

HB

124

Conceptual Amendment #1 by Rep. Garza
FAILS
to HB 124

Limit § 2 to cases involving crimes
against a person.

Conceptual Amendment # 2 by Rep. Garza
FAILS

to HB 124

Sect. 2
P. 2, line 4

After "oral"
Insert "swab"

After "sample"
Insert ", unless another type of sample
is necessary,"

How do you define reasonable force?

Why are probation officers and parole officers included on the list?

Shouldn't there be exceptions for adjudicated youth? Is the same amount of 'reasonable force' used on youth as adults?

What procedures are in place to ensure that unnecessary violence will not be used to collect the DNA? Video cameras, multiple people in the room etc.?

Are individuals kept in the DNA database for the rest of their life?

What systems are in place to 'clean up' the database if individuals die?

How effective has the collection of DNA been in Alaska? How many cases have been aided by this tool?

Why is DNA collected for all felonies? Even when they crimes are non violent? How much does it cost to collect the DNA of every single person who commits a felony, and now with this bill, a municipal offense of similar nature to a felony? How backlogged is the current system?

Does the bill clearly prevent individual from filing civil lawsuits of a frivolous nature? Is more language needed? How many lawsuits (that are later found to be frivolous) are filed by inmates in Alaska annually? Does the Department of Law find lawsuits to be a problem? How can the language be worded so substantial cases can receive proper attention, while frivolous lawsuits can be easily identified?

What is the procedure on collecting DNA from individuals convicted of a felony who are currently on parole and/or released yet were convicted before DNA collection was required by law? Can we collect from them?

ALASKA STATE HOUSE OF REPRESENTATIVES

Labor & Commerce Committee, Chair
Administrative Regulation Review, Chair
Judiciary Committee, Vice-Chair
Health, Education and Social Services



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Representative Tom Anderson

Email: [Representative Tom Anderson@legis.state.ak.us](mailto:Representative_Tom_Anderson@legis.state.ak.us)

MEMORANDUM

Date: February 14, 2005
To: Representative Lesil McGuire, Chair
House Judiciary Committee
From: Representative Tom Anderson
Re: HB 124

I respectfully request scheduling of HB 124 for consideration by the House Judiciary Committee.

Enclosed are:

1. The most recent version of the bill
2. Current Sponsor Statement
3. Sectional Analysis
4. Letters of support and other appropriate backup documentation

Thank you for your consideration of this request. Please contact Jon Bittner at 465-5031 in my office if you have any questions or concerns.

Alaska State Legislature

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Sponsor Statement HB 124

HB 124 allows a correction, probation or parole officer to use reasonable force in the collection of DNA samples required by law and absolves them from civil or criminal liability for the use of that force. Officers shouldn't run the risk of being punished for carrying out their duties.

Currently, there is no way for a corrections, parole or patrol officer to collect the DNA samples required by law if the individual the DNA is to be collected from is uncooperative. If an officer were to try and use reasonable force to collect the sample, under current law they could be held liable for civil or criminal penalties.

For some convicted felons there is no incentive to provide this type of evidence because anything added to their sentence would make little difference. People serving life sentences are one example. There is no punishment under the current statutes to efficiently encourage cooperation.

I urge your support of this bill.

Alaska State Legislature

House of Representatives



Official Business

State Capitol
Juneau, AK 99801-1182

Sectional Analysis for HB 124 BY: Representative Tom Anderson

Section 1. Amends AS 44.41.035(b)

This section of the bill adds municipal violations similar to felonies to the list of violations for which the state can collect DNA evidence.

Section 2. Adds a new subsection to AS 44.41.035

Gives a juvenile or adult correctional, probation or patrol officer the authority to use reasonable force in the procurement of DNA samples when such samples are required by law. Also provides immunity from civil and criminal liability stemming from the use of that force.

Some inmates say 'no' to DNA sample

04/15/2002 - Updated 12:36 AM ET

By Richard Willing, USA TODAY

Inmates nationwide are refusing to give authorities DNA samples that could link them to other crimes, threatening nascent efforts to build a nationwide database of convicts' genetic profiles that officials say could help clear thousands of unsolved cases.

Authorities say inmates in as many as a dozen states — including Maine, Massachusetts, New York and Illinois — have refused to give blood or saliva samples containing DNA since states began requiring them from inmates during the 1990s.

