

ASSEMBLY BILL

No. 673

Introduced by Assembly Member Migden

February 22, 2001

An act to amend Section 296 of the Penal Code, relating to forensic identification.

LEGISLATIVE COUNSEL'S DIGEST

AB 673, as introduced, Migden. Forensic identification.

Existing law requires various criminal offenders, persons found guilty by reason of insanity, and registered sex offenders to provide DNA samples to the Department of Justice for inclusion in the DNA and Forensic Identification Data Base.

This bill would require people who have been convicted of or who have pled guilty or no contest to burglary, robbery, arson, and carjacking to provide DNA samples to the Department of Justice for inclusion in the data base. By increasing the duties of local officials, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 296 of the Penal Code is amended to
- 2 read:
- 3 296. (a) (1) Any person who is convicted of any of the
- 4 following crimes, or is found not guilty by reason of insanity of
- 5 any of the following crimes, shall, regardless of sentence imposed
- 6 or disposition rendered, be required to provide two specimens of
- 7 blood, a saliva sample, right thumbprints, and a full palm print
- 8 impression of each hand for law enforcement identification
- 9 analysis:
- 10 (A) Any offense or attempt to commit any felony offense
- 11 described in Section 290, or any felony offense that imposes upon
- 12 a person the duty to register in California as a sex offender under
- 13 Section 290.
- 14 (B) Murder in violation of Section 187, 190, 190.05, or any
- 15 degree of murder as set forth in Chapter 1 (commencing with
- 16 Section 187) of Title 8 of Part 1 of the Penal Code, or any attempt
- 17 to commit murder.
- 18 (C) Voluntary manslaughter in violation of Section 192 or an
- 19 attempt to commit voluntary manslaughter.
- 20 (D) Felony spousal abuse in violation of Section 273.5.
- 21 (E) Aggravated sexual assault of a child in violation of Section
- 22 269.
- 23 (F) A felony offense of assault or battery in violation of Section
- 24 217.1, 220, 241.1, 243, 243.1, 243.3, 243.4, 243.7, 244, 245,
- 25 245.2, 245.3, or 245.5.
- 26 (G) Kidnapping in violation of subdivisions (a) to (e),
- 27 inclusive, of Section 207, or Section 208, 209, 209.5, or 210, or an
- 28 attempt to commit any of these offenses.
- 29 (H) Mayhem in violation of Section 203 or aggravated
- 30 mayhem in violation of Section 205, or an attempt to commit either
- 31 of these offenses.
- 32 (I) Torture in violation of Section 206 or an attempt to commit
- 33 torture.
- 34 (J) *Burglary as defined in subdivision (a) of Section 460.*



1 (K) Robbery as defined in subdivision (a) or (b) of Section
2 212.5.

3 (L) Arson in violation of subdivision (a) or (b) of Section 451.

4 (M) Carjacking in violation of Section 215.

5 (2) Any person who is required to register under Section 290
6 because of the commission of, or the attempt to commit, a felony
7 offense specified in Section 290, and who is committed to any
8 institution under the jurisdiction of the Department of the Youth
9 Authority where he or she was confined, or is granted probation,
10 or is or was committed to a state hospital as a mentally disordered
11 sex offender under Article 1 (commencing with Section 6300) of
12 Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions
13 Code, shall be required to provide two specimens of blood, a saliva
14 sample, right thumbprints, and a full palm print impression of each
15 hand to that institution or, in the case of a person granted probation,
16 to a person and at a location within the county designated for
17 testing.

18 (b) The provisions of this chapter and its requirements for
19 submission to testing as soon as administratively practicable to
20 provide specimens, samples, and print impressions as described in
21 subdivision (a) shall apply regardless of placement or confinement
22 in any mental hospital or other public or private treatment facility,
23 and shall include, but not be limited to, the following persons,
24 including juveniles:

25 (1) Any person committed to a state hospital or other treatment
26 facility as a mentally disordered sex offender under Article 1
27 (commencing with Section 6300) of Chapter 2 of Part 2 of
28 Division 6 of the Welfare and Institutions Code.

29 (2) Any person who has a severe mental disorder as set forth
30 within the provisions of Article 4 (commencing with Section
31 2960) of Chapter 7 of Title 1 of Part 3 of the Penal Code.

32 (3) Any person found to be a sexually violent predator pursuant
33 to Article 4 (commencing with Section 6600) of Chapter 2 of Part
34 2 of Division 6 of the Welfare and Institutions Code.

35 (c) The provisions of this chapter are mandatory and apply
36 whether or not the court advises a person, including any juvenile,
37 that he or she must provide the data bank and data base specimens,
38 samples, and print impressions as a condition of probation, parole,
39 or any plea of guilty, no contest, or not guilty by reason of insanity,
40 to any of the offenses described in subdivision (a).



1 (d) At sentencing or disposition, the prosecuting attorney shall
2 verify in writing that the requisite samples are required by law, and
3 that they have been taken, or are scheduled to be taken before the
4 offender is released on probation, or other scheduled release.
5 However, a failure by the prosecuting attorney or any other law
6 enforcement agency to verify sample requirement or collection
7 shall not relieve a person of the requirement to provide samples.

8 (e) The abstract of judgment issued by the court shall indicate
9 that the court has ordered the person to comply with the
10 requirements of this chapter and that the person shall be included
11 in the state’s DNA and Forensic Identification Data Base and Data
12 Bank program and be subject to this chapter. However, failure by
13 the court to enter these facts in the abstract of judgment shall not
14 invalidate a plea, conviction, or disposition, or otherwise relieve
15 a person from the requirements of this chapter.

16 SEC. 2. Notwithstanding Section 17610 of the Government
17 Code, if the Commission on State Mandates determines that this
18 act contains costs mandated by the state, reimbursement to local
19 agencies and school districts for those costs shall be made pursuant
20 to Part 7 (commencing with Section 17500) of Division 4 of Title
21 2 of the Government Code. If the statewide cost of the claim for
22 reimbursement does not exceed one million dollars (\$1,000,000),
23 reimbursement shall be made from the State Mandates Claims
24 Fund.

