	Georgia General Assembly 35-3-160	None	-
Hawaii	Hawaii Revised Statutes 844D-31	None	Offender fees; DNA Registry Special Fund
Idaho	Idaho Statutes 19-5506	None	Offender fees
Illinois	Illinois Compiled Statutes Database 730 5/5-4-3	Misdemeanor requiring sex offender registration	State Crime Laboratory Fund
Indiana	Indiana Code 10-13-6-10	None	DNA Sample Processing Fund
Iowa	Iowa Code 81.2	Aggravated misdemeanor	Offender fees
Kansas	Kansas Statutes Annotated 21-2511	Criminal sodomy; Lewd and Lascivious behavior; Cruelty to animals; Criminal restraint when victim is a minor; Adultery when one party is a minor; Buying sexual relations when offender is a minor; Sexual battery	Offender fees; DNA Database Fee Fund
Kentucky	Kentucky Revised Statutes 17.170	Any misdemeanor requiring sex offender registration	-
Louisiana	Louisiana Laws 15:609	None	-
Maine	Maine Revised Statutes 25-1574	Sexual abuse of a minor; Unlawful sexual contact; Visual sexual	Offender fees; DNA Fund

		aggression against a child; Sexual contact with a child under 14; Criminal restraint	
Maryland	Maryland Code 2-504	Burglary; Attempted burglary	-
Massachusetts	Massachusetts General Laws 22E-3	None	Offender fees; State DNA Database Trust
Michigan	Michigan Compiled Laws 28-176	Disorderly person by window peeping; Engaging in indecent or obscene conduct in public or loitering in a house of ill fame or prostitution; Indecent exposure; First and second prostitution violations; Leasing a house for the purpose of prostitution	Offender fees; Justice System Fund
Minnesota	Minnesota Statutes 299C.105	None	-
Mississippi	Mississippi Code 45-47-1	None	-
Missouri	Missouri Revisor of Statutes 650.055	Conviction of misdemeanor sex crimes	Missouri Crime Laboratory Assistance Program
Montana	Montana Code Annotated 44-6-103	Any misdemeanor requiring sex offender registration	Offender fees
Nebraska	Nebraska Revised Statutes 29-4106 and 29-4103	Stalking; False imprisonment; Sexual abuse of a vulnerable adult or senior adult; Violation of the Sex Offender Registration Act	Offender fees; State DNA Sample and Database Fund
Nevada	Nevada Revised Statutes 176.09123	Any misdemeanor requiring sex offender registration	Offender fees; Each county has own, individual fund
New Hampshire	New Hampshire Revised Statutes 651-C.2	Any misdemeanor sex offenses; Any misdemeanor crimes against a child	Offender fees

New Jersey	New Jersey Legislative Statutes 53: 1-20.20	None	Offender fees; New Jersey Forensic DNA Laboratory Fund
New Mexico	New Mexico Statutes 29-16-6 and 29-16-3	Any misdemeanor requiring sex offender registration	Offender fees; DNA Identification System Fund
New York	Consolidated Laws of New York State Exec 995-C and Exec 995	All misdemeanors except for prostitution or individuals whose actions were a result of being a victim of human trafficking	-
North Carolina	North Carolina General Statutes 15A-266.3A	Misdemeanor sex crimes, human trafficking crimes, kidnapping crimes, or arson crimes; Cyberstalking; Secretly peeping into room occupied by another person; Stalking;	Offender fees
North Dakota	North Dakota Century Code 31-13-03	None	Offender fees
Ohio	Ohio Revised Code 2901.07	Unlawful sexual conduct with a minor; Interference with custody; Sexually oriented misdemeanor or child-oriented misdemeanor in which the offender is a Tier III sex offender/child-victim offender; Misdemeanor violation of any law that arose out of the same facts and circumstances and same act as a charge against the person for aggravated murder, murder, kidnapping, rape, sexual battery, unlawful sexual conduct with a minor, gross sexual imposition, or aggravated burglary	-
Oklahoma	Oklahoma Statutes 74-150.27a	Any misdemeanor requiring sex offender registration; The collection of DNA for the following misdemeanors is dependent upon availability of funds: Assault	Offender fees

