

DNA LEGISLATION FINAL VERSION 1-15-2025

AN ACT

RELATING TO THE IDAHO DNA DATA BASE ACT; AMENDING CHAPTER 25, TITLE 19, IDAHO CODE TO REQUIRE COLLECTION OF DNA SAMPLES AND THUMBPRINT IMPRESSIONS UPON ENTRY OF JUDGMENT OF CONVICTION; AMENDING SECTION 19-5501 TO UPDATE THE LEGISLATURE'S ATTEMPT REGARDING THIS SECTION; AMENDING IDAHO CODE 19-5502 TO ADD A NEW DEFINITION FOR "SERIOUS CRIMES" FOR WHICH DNA SAMPLES AND THUMBPRINT IMPRESSIONS ARE REQUIRED AND ADDING SPECIFIED MISDEMEANOR CRIMES TO THAT DEFINITION; AMENDING SECTION 19-5506, IDAHO CODE TO ACCOUNT FOR ADDITION OF SPECIFIED MISDEMEANOR CRIMES TO THE LIST OF "SERIOUS CRIMES" FOR WHICH COLLECTION OF DNA SAMPLES AND THUMBPRINT IMPRESSIONS IS REQUIRED; AMENDING SECTION 19-5507, IDAHO CODE, TO PROVIDE FOR MORE EFFICIENT COLLECTION OF DNA SAMPLES AND THUMBPRINT IMPRESSIONS AND CLARIFY ROLES AND RESPONSIBILITIES FOR COLLECTION.

Be it enacted by the Legislature of the State of Idaho:

**Section 1.** That Chapter 12, Title 19, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 12-2512A, Idaho Code, and to read as follows:

19-2512. COLLECTION OF DNA SAMPLE AND THUMBPRINT IMPRESSION. At the time of sentencing, the court shall order the collection of a DNA sample and thumbprint impression from any person who is convicted of, or pleads guilty to, any serious crime as defined in Section 19-5502(10), Idaho Code, according to the process set forth in section 19-5507, Idaho Code.

**Section 2.** That section 19-5501, Idaho Code, be, and the same is hereby amended to read as follows:

19-5501. LEGISLATIVE FINDINGS — STATEMENT OF PURPOSE. The legislature finds that DNA (deoxyribonucleic acid) identification analysis is a useful law enforcement tool for identifying and prosecuting ~~felony~~ offenders who have committed serious crimes, as defined in this chapter, and that it is in the justice and the protection of the public that the roles and responsibilities of those responsible for collection be clearly defined so that efficient and timely collection of DNA samples take place. The purpose of this act is to assist federal, state and local criminal justice and law enforcement agencies within and outside the state in the detection and prosecution of individuals responsible for ~~felony~~ serious crimes, as well as in the exclusion of suspects who are being investigated for such crimes.

**Section 3.** That Section 19-5502, Idaho Code, be, and the same hereby is amended to read as follows:

19-5502. DEFINITIONS. (1) "CODIS" means the federal bureau of investigation's combined DNA index system that allows the storage and exchange of DNA records submitted by state and local forensic laboratories.

(2) "Director" means the director of the Idaho state police.

(3) "DNA" means deoxyribonucleic acid.

(4) "DNA analysis" means the scientific test of a DNA sample for the purpose of obtaining a DNA profile.

(5) "DNA profile" means the list of one (1) or more genetic types determined for an individual based on variations in DNA sequence.

(6) "DNA record" means DNA information stored in the statewide DNA database system of the bureau of forensic services or CODIS and includes information commonly referred to as a DNA profile.

(7) "DNA sample" means a body fluid or tissue sample provided by any person convicted of a felony crime or any body fluid or tissue sample submitted to the statewide DNA database system for analysis pursuant to a criminal investigation or missing person investigation.

(8) "Forensic laboratory" means the bureau of forensic services of the Idaho state police.