The refusals are centered in California, where since last summer more than 900 inmates in at least five prisons have declined to give samples, prison officials say. The officials say the prisoners have cited privacy concerns and a general distaste for authority as reasons for refusing. Refusals "have broken out sporadically in the past, but the California situation seems unique," says Dawn Herkenham, a consultant to the FBI on DNA database laws. "If it spreads, it could be very harmful" to efforts to perfect a national DNA database.

During the past 13 years, all 50 states and the District of Columbia have passed laws setting up crime-fighting databases. They work by taking DNA, a cellular acid that contains an individual's unique genetic code, and matching it by computer to the codes found in blood, semen and other body fluids left at crime scenes.

All states are authorized to collect DNA from convicted sex offenders. Most also take it from murderers, kidnappers, robbers and child molesters.

Since 1998, state DNA databases have been linked by a national computer system maintained by the FBI. The national system allows crimes committed in one state to be solved through comparisons with DNA samples taken from convicts in other states. As of February, the national system contained DNA profiles of 802,000 convicts and had been used to identify suspects or develop evidence in 3,911 investigations, according to the FBI.

Since the mid-1990s, 11 states have passed laws permitting authorities to use "reasonable force" to take samples from reluctant inmates. In California, prison officials have used administrative sanctions, including a loss of parole credits, to try to coax inmates into cooperating. Critics say the sanctions are not persuasive to convicts who are serving long sentences with little hope of parole.

At the state's Vacaville prison, for instance, convicted murderer Fred Clark refused to give DNA samples, telling prison officers, "What are you going to do? Put me in jail?"

Some prosecutors are critical of officials for not forcing prisoners to comply.

"It's the Leona Helmsley approach: They want their guests to be completely comfortable," says Rockne Harmon, an Alameda County, Calif., deputy prosecutor, referring to the owner of luxury hotels in New York City. "With guys who have nothing to do all day but talk about how the system is screwing them, it just doesn't work."

Terry Thornton, spokeswoman for California's corrections department, says the department has used court orders permitting the use of force to obtain samples from about 30 inmates. A bill that would permit authorities to force inmates to comply without seeking a court order is scheduled to be taken up April 30 by a state Senate panel.

San Diego defense lawyer Christopher Plourd, who recently used a state DNA database to exonerate a man who had been convicted of murder in Arizona, says defense lawyers should join prosecutors in insisting that convicts give DNA.



Arresting Developments In DNA Typing

Phillip B.C. Jones, Ph.D., J.D.

I. Introduction: Identity testing in criminal investigation

During the mid-to late nineteenth century, European intellectuals and government leaders worried about the rising crime rate that accompanied industrial progress and colonial expansion (Sankar, 2001). Analysts proposed a biological degeneration as the cause of rising crime in general, and in particular, the creation of a criminal class. To reverse this degeneration in England, Francis Galton proposed compulsory marriages between people of good stock. This presented the challenge of finding an outward sign of inward character, so that it would be possible to identify those who should be breeding. In the 1880s, Galton thought that he had found this marker in fingerprints. However, his studies showed that variations in papillary ridges would not provide an external marker of internal character, and hypothesized that this was due to a millennia of indiscriminate mixing of character types. Nevertheless, he decided that fingerprints could aid social improvement by providing a unique identifier, which would be especially useful to identify habitual criminals who took advantage of the anonymity offered by the new, large cities (Cole, 2001).

One hundred years later, Alec Jeffreys, a geneticist working in England on blood anomalies, developed DNA typing. As the analytic techniques evolved, "DNA fingerprinting" became more popular. In 1995, Britain began to take DNA samples from anyone arrested for a felony or misdemeanor (Cole, 2001). The United Kingdom's National DNA Database currently holds DNA profiles of more than 1.5 million suspects (Forensic Science Service, 2002). The United States is beginning to get as aggressive as the UK in collection of DNA samples for criminal identification.

II. DNA Testing in the United States

All states have laws authorizing the collection of biological samples for DNA analysis from convicted sex offenders (Gugliotta, 1999; Willing, 2002a). Although requirements vary from state to state, most also take samples from murderers, kidnappers, robbers, and child molesters. Virginia, which has the oldest DNA database in the U.S., has been at the forefront: taking samples from convicted felons, as well as from juvenile offenders whose crimes would have been felonies had they been of age (Siegel, 2002).

