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

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - FIRST SESSION

**BY THE SENATE JUDICIARY COMMITTEE**

**Offered: 5/9/03**

**Referred: Finance**

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

**SENATORS French, Dyson, Gary Stevens, Wagoner, Seekins, Lincoln, Elton, Taylor, Ben Stevens, Guess, Bunde, Cowdery, Wilken, Green**

**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 or child kidnapper**  
15 **under AS 12.63.**

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

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

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

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

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

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

28 (b) The Department of Public Safety shall collect for inclusion into the DNA  
29 registration system a blood sample, oral sample, or both, from (1) a person convicted  
30 of a crime against a person [, (2) A PERSON CONVICTED OF BURGLARY] or a  
31 felony **under AS 11 or AS 28.35, (2)** [ATTEMPT TO COMMIT BURGLARY, AND

1 (3)] a minor 16 years of age or older, adjudicated as a delinquent for an act that would  
 2 be a crime against a person [, A BURGLARY,] or a felony under AS 11 or AS 28.35  
 3 [ATTEMPT TO COMMIT BURGLARY], if committed by an adult, **(3) a voluntary**  
 4 **donor, (4) an anonymous DNA donor for use in forensic validation, forensic**  
 5 **protocol development, quality control, or population or statistical data bases, and**  
 6 **(5) a person required to register as a sex offender or child kidnapper under**  
 7 **AS 12.63. The department also may collect for inclusion into the DNA**  
 8 **registration system a blood sample, oral sample, or tissue sample from crime**  
 9 **scene evidence or from unidentified human remains.** The DNA identification  
 10 registration system consists of the blood, [OR] oral, or tissue samples drawn under  
 11 this section, any DNA or other blood grouping tests done on those samples, and the  
 12 identification data related to the samples or tests. Blood samples, [AND] oral  
 13 samples, and tissue samples [FROM PERSONS] not subject to testing under this  
 14 section, and test or identification data related to those samples, may not be entered  
 15 into, or made a part of, the DNA identification registration system.

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

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

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

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

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

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

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

28 (2) [LAW ENFORCEMENT PURPOSES INCLUDING] criminal  
 29 investigations, [AND] prosecutions, **and identification of human remains;**

30 (3) statistical blind analysis; [OR]

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

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

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

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

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

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

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

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

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

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

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

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

27 **APPLICABILITY.** The changes made by this Act apply to

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

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

31 (B) occurred before the effective date of sec. 5 of this Act if the person

1 is incarcerated or is under supervised probation or parole for the offense on or after the  
2 effective date of sec. 5 of the Act; and

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

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

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

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

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

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

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