

ASSEMBLY BILL

No. 2654

**Introduced by Assembly Member Wyman
(Coauthors: Assembly Members Bill Campbell, Cohn,
Dickerson, Harman, Robert Pacheco, and Pescetti)**

February 22, 2002

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

LEGISLATIVE COUNSEL'S DIGEST

AB 2654, as introduced, Wyman. 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 make any person convicted of a felony, any person convicted of any misdemeanor offense that makes him or her a sex offender or any misdemeanor offense that imposes upon a person the duty to register in California as a sex offender, or any person who is found not guilty by reason of insanity of any of those offenses, regardless of sentence imposed or disposition rendered, provide 2 specimens of blood, a saliva sample, right thumbprints, and a full palm print impression of each hand for law enforcement identification analysis. This bill would make those who are committed to any institution under the jurisdiction of the Department of the Youth Authority who commit any offense that requires them to register as a sex offender provide those specified specimens. 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~~ *a felony, any person who is convicted of any*
5 *misdemeanor offense described in Section 290 or any*
6 *misdemeanor offense that imposes upon a person the duty to*
7 *register in California as a sex offender under Section 290, or any*
8 *person who is found not guilty by reason of insanity of any of the*
9 ~~following crimes~~ *any of those offenses*, shall, regardless of
10 sentence imposed or disposition rendered, be required to provide
11 two specimens of blood, a saliva sample, right thumbprints, and a
12 full palm print impression of each hand for law enforcement
13 identification analysis:

14 ~~(A) Any offense or attempt to commit any felony offense~~
15 ~~described in Section 290, or any felony offense that imposes upon~~
16 ~~a person the duty to register in California as a sex offender under~~
17 ~~Section 290.~~

18 ~~(B) Murder in violation of Section 187, 190, 190.05, or any~~
19 ~~degree of murder as set forth in Chapter 1 (commencing with~~
20 ~~Section 187) of Title 8 of Part 1 of the Penal Code, or any attempt~~
21 ~~to commit murder.~~

22 ~~(C) Voluntary manslaughter in violation of Section 192 or an~~
23 ~~attempt to commit voluntary manslaughter.~~

24 ~~(D) Felony spousal abuse in violation of Section 273.5.~~



1 ~~(E) Aggravated sexual assault of a child in violation of Section~~
2 ~~269.~~

3 ~~(F) A felony offense of assault or battery in violation of Section~~
4 ~~217.1, 220, 241.1, 243, 243.1, 243.3, 243.4, 243.7, 244, 245,~~
5 ~~245.2, 245.3, or 245.5.~~

6 ~~(G) Kidnapping in violation of subdivisions (a) to (e),~~
7 ~~inclusive, of Section 207, or Section 208, 209, 209.5, or 210, or an~~
8 ~~attempt to commit any of these offenses.~~

9 ~~(H) Mayhem in violation of Section 203 or aggravated~~
10 ~~mayhem in violation of Section 205, or an attempt to commit either~~
11 ~~of these offenses.~~

12 ~~(I) Torture in violation of Section 206 or an attempt to commit~~
13 ~~torture.~~

14 ~~(J) Burglary as defined in subdivision (a) of Section 460 or an~~
15 ~~attempt to commit this offense.~~

16 ~~(K) Robbery as defined in subdivision (a) or (b) of Section~~
17 ~~212.5 or an attempt to commit either of these offenses.~~

18 ~~(L) Arson in violation of subdivision (a) or (b) of Section 451~~
19 ~~or an attempt to commit either of these offenses.~~

20 ~~(M) Carjacking in violation of Section 215 or an attempt to~~
21 ~~commit this offense.~~

22 ~~(2)~~

23 ~~(b) Any person who is required to register under Section 290~~
24 ~~because of the commission of, or the attempt to commit, a felony~~
25 ~~any offense specified in Section 290, and who is committed to any~~
26 ~~institution under the jurisdiction of the Department of the Youth~~
27 ~~Authority where he or she was confined, or is granted probation,~~
28 ~~or is or was committed to a state hospital as a mentally disordered~~
29 ~~sex offender under Article 1 (commencing with Section 6300) of~~
30 ~~Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions~~
31 ~~Code, shall be required to provide two specimens of blood, a saliva~~
32 ~~sample, right thumbprints, and a full palm print impression of each~~
33 ~~hand to that institution or, in the case of a person granted probation,~~
34 ~~to a person and at a location within the county designated for~~
35 ~~testing.~~

36 ~~(b)~~

37 ~~(c) The provisions of this chapter and its requirements for~~
38 ~~submission to testing as soon as administratively practicable to~~
39 ~~provide specimens, samples, and print impressions as described in~~
40 ~~subdivision (a) subdivisions (a) and (b) shall apply regardless of~~



1 placement or confinement in any mental hospital or other public
2 or private treatment facility, and shall include, but not be limited
3 to, the following persons, including juveniles:

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

8 (2) Any person who has a severe mental disorder as set forth
9 within the provisions of Article 4 (commencing with Section
10 2960) of Chapter 7 of Title 1 of Part 3 of the Penal Code.

11 (3) Any person found to be a sexually violent predator pursuant
12 to Article 4 (commencing with Section 6600) of Chapter 2 of Part
13 2 of Division 6 of the Welfare and Institutions Code.

14 ~~(c)~~

15 (d) The provisions of this chapter are mandatory and apply
16 whether or not the court advises a person, including any juvenile,
17 that he or she must provide the data bank and data base specimens,
18 samples, and print impressions as a condition of probation, parole,
19 or any plea of guilty, no contest, or not guilty by reason of insanity,
20 to any of the offenses described in subdivision (a) *or* (b).

21 ~~(d)~~

22 (e) At sentencing or disposition, the prosecuting attorney shall
23 verify in writing that the requisite samples are required by law, and
24 that they have been taken, or are scheduled to be taken before the
25 offender is released on probation, or other scheduled release.
26 However, a failure by the prosecuting attorney or any other law
27 enforcement agency to verify sample requirement or collection
28 shall not relieve a person of the requirement to provide samples.

29 ~~(e)~~

30 (f) The abstract of judgment issued by the court shall indicate
31 that the court has ordered the person to comply with the
32 requirements of this chapter and that the person shall be included
33 in the state’s DNA and Forensic Identification Data Base and Data
34 Bank program and be subject to this chapter. However, failure by
35 the court to enter these facts in the abstract of judgment shall not
36 invalidate a plea, conviction, or disposition, or otherwise relieve
37 a person from the requirements of this chapter.

38 SEC. 2. Notwithstanding Section 17610 of the Government
39 Code, if the Commission on State Mandates determines that this
40 act contains costs mandated by the state, reimbursement to local



1 agencies and school districts for those costs shall be made pursuant
2 to Part 7 (commencing with Section 17500) of Division 4 of Title
3 2 of the Government Code. If the statewide cost of the claim for
4 reimbursement does not exceed one million dollars (\$1,000,000),
5 reimbursement shall be made from the State Mandates Claims
6 Fund.

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