More states are moving to collect DNA samples from thousands of non-violent criminals, such as burglars and check forgers (Willing, 2002b). The number of states collecting DNA from all convicted felons rose from seven in 2000 to 19 in 2002, a trend that may be driven by the observation that state DNA databases now routinely solve murders, rapes, and other violent crimes by linking them to criminals convicted of non-violent offenses (Willing, 2002b). In Virginia, for

example, nearly two-thirds of the 60 crimes linked to people convicted of drug possession were rapes or murders, and ten out of 22 forgers who were linked to other crimes were linked to murders or sexual assaults. The success of DNA databases has also spurred the authorization of the use of "reasonable force" with inmates reluctant to donate samples. To date, 11 states have authorized the use of such force (Willing, 2002a).

In addition to an expansion of the types of crimes that trigger biological sample collection, states are changing the point at which samples can be taken. In February, a Texas law took effect that requires testing of those indicted in sex crimes (Rein, 2002). That same month, Virginia took a more radical step. The legislature passed a bill that allows authorities to take biological samples for DNA analysis of everyone arrested in a felony case.

Virginia's SB535, which has an effective date of January 1, 2003, requires a saliva or tissue sample from every person arrested for a violent felony. A "violent felony" includes: first and second degree murder, voluntary manslaughter, mob-related felonies, a kidnapping or abduction felony, any malicious felonious assault or malicious bodily wounding, robbery, carjacking, a criminal sexual assault punishable as a felony, and certain forms of arson. After the law is in effect, a magistrate will determine that probable cause exists for the arrest, and then a biological sample will be taken prior to the person's release from custody. If the charge is dismissed or the person is acquitted at trial, the DNA sample will be destroyed by the Division of Forensic Science.

Dr. Paul Ferrara, the Director of the Virginia Division of Forensic Science, sees that the primary benefit of the new law is that, by taking a sample at the time of arrest instead of waiting for a conviction, DNA information is available earlier for comparing against DNA samples from unsolved crimes (Sigel, 2002). However, the notion of taking DNA samples from arrestees has stirred protests that it is unconstitutional and should not be done.

III. DNA Collection at the Time of Arrest

1. Is it permissible under the law?

Those who find DNA collection unconstitutional point to the Fifth or Fourth Amendments. Some commentators have argued that a suspect's Fifth Amendment right not to act as a witness against themselves provides a basis for refusing to give a genetic sample (Morin, 2002). However, courts have limited the right against self-incrimination to a suspect's oral testimony, and physical or behavioral characteristics are not testimonial. In *Boling v. Romer*, for example, a federal appellate court found that requiring DNA samples from inmates was not compulsory self-incrimination because DNA samples are not testimonial in nature. The Fourth Amendment provides a more substantial challenge to DNA testing.

Under the Fourth Amendment, suspects have a due process right against unreasonable searches and seizures. As a result, a warrant must be issued to conduct a search and probable cause must exist before the warrant is issued. One proponent of DNA testing detects support for the procedure in the U.S. Supreme Court decision, *Schmerber v. California*, in which the Court found that an involuntary blood draw to assess blood alcohol concentration was allowable without a warrant, because the evidence would have been metabolized by the time a warrant was issued (Scott, 2001). Of course, a suspect's DNA should be more stable than blood alcohol; if not, then the suspect has bigger problems than the law.

The Fourth Amendment guarantees that all people shall be "secure in their persons, houses, papers, and effects, against unreasonable searches and seizures." A governmental action is a search or

seizure within the scope of the Fourth Amendment if the person invoking its protection can claim a legitimate expectation of privacy in the place searched or the item seized. Courts have found that obtaining a biological sample, such as saliva, for DNA analysis can be considered a search under the Fourth Amendment (see, for example, *In re Shaddie Clark Shabazz*). However, the Fourth Amendment does not proscribe all searches and seizures, but only those deemed "unreasonable." The general rule is that the question of whether a particular action is unreasonable is judged by balancing its intrusion on the individual's Fourth Amendment interests against its promotion of legitimate governmental interests (see, for example, *The People v. James Edward King*). When the governmental action is the taking of a sample for DNA analysis, courts have analogized to fingerprinting.