(9) "Law enforcement purpose" means to assist federal, state or local criminal justice and law enforcement agencies within and outside the state of Idaho in identification or prosecution of felony crimes or other crimes and the identification and location of missing and unidentified persons.

(10) "Serious crime" means, for purposes of this chapter, any felony crime, the attempt to commit any felony crime, any crime that requires sex offender registration pursuant to sections 18-8304 and 18-8410, Idaho Code, or to Domestic violence, misdemeanor (18-918, Idaho Code), Sexual exploitation by a medical care provider (18-919, Idaho Code), Sexual battery (18-924, Idaho Code), Injury to children, misdemeanor (18-1501, Idaho Code), Indecent exposure, misdemeanor (18-4116, Idaho Code), Soliciting commercial sexual activity, misdemeanor (18-5614, Idaho Code), or Stalking in the second degree (18-7906, Idaho Code), 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.

~~(1011)~~ "Statewide DNA databank" means the state repository of DNA samples collected under this chapter.

~~(1112)~~ "Statewide DNA database system" means the DNA record system administered by the Idaho bureau of forensic services.

**Section 4.** 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, the attempt to commit any felony crime or any crime that requires sex offender registration pursuant to sections 18-8304 and 18-8410, Idaho Code, 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~~ serious crime, as defined in section 19-5502(10), Idaho Code, shall be required to provide to the Idaho state police a DNA sample and a right thumbprint impression as set forth in section 19-5507, Idaho Code.

(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, the attempt to commit any felony crime, or any crime that requires sex offender registration pursuant to sections 18-8304 and 18-8410~~ a serious crime, as defined in section 19-55092(1), Idaho Code.

(3) (a) 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, the attempt to commit any felony crime, or any crime that requires sex offender registration pursuant to sections 18-8304 and 18-8410, Idaho Code,~~ defined as a serious crime as defined in section 19-5502(10), Idaho Code are mandatory and apply to those persons convicted of, or who plead guilty to, ~~such felony crimes, the attempt to commit felony crimes, or any crime that requires sex offender registration pursuant to sections 18-8304 and 18-8410, Idaho Code,~~ covered in this chapter such serious felony crimes prior to ~~it's~~ the effective date of this chapter, and who, as a result of the conviction or plea, are incarcerated in a county jail facility or a penal facility, are under probation or parole supervision or are required to register as a sex offender pursuant to sections 18-8304 and 18-8410, Idaho Code, after the effective date of this chapter.

(b) This chapter's requirements for submission to tests and procedures for obtaining a DNA sample and thumbprint impression for persons who are convicted of any misdemeanor crime defined as a serious crime in section 19-5502 (10), Idaho Code, are mandatory, and the effective date of this chapter as to such qualifying misdemeanor crimes shall be July 1, 2025.

(4) 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. The collection facility is not required to collect a DNA sample if it can be verified that a sample already exists for ~~the individual~~ that person in the Idaho DNA database.

(5) 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.

(6) 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.

(7) 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 analysis, or in the aggregate not more than two thousand dollars (\$2,000), regardless of whether:

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

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

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

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

(8) Law enforcement agencies entitled to restitution under this section include the Idaho state police, county and city law enforcement agencies, the office of the attorney general, county prosecuting attorneys and city attorneys.

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

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

**Section 5.** That Section 19-5507, Idaho Code, be, and the same is hereby amended to read as follows:

19-5507. RESPONSIBILITY FOR SAMPLE COLLECTION — TIMING OF SAMPLE COLLECTION — SITE FOR SAMPLE COLLECTION. ~~(1) A court shall order a DNA sample and thumbprint impression to be taken after conviction and before sentencing of any person upon application by the prosecuting attorney, the attorney general, or the Idaho state police upon a showing that early collection of such samples will be in the best interest of justice. The DNA samples shall be collected in accordance with procedures established by the bureau of forensic services. The director may designate a state or county correctional facility for sample collection.~~ Process for Collection. The process for collection of DNA samples and thumbprint impressions from persons who come within the terms of this chapter shall be as set forth in this section.