		<p>and battery; Domestic abuse; Stalking; Possession of controlled substances; Outraging public decency; Resisting arrest; Escaping or attempting to escape; Eluding a police officer; Peeping; Pointing a firearm; Threatening an act of violence; Breaking and entering a dwelling place; Destruction of property; Negligent homicide or causing a personal injury accident while driving under the influence of any intoxicating substance; Being an undocumented immigrant</p>	
Oregon	Oregon Revised Statutes 137.076	<p>Sex abuse; Public indecency; Conspiracy or attempt to commit third degree rape, second degree sexual abuse, third degree sodomy, second degree burglary, or promoting prostitution</p>	Offender fees
Pennsylvania	Pennsylvania Consolidated Statutes 44-2316 and 44-2303	<p>All first degree misdemeanors relating to vehicles and crimes and offenses; Any misdemeanor requiring sex offender registration Second degree misdemeanors: Simple assault; False imprisonment; Indecent exposure; Theft and related offenses; Bad checks; Access device fraud; Intimidation of witnesses or victims; Retaliation against witness, victim, or party; Intimidation, retaliation, or obstruction in child abuse cases; Escape; Flight to avoid apprehension, trial, or punishment; Recruiting criminal gang members; Abuse of corpse; Cruelty to animals; Prostitution and related offenses</p>	Offender fees; DNA Detection Fund
Rhode Island	State of Rhode Island General Laws 12-1.5-8	None	-

South Carolina	South Carolina Code of Laws 23-3-620	Eavesdropping; Peeping; Stalking	Offender fee; State Law Enforcement Division
South Dakota	South Dakota Codified Laws 23-5A-5	Any misdemeanor sex offenses	-
Tennessee	Tennessee Code 40-35-321	Any misdemeanor requiring sex offender registration	Offender fees
Texas	Texas Statutes 411.1471	All Class A misdemeanors falling under “Offense Against Person” (with exception for Deadly Conduct); Indecent exposure; Enticing a child; Sale, distribution, or display of harmful material to a minor	Offender fees; State Highway Fund
Utah	Utah Code 53-10-403	Any Class A misdemeanors; Plea to lower degree of original offense	Offender fees; DNA Specimen Restricted Account
Vermont	Vermont Statutes 20-1933 and 20-1932	Domestic assault; Stalking; Reckless endangerment; Violation of an abuse prevention order; Abuse, neglect, and exploitation of vulnerable adults; Misdemeanor requiring sex offender registration	-
Virginia	Code of Virginia 19.2-310.2	Conviction of misdemeanor assault and battery; Penetration of mouth of child with lascivious intent; Peeping or spying into dwelling or enclosure; Violation of protection order; Stalking; Sexual battery; Sexual abuse of child; Attempted sexual battery; Indecent exposure; Obscene sexual display; Resisting arrest; Unauthorized use of animal, aircraft, vehicle, or boat; Trespassing; Entering property of another for purpose of damaging	Offender fee; General fund

Washington	Revised Code of Washington 43.43.754	Assault where domestic violence was proven; Assault with sexual motivation; Communication with minor for immoral purposes; Failure to register; Harassment; Patronizing a prostitute; Sexual misconduct with a minor; Stalking; Indecent exposure; Violation of sexual assault protection order; Any misdemeanor requiring sex offender registration	DNA Database Account
West Virginia	West Virginia Code 15-2B-6	Any misdemeanor requiring sex offender registration; Assault on governmental representatives, health care providers, utility workers, law-enforcement officers, correctional employees and emergency medical service personnel; Involuntary manslaughter; Attempted extortion by threats	Offender fees; West Virginia State Police DNA Database Account
Wisconsin	Wisconsin Statutes 165.76	All misdemeanors	DNA Analysis Surcharge
Wyoming	Wyoming Statutes 7-19-403	None	Division of Criminal Investigations

a. NOTE: This table contains URL links to state statutes. Ensure your software permits access to the URLs before clicking on them.