In *Rise v. State of Oregon*, the court noted that the gathering of fingerprint evidence from "free persons" constitutes a sufficiently significant interference with an individual's expectation of privacy that authorities are required to demonstrate that they have probable cause, or at least an articulable suspicion, to believe that the person committed a criminal offense and that the fingerprinting will establish or negate the person's connection with the offense. In contrast:

[E]veryday "booking" procedures routinely require even the merely accused to provide fingerprint identification, regardless of whether investigation of the crime involves fingerprint evidence. . . . Thus, in the fingerprinting context, there exists a constitutionally significant distinction between the gathering of fingerprints from free persons to determine their guilt of an unsolved criminal offense and the gathering of fingerprints for identification purposes from persons within the lawful custody of the state. (p. 1560; citations omitted)

The same argument can be made for the routine collection of a biological sample, such as saliva or a buccal swab, for DNA analysis.

2. Should it be allowed?

In 1998, New York City Police Commissioner Howard Safir went public with his plan for city police to take a DNA sample along with fingerprints of everyone arrested ("DNA," 1998; "Proposal," 1998). Norman Siegel, the Director of the New York Civil Liberties Union, objected that the major fallacy in Safir's plan was that he equated a fingerprint with DNA when taking a DNA sample, unlike recording a fingerprint, reveals a person's complete genetic makeup and is too intrusive ("DNA," 1998). The Director of the Connecticut Civil Liberties Union has gone further. According to Joseph Grabarz, when you give up DNA information, you are not just giving up information about yourself, but about your family, past, present, and future (Halloran, 1999). This concern, in turn, fuels the fear that genetic information will be used for genetic discrimination, or that law enforcement agencies might use the information for commercial purposes (Halloran, 1999; Kertscher, 2001). These fears are based upon a misunderstanding about the information derived from DNA analyses by crime laboratories.

There is a difference between the genetic information required for identification and the genetic information that informs about disease or phenotype. Fisher and Jones (2001) explain the differences this way. A genetic marker used for identification should be highly variable, and the more variable the markers, the fewer are needed for positive identification. In contrast, a gene examined in a genetic test is unlikely to be highly variable, because the test is geared to detect an abnormality, which most will not have. Furthermore, a nucleotide sequence is usually of interest in genetic testing because it codes for a protein. In identification, however, a noncoding nucleotide sequence is of most interest. This is because the mathematical modeling used in identification

works best with noncoding sequences that are considered unaffected by natural selection.

3. Can it be done?

Even if the sampling of all arrestees' DNA may be performed, the question remains about whether it can be done. Arizona now tests only those convicted of certain crimes, including homicide, sexual offenses, and home burglary. However, the state legislature may soon pass a bill that would phase in testing of all convicted felons. Yet this increase in scope, which does not include arrestees, presents the unresolved issue of how to pay the estimated \$2 million annual cost of expanded testing (Davenport, 2002). Since 1999, Louisiana has a law mandating arrestee testing, but staffing and funding problems have delayed the program (Rein, 2002).

On the federal level, experts have concluded that the collection of DNA samples at the time of arrest is cost prohibitive. According to the National Commission on the Future of DNA Evidence, the majority of crime laboratories face difficult prioritization decisions due to limited financial and personnel resources (National Institute of Justice, 2000). Laboratories find their first priority in cases necessary for upcoming trials, as they struggle to keep pace with prosecutors' demands for DNA evidence in court. The next priority lies in DNA analysis for investigative purposes, where a suspect exists but DNA evidence is necessary to effectuate an arrest. It is only after prioritizing court cases and suspect cases that laboratories can allocate resources to analysis of non-suspect crime scene samples. This is the class for which the FBI's Combined DNA Index System (CODIS) was designed and the class of cases where offenders are at liberty to re-offend.

Due to current prioritization and funding constraints, most police departments maintain policies that prevent the submission of non-suspect cases to laboratories, creating a backlog of DNA cases maintained in police evidence lockers. To place the extent of the backlog into perspective, Congress is considering the DNA Database Completion Act of 2001 (H.R. 2680), which authorizes grants to eligible States for DNA analyses of samples taken from individuals convicted of a qualifying State offense, and of samples from crime scenes, for inclusion in the Combined DNA Index System. The cost: \$100,000,000 for each of fiscal years 2002 through 2006.

