

SENATE BILL NO. 213

INTRODUCED BY C. LARSEN

BY REQUEST OF THE ATTORNEY GENERAL

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A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING CERTAIN SEX OFFENDERS TO PROVIDE A DNA SAMPLE FOR ENTRY INTO THE MONTANA DNA DATABASE; AND AMENDING SECTIONS 44-6-103 AND 46-23-504, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 44-6-103, MCA, is amended to read:

**"44-6-103. Collection of samples and maintenance of data.** (1) Following entry of judgment, a person convicted of a felony offense, a youth found under 41-5-1502 to have committed a sexual or violent offense, a defendant ordered under 46-18-202 to provide a biological sample for DNA testing, a person required to register as a sexual or violent offender under 46-23-504, or an adult offender convicted in another state and sentenced to death or imprisonment for more than 1 year who is subject to supervision by the department of corrections pursuant to the Interstate Compact for Adult Offender Supervision provided for in 46-23-1115 shall provide a biological sample for DNA analysis to determine identification characteristics specific to the person. The sample must be provided to the department of corrections if the person is incarcerated in a facility administered by the department of corrections. If the person is not incarcerated in a facility administered by the department of corrections, the sample must be provided to a person or entity designated by the county sheriff.

(2) The biological sample must be collected, stored, and sent by the department of corrections or the person or entity designated by the county sheriff under subsection (1) to the department for entry in the DNA identification index in accordance with rules adopted by the department with the advice of the department of public health and human services.

(3) The offender is responsible, if able to pay, for the cost of the collection of the sample. The fees charged for the collection may not exceed the actual costs of collection.

(4) The forensic DNA laboratory may perform DNA analysis only for those markers that have value for law enforcement identification purposes.

1 (5) The knowing refusal or failure to provide a biological sample under this part is grounds for revocation  
2 of a suspended or deferred imposition of sentence."

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4 **Section 2.** Section 46-23-504, MCA, is amended to read:

5 **"46-23-504. Persons required to register -- procedure.** (1) Except as provided in 41-5-1513, a sexual  
6 or violent offender:

7 (a) shall register immediately upon conclusion of the sentencing hearing if the offender is not sentenced  
8 to confinement or is not sentenced to the department and placed in confinement by the department;

9 (b) must be registered as provided in 46-23-503 at least 10 days prior to release from confinement if  
10 sentenced to confinement or sentenced to the department and placed in confinement by the department;

11 (c) shall register within 3 business days of entering a county of this state for the purpose of residing or  
12 setting up a temporary residence for 10 days or more or for an aggregate period exceeding 30 days in a calendar  
13 year; and

14 (d) who is a transient shall register within 3 business days of entering a county of this state.

15 (2) Registration under subsection (1)(a), (1)(c), or (1)(d) must be with the appropriate registration agency.  
16 If an offender registers with a police department, the department shall notify the sheriff's office of the county in  
17 which the municipality is located of the registration. The probation officer having supervision over an offender  
18 required to register under subsection (1)(a) shall verify the offender's registration status with the appropriate  
19 registration agency.

20 (3) At the time of registering, the offender shall sign a statement in writing giving the information required  
21 by subsections (3)(a) through (3)(g) and any other information required by the department of justice. The  
22 registration agency shall fingerprint the offender, unless the offender's fingerprints are on file with the department  
23 of justice, ~~and shall photograph the offender, and obtain a DNA sample from the offender.~~ Within 3 days, the  
24 registration agency shall send copies of the statement, fingerprints, and photographs to the department of justice.  
25 The registration agency shall send the DNA sample to the department of justice for analysis and entry of the DNA  
26 record into the DNA identification index. The registration agency shall require an offender given a level 2 or level  
27 3 designation to appear before the registration agency for a new photograph every year. The information collected  
28 from the offender at the time of registration must include the:

29 (a) name of the offender and any aliases used by the offender;

30 (b) offender's social security number;

- 1 (c) residence information required by subsection (4);
- 2 (d) name and address of any business or other place where the offender is or will be an employee;
- 3 (e) name and address of any school where the offender will be a student;
- 4 (f) offender's driver's license number; and
- 5 (g) description and license number of any motor vehicle owned or operated by the offender.
- 6 (4) (a) If, at the time of registration, the offender regularly resides in more than one county or
- 7 municipality, the offender shall register with the registration agency of each county or municipality in which the
- 8 offender resides. If an offender resides in more than one location within the same county or municipality, the
- 9 registration agency may require the offender to provide all of the locations where the offender regularly resides
- 10 and to designate one of them as the offender's primary residence.
- 11 (b) Registration of more than one residence pursuant to this section is an exception from the single
- 12 residence rule provided in 1-1-215.
- 13 (5) A transient shall report monthly, in person, to the registration agency with which the transient
- 14 registered pursuant to subsection (1)(d). The transient shall report on a day specified by the registration agency
- 15 and during the normal business hours of that agency. On that day, the transient shall provide the registration
- 16 agency with the information listed in subsections (3)(a) through (3)(g). The registration agency to which the
- 17 transient reports may also require the transient to provide the locations where the transient stayed during the
- 18 previous 30 days and may stay during the next 30 days.
- 19 (6) (a) The department of justice shall mail a registration verification form:
- 20 (i) each 90 days to an offender designated as a level 3 offender under 46-23-509;
- 21 (ii) each 180 days to an offender designated as a level 2 offender under 46-23-509; and
- 22 (iii) each year to a violent offender or an offender designated as a level 1 offender under 46-23-509.
- 23 (b) If the offender is a transient, the department of justice shall mail the offender's registration verification
- 24 form to the registration agency with which the offender last registered.
- 25 (c) The form must require the offender's notarized signature. Within 10 days after receipt of the form,
- 26 the offender shall complete the form and return it to the registration agency where the offender last registered
- 27 or, if the offender was initially registered pursuant to subsection (1)(b), to the registration agency in the county
- 28 or municipality in which the offender is located. A sexual offender shall return the form to the appropriate
- 29 registration agency in person, and at the time that the sexual offender returns the registration verification form,
- 30 the registration agency shall take a photograph of the offender and collect a DNA sample if one has not already

1 been collected. The registration agency shall send the DNA sample to the department of justice for analysis and  
2 entry into the DNA identification index.

3 (7) Within 3 days after receipt of a registration verification form, the registration agency shall provide a  
4 copy of the form and most recent photograph to the department of justice.

5 (8) The offender is responsible, if able to pay, for costs associated with registration. The fees charged  
6 for registration may not exceed the actual costs of registration. The department of justice may adopt a rule  
7 establishing fees to cover registration costs incurred by the department of justice in maintaining registration and  
8 address verification records. The fees must be deposited in the general fund.

9 (9) The clerk of the district court in the county in which a person is convicted of a sexual or violent  
10 offense shall notify the sheriff in that county of the conviction within 10 days after entry of the judgment."

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