(2) Order for collection at sentencing. In every case in which any person, including any juvenile tried as an adult, has been convicted of or pleaded guilty to a serious crime as defined in section 19-5502(10), Idaho Code, the Court shall, at time of sentencing, order the person to submit a DNA sample and thumbprint impression for the bureau of forensic services, and order the collection of such samples and impressions as set forth in this section.

(a) Persons released at sentencing. At the time of sentencing, the Court shall order any person, including any juvenile tried as an adult, who comes within the terms of this chapter, and who is granted probation or other supervised or conditional release following sentencing or who serves an entire term of confinement in a state or county facility, or who otherwise bypasses a prison inmate reception center shall, prior to physical release from custody, be required to report before the end of the following business day to provide a DNA sample and thumbprint impression at an Idaho state police designated sample collection location. If the person is not incarcerated at the time of sentencing, the court shall order the person to report within ten (10) working days to the facility designated for the collection of such specimens.

(3b) Persons committed to jails or other local detention facilities at sentencing. At time of sentencing, the Court shall order any person who comes within the terms of this chapter and who is sentenced to a period of incarceration in a county jail or other local detention facility to provide a DNA sample and thumbprint impression and shall order the chief administrative officer of such facility shall to cause a DNA sample and thumbprint impression to be collected from the person as soon as possible during the intake process at the facility, or immediately thereafter at another facility designated for such collections, but in all cases, no later than ten (10) days after the person's arrival at the facility.

(4c) Persons committed to the departments of correction or juvenile corrections at sentencing. (i) At time of sentencing, the Court shall order any person who comes within the terms of this chapter and who is committed to the custody of the department of correction or department of juvenile corrections to submit a DNA sample and thumbprint impression as directed by the director of the department of correction or department of juvenile corrections and shall order the director of the department of correction or department of juvenile corrections shall to cause a DNA sample and thumbprint impression to be collected from any person subject to the provisions of this chapter such person who has been sentenced to serve a term of imprisonment in a state correctional institution and who has not had a DNA sample taken after conviction and before sentencing. The DNA sample and thumbprint impression shall be collected from the person during the intake process at the reception center designated by the director of the department of correction or juvenile correction as soon as possible, but in no event no longer than ten (10) days following arrival at the institution.

~~(5ii)~~ Any person subject to the provisions of this chapter who is serving a term of imprisonment or confinement, and who did not, for any reason, provide a DNA sample or thumbprint impression for analysis by the bureau of forensic services, shall submit to such tests as soon as practicable, but in any event prior to final discharge, parole, or release from imprisonment or confinement. The director of the department of correction or juvenile corrections shall cause the sample and impression to be collected within ten (10) days of receiving notice from the bureau of forensic services that the person has not previously submitted the sample and impression. A person who was convicted prior to the effective date of this chapter is not exempt from these requirements.

(3) Collection prior to sentencing. Where a person who falls within the provisions of this chapter has been convicted or plead guilty, but is not yet sentenced, the prosecuting attorney, attorney general or Idaho State Police may apply for an order requiring the person to submit to collection of a DNA sample and thumbprint impression prior to sentencing. The court shall order a sample and impression to be taken prior to sentencing upon a showing that early collection of such samples is in the best interest of justice. The DNA samples shall be collected in accordance with procedures established by the bureau of forensic services. The director may designate a state or county correctional facility for sample collection.

~~(54)~~ Incarcerated persons who have not submitted a DNA sample or thumbprint impression. Any person subject to the provisions of this chapter who is serving a term of imprisonment or confinement, and who did not, for any reason, provide a DNA sample or thumbprint impression for analysis by the bureau of forensic services, shall submit ~~to~~ such ~~tests~~ sample and impression and the administrator of the prison, jail or other facility in which such person is confined shall cause the sample and impression to be collected as soon as practicable, but in any event no later than ten (10) days following notice from the bureau of forensic services that the person has not previously submitted the sample and impression, or prior to final discharge from, probation, parole, or release from imprisonment or confinement, whichever is earlier. A person who was convicted prior to the effective date of this chapter is not exempt from these requirements.