Given the current volume of DNA cases facing the nation's forensic labs and the current inability of the labs to keep pace with that volume, the Commission recommended that the Department of Justice should not pursue arrestee sampling unless the convicted offender database backlog is substantially eliminated, significant sources are allocated for the analysis of non-suspect cases, and sufficient funds are made available for the collection and analysis of arrestee samples. Until these conditions are met, the Commission concluded, the pursuit of arrestee sampling would seriously exacerbate the backlog and casework and prove more harmful than beneficial by diverting resources from non-suspect cases.

IV. Conclusion

The social development of DNA analysis is paralleling that of fingerprints: initial hesitancy followed by acceptance of police departments and courts, followed by a rush to implement the technology with an ever-expanding scope. According to Cole (2001), the history of fingerprinting should teach the difference between a biological marker and a code that informs about a person's abilities, weaknesses, or destinies. An emphasis on this distinction may aid the social acceptance of collecting DNA samples from arrestees, as long as there are sufficient assurances that DNA typing will only be used for identification. The cost of implementing such a biological sample collection is another matter. However, the U.S. public may be more inclined to foot the bill since

the September 11 terrorist attacks.

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Additional articles in Biological Evidence.....

Humans and Apes....What Is the [DNA] Difference?
Breath Tests for Blood Alcohol Determination: Partition Ratio
H.G.N. (Horizontal Gaze Nystagmus)

See related article linked in the Identification Evidence section.....

Phenotype v. Genotype: Why Identical Twins Have Different Fingerprints

Return to Master Index

Jon S. Bittner

To: Blake Harrison
Subject: RE: DNA Force

Here are some examples that authorizes reasonable force to obtain the sample.

These are from 2003

Illinois SB 280 b Allows agencies designated by the Department of State Police to contract with third parties to provide for the collection or analysis of offender DNA. Provides that duly authorized law enforcement and corrections personnel may employ reasonable force when an individual refuses to provide required DNA samples.

Louisiana SB 346 b Expands DNA data base to include all persons arrested for or convicted of a felony, including felony-grade delinquent acts. Allows reasonable use of force as needed to collect such samples. Provides for implementation of arrestee samples only to the extent that funding is available. Allows prosecution of sex crimes within three years of statutory statute of limitations when the identity of the offender is established thereafter with a DNA profile, with retroactive application. Establishes that detention, arrest or conviction of a person based on a data base match is not invalidated if it is determined that the sample was obtained or placed in the data base by mistake.

2002 laws

California SB 1242

Allows law enforcement, custodial or corrections personnel to employ reasonable force to collect required specimens, samples or print impressions from persons convicted of specified offenses.

Utah HB 5015E

Requires collection of DNA from all state felonies. Clarifies statutory authority for agencies to collect specimens; requires agencies establish guidelines and procedures; and authorizes use of reasonable force if necessary to collect the specimen; and allows the \$75 fee be waived if the collecting agency determines the offender is unable to pay.

Here is the summary I have for your state law.

Alaska H 49 b Expands DNA registration to include all convicted felons and juveniles adjudicated for felonies against a person. Makes it a felony for a person required to submit a DNA sample to refuse to do so. Includes identification of human remains and testing related to exoneration of the innocent to allowed law uses of the DNA registration system.

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FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB 124
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Corrections
 Title "An act relating to the collection of, and the use RDU Institutional Facilities
of reasonable force to collect, a deoxyribonucleic acid sample" Component Institution Director's Office
 Sponsor Senator Bunde
 Requester Judiciary, Finance Component No. 524

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2003	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1037 GF/Mental Health	0.0	0.0	0.0	0.0	0.0	0.0
Other (Specify Type--Do not abbreviate)	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2005) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time	0	0	0	0	0	0
Part-time	0	0	0	0	0	0
Temporary	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

Passage of this legislation will not have a measurable fiscal impact on the Department of Corrections.

