

**CS FOR HOUSE BILL NO. 49(JUD)**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - FIRST SESSION

**BY THE HOUSE JUDICIARY COMMITTEE**

**Offered: 3/24/03**

**Referred: Finance**

**Sponsor(s): REPRESENTATIVES ANDERSON AND HAWKER, Holm, Samuels, Lynn, Kookesh, Wolf, Wilson, Weyhrauch, Gatto, Seaton, Heinze, Foster, Williams, Harris, Dahlstrom, Meyer**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to the deoxyribonucleic acid (DNA) identification registration system**  
2 **and testing; and providing for an effective date."**

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 \* **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section  
5 to read:

6 FINDINGS. The legislature finds that

7 (1) the deoxyribonucleic acid (DNA) identification registration system is an  
8 important tool in the investigation of crime, both in excluding innocent persons and in  
9 detecting repeat offenders;

10 (2) the inclusion of DNA samples from all persons who are convicted of a  
11 crime against another person or of any felony under AS 11 or AS 28.35 will greatly assist law  
12 enforcement agencies in solving crimes and detecting repeat offenders;

13 (3) cooperation between the state and other criminal justice agencies improves  
14 the detection of repeat offenders, the exoneration of innocent persons, the location of missing

1 persons, and the identification of unknown human remains; and

2 (4) the federal government is paying the costs of the DNA identification  
3 registration system.

4 \* **Sec. 2.** AS 11.56.760(a) is amended to read:

5 (a) A person commits the crime of violating an order to submit to DNA testing  
6 if, when requested by a health care professional acting on behalf of the state to provide  
7 a blood sample, oral sample, or both, or when requested by a juvenile or adult  
8 correctional, probation, or parole officer or a peace officer to provide an oral sample,  
9 the person refuses to provide the sample or samples and the person [HAS BEEN]

10 (1) **has been** ordered to submit to DNA testing as part of a sentence  
11 imposed under AS 12.55.015; [OR]

12 (2) **has been** convicted of an offense that requires DNA testing under  
13 the provisions of AS 44.41.030; **or**

14 **(3) is required to register as a sex offender under AS 12.63.**

15 \* **Sec. 3.** AS 11.56.760(c) is amended to read:

16 (c) Violating an order to submit to DNA testing is a class **C felony** [A  
17 MISDEMEANOR].

18 \* **Sec. 4.** AS 11.56 is amended by adding a new section to read:

19 **Sec. 11.56.762. Unlawful use of DNA samples.** (a) A person commits the  
20 crime of unlawful use of DNA samples if the person knowingly, without authorization  
21 under AS 44.41.035, possesses or allows another person access to (1) a blood, oral, or  
22 tissue sample collected for inclusion in the deoxyribonucleic identification registration  
23 system under AS 44.41.035, or (2) identification data or records derived from those  
24 samples.

25 (b) Unlawful use of DNA samples is a class C felony.

26 \* **Sec. 5.** AS 44.41.035(b) is amended to read:

27 (b) The Department of Public Safety shall collect for inclusion into the DNA  
28 registration system a blood sample, oral sample, or both, from (1) a person convicted  
29 of a crime against a person [, (2) A PERSON CONVICTED OF BURGLARY] or a  
30 felony **under AS 11 or AS 28.35, (2)** [ATTEMPT TO COMMIT BURGLARY, AND  
31 (3)] a minor 16 years of age or older, adjudicated as a delinquent for an act that would

1 be a crime against a person [, A BURGLARY,] or a felony **under AS 11 or AS 28.35**  
 2 [ATTEMPT TO COMMIT BURGLARY], if committed by an adult, **(3) a voluntary**  
 3 **donor, (4) an anonymous DNA donor for use in forensic validation, forensic**  
 4 **protocol development, quality control, or population or statistical data bases, and**  
 5 **(5) a person required to register as a sex offender under AS 12.63. That**  
 6 **department also may collect for inclusion into the DNA registration system a**  
 7 **blood sample, oral sample, or tissue sample from crime scene evidence or from an**  
 8 **unidentified person or body part.** The DNA identification registration system  
 9 consists of the blood, [OR] oral, **or tissue** samples drawn under this section, any DNA  
 10 or other blood grouping tests done on those samples, and the identification data related  
 11 to the samples or tests. Blood samples, [AND] oral samples, **and tissue samples**  
 12 [FROM PERSONS] not subject to testing under this section, and test or identification  
 13 data related to those samples, may not be entered into, or made a part of, the DNA  
 14 identification registration system.