~~(65)~~ Persons on parole following incarceration. As a condition of parole, any person who comes within the terms of this chapter and who has not previously provided a DNA sample and thumbprint impression shall, upon notice by the bureau of forensic services, a law enforcement agency or an agent of the department of correction, be required to provide a DNA sample and thumbprint impression if it has been determined that such sample and thumbprint impression are not in the possession of the bureau of forensic services. That

person is required to have the sample and impression taken within ten (10) working days at ~~the an Idaho State Police designated county or state facility~~ sample collection location.

(6) Persons who are returned to state or local correctional facilities. Any person who comes within the terms of this chapter, including any juvenile who is tried as an adult, and who is released on parole, furlough or other release, and is returned to a state or local juvenile or adult correctional institution for a violation of a condition of that release, and who has not previously provided a DNA sample and thumbprint impression, shall provide a sample and impression upon returning to the state or local correctional institution. The chief administrative officer of such facility shall cause the sample and impression to be taken as soon as possible, but no later than ten (10) days following notice from the bureau of forensic services or discovery that the person has not yet provided a sample and impression, or prior to final discharge, parole, or release from imprisonment or confinement, whichever is earlier.

(7) Persons in Idaho pursuant to interstate agreement. (a) When the state accepts an offender from another state under any interstate compact or under any other reciprocal agreement with any county, state or federal agency, or any other provision of law, whether or not the offender is confined or released, the acceptance is conditional on the offender providing a DNA sample and thumbprint impression if the offender was convicted of an offense which would qualify as a ~~felony~~ serious crime, as defined in section 19-5502(10), Idaho Code, if committed in this state, or if the ~~person~~ offender was convicted of an equivalent offense in any other jurisdiction.

(b) If the offender from another state is not confined, the offender must provide the sample and impression required by this chapter ~~must be provided~~ within ten (10) ~~working~~ days after the offender reports to the supervising agent or within ten (10) ~~working~~ days of notice to the offender from the bureau of forensic services, any law enforcement agency or the offender's supervising agency, whichever occurs first. The ~~person~~ offender shall report to ~~the an Idaho State Police~~ designated sample collection facility or facilities to have the sample and impression taken.

(c) If the offender from another state is confined in a state, county or local correctional facility, he or she shall provide, and the administrative officer of such facility shall cause to be collected, the DNA sample and thumbprint impression as soon as practicable but within no later than ten (10) days after receipt into such a state or county correctional facility or other facility and, in any event, or within ten (10) days following notice from the bureau of forensic services that the person has not yet provided a sample and impression, or before completion of the ~~person's~~ offender's term of imprisonment, or if that person before the offender is to be discharged from that facility, whichever is earlier.

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

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

### **STATEMENT OF PURPOSE**

This legislation serves two purposes.

First, it adds certain misdemeanors to the list of crimes for which collection of a DNA sample and thumbprint impression are required. These misdemeanors, and the existing crimes for which collection is required, are listed at the proposed section 19-5502(10), Idaho Code. The misdemeanors added can be indicative of a tendency to more serious conduct, including (a) crimes which may be precursors to more violent activities, (b) crimes that may have been originally charged as felonies, but were pleaded down to misdemeanors, or (c) crimes that evidence an unwillingness to comply with existing legal constraints.

Second, the legislation seeks to clarify the roles and responsibilities of offenders and government officials in the process of collecting DNA samples and thumbprint impressions. To accomplish this, it adds a new section, section 19-2512, Idaho Code, which provides that at the time of sentencing, judges will order sentenced offenders to submit to collection and order certain government officials to cause the samples to be collected within a time certain. It also sets specific time frames and responsibilities for collection from other offenders who are already sentenced or entering the state pursuant to an interstate compact for supervision.

### **FISCAL NOTE**