Prepared by: Sharleen Griffin, Acting Director
 Division Administrative Services
 Approved by: Portia Parker, Deputy Commissioner
 Agency Department of Corrections

Phone 465-4641
 Date/Time 2/18/05 9:44 AM
 Date 2/18/2005

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB124-LAW-CDCO-2-21
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: LAW
 Title "An Act relating to the collection of, and the use RDU CRIMINAL
of reasonable force to collect, a deoxyribonucleic acid..." Component CDCO
 Sponsor Representative Anderson
 Requester House Judiciary Component No. _____

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type-Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2005) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)
 This bill amends AS 44.41.035(b) (DNA identification system) by both narrowing the statute to apply to convictions that occur in Alaska, and widening to apply to violations of law or ordinances with elements similar to AS 11 (Criminal Law) or AS 28.35 (Motor Vehicle Offenses and Accidents). A new subsection to AS 44.41.035 is added that allows certain officials to use reasonable force in collection of DNA.

 Passage of this legislation will have no foreseeable fiscal impact on the Department of Law.

Prepared by: Kathryn Daughhete, Director Phone 465-3673
 Division: Administrative Services Division Date/Time 2/22/05 10:34 AM
 Approved by: K. Daughhete for Scott Nordstrand, Acting Attorney General Date 2/22/2005
 Agency: Department of Law

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB 124
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
 Title An Act relating to collection of RDU Legal and Advocacy Services
DNA by force... Component Public Defender Agency
 Sponsor Rep. Anderson
 Requester House Judiciary Component No. 1631

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
CHANGE IN REVENUES ()						

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2005) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)
 This bill allows public safety employees, including juvenile and adult probation and parole officers to use reasonable force to collect authorized DNA samples, and grants them immunity from any civil or criminal liability. This bill, if enacted, is not expected to have a significant fiscal impact on the operations of the Agency.

Prepared by: Linda K. Wilson, Deputy Director Phone (907)334-4416
 Division Public Defender Agency Date/Time 2/22/05 9:52 AM
 Approved by: Michael Tibbles, Deputy Commissioner Date 2/22/2005
 Agency Department of Administration

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB124-DPS-SS-2-22-05
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Public Safety
 Title Use of Force for DNA Collection RDU Statewide Support
 Component Criminal Records & ID
 Sponsor Representative Anderson
 Requester House Judiciary Component No. 1190

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2005) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS:

Section 1 amends AS 44.41.035(b) by expanding the types of convictions that require deoxyribonucleic acid (DNA) registration. Under this bill, upon conviction in this state of crimes similar to crimes against persons, or felonies under AS 11 or AS 28.35, DNA must be collected. "Similar crimes" will include municipal misdemeanors, and preliminary estimates, based on the Uniform Offense Citation Table, are that this would include convictions under approximately 35 municipal misdemeanors from six municipalities - Anchorage, Juneau, Fairbanks, Ketchikan, Sitka, and Petersburg. In FY 2004 there were 680 persons with convictions under those municipal offenses. This number excludes duplicates (persons who were convicted of more than one qualifying municipal offense) and persons for whom DNA has already been collected for prior convictions (for whom subsequent collections will not be necessary).

continued on page 2

Prepared by: Director David Schade Phone 269-0202
 Division: Statewide Services Date/Time 2/22/05 3:54 PM
 Approved by: Commissioner William Tandeske Date 2/22/2005
 Agency: Department of Public Safety

FISCAL NOTE

**STATE OF ALASKA
2005 LEGISLATIVE SESSION**

BILL NO. HB124-DPS-SS-2-22-05

ANALYSIS CONTINUATION

Collecting DNA for municipal misdemeanors will mean that when some defendants are subsequently convicted of other qualifying offenses, their DNA will already be on file, so this does not mean the numbers are absolute additions to the DNA database overall. Basically, this bill will shift the collection of DNA to earlier in a defendant's criminal career. "Similar crimes" will also include federal or military convictions, for which no preliminary numbers are available. Adding "similar crimes" will have an impact on Statewide Services Records & Identification and Information Services due to the increase in clerical and technical tasks, such as confirming fingerprints and modifying tables in the Alaska Public Safety Information Network (APSIN). This increase in the workload can be absorbed at present, although there is a cumulative impact on the APSIN staff workload. Similarly, the crime lab can absorb the increase in DNA submissions, although there is a cumulative impact on the crime lab workload as well.

Section 2 provides that reasonable force may be used in the collection of oral DNA samples. This section will have no impact on the workload of Statewide Services.