15 \* **Sec. 6.** AS 44.41.035(c) is amended to read:

16 (c) The Department of Public Safety may [PROVIDE]

17 (1) **analyze** DNA **for** [ANALYSIS SERVICES TO] law enforcement  
 18 agencies [THROUGHOUT THE STATE]; and

19 (2) **assist** [ASSISTANCE TO] law enforcement officials and  
 20 prosecutors in the preparation and **use** [UTILIZATION] of DNA evidence for  
 21 presentation in court.

22 \* **Sec. 7.** AS 44.41.035(f) is amended to read:

23 (f) The DNA identification registration system is confidential, is not a public  
 24 record under AS 40.25.110 - 40.25.140, and may be used only for

25 (1) providing DNA or other blood grouping tests for identification  
 26 analysis;

27 (2) law enforcement purposes including criminal investigations and  
 28 prosecutions;

29 (3) statistical blind analysis; [OR]

30 (4) improving the operation of the system; **or**

31 **(5) exoneration of the innocent.**

1 \* **Sec. 8.** AS 44.41.035(j)(1) is amended to read:

2 (1) "crime against a person" means **an** [A FELONY] offense, or **an** [A  
3 FELONY] attempt **or solicitation** to commit an offense, under AS 11.41 [, OTHER  
4 THAN AS 11.41.320, OR UNDER AS 11.46.400];

5 \* **Sec. 9.** AS 44.41.035(j) is amended by adding a new paragraph to read:

6 (3) "convicted" means that an adult, or a juvenile charged as an adult  
7 under AS 47.12 or a similar procedure in another jurisdiction, has entered a plea of  
8 guilty, guilty but mentally ill, or nolo contendere, or has been found guilty, or guilty  
9 but mentally ill, by a court or jury, regardless of whether the judgment was set aside  
10 under AS 12.55.085 or a similar procedure in another jurisdiction or was the subject of  
11 a pardon or other executive clemency; a person is not "convicted" if the judgment  
12 against the person was reversed or vacated by a court.

13 \* **Sec. 10.** AS 44.41.035 is amended by adding a new subsection to read:

14 (k) The Department of Public Safety may adopt regulations to carry out the  
15 purposes of this section.

16 \* **Sec. 11.** AS 44.41.035 is amended by adding new subsections to read:

17 (l) The provisions of this section apply to a person from another state that this  
18 state has accepted under any interstate corrections or probation agreement or compact,  
19 regardless of whether the person is confined or released, if the person was convicted of  
20 an offense that is similar to an offense described in (b) of this section.

21 (m) The Department of Public Safety may not include in the DNA registration  
22 system a blood sample, oral sample, or tissue sample of the victim of a crime, unless  
23 that person would otherwise be included under (b)(1) - (5) of this section.

24 \* **Sec. 12.** The uncodified law of the State of Alaska is amended by adding a new section to  
25 read:

26 APPLICABILITY. The changes made by this Act apply to

27 (1) all convictions or adjudications of delinquency included under  
28 AS 44.41.035(b), as amended by sec. 5 of this Act, that

29 (A) occur on or after the effective date of sec. 5 of this Act;

30 (B) occurred before the effective date of sec. 5 of this Act if the person  
31 is incarcerated or is under supervised probation or parole for the offense on or after the

1 effective date of sec. 5 of the Act; and

2 (2) all persons required to register as a sex offender under AS 12.63 before,  
3 on, or after the effective date of sec. 5 of this Act.

4 \* **Sec. 13.** The uncodified law of the State of Alaska is amended by adding a new section to  
5 read:

6 TRANSITION: REGULATIONS. The Department of Public Safety may proceed to  
7 adopt regulations necessary to carry out the changes made by secs. 5 - 9 and 11 of this Act.  
8 The regulations take effect under AS 44.62 (Administrative Procedure Act), but not before the  
9 effective date of the statutory changes.

10 \* **Sec. 14.** The uncodified law of the State of Alaska is amended by adding a new section to  
11 read:

12 INSTRUCTION TO COMMISSIONER OF PUBLIC SAFETY. The commissioner of  
13 public safety shall notify the president of the senate and the speaker of the house of  
14 representatives if, at any time after the effective date of sec. 1 of this Act, the federal  
15 government fails to pay the costs of the DNA identification registration system.

16 \* **Sec. 15.** Sections 10 and 13 of this Act take effect immediately under AS 01.10.070(c).

17 \* **Sec. 16.** Except as provided in sec. 15 of this Act, this Act takes effect July 1, 2003.