

**ASSEMBLY BILL**

**No. 2395**

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**Introduced by Assembly Member Correa**

February 19, 2004

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An act to add Section 76104.6 to the Government Code, to amend Sections 295, 295.1, 296, 297, 298, 299, 299.5, 299.6, 300, and 300.1 of, to add Sections 298.2, 298.3, and 300.4 to, and to repeal and add Section 296.1 to, the Penal Code, relating to forensic identification.

LEGISLATIVE COUNSEL'S DIGEST

AB 2395, as introduced, Correa. Forensic identification.

Existing law generally regulates the collection and use of forensic identification samples, including DNA samples.

This bill would make legislative findings regarding the use of DNA and other forensic identification.

The bill would impose a penalty of \$1 for every \$10 or fraction thereof upon every fine, penalty, or forfeiture imposed and collected by the courts for criminal offenses. The money generated would be divided between the county collecting it and the state's DNA Identification Fund, as would be established by the bill. The bill would specify the purposes for which the moneys could be used by the county, and upon appropriation, by the state. The bill would authorize a loan from the General Fund to the DNA Identification Fund of \$7,000,000 for purposes of implementing the provisions of the bill, as specified. The bill would require an annual report, as specified, from the county board of supervisors to the Legislature and the Department of Justice regarding the amount of fines collected and allocated pursuant to the provisions of the bill.

By imposing additional reporting duties on county governments, this bill would impose a state-mandated local program.

The bill would expand and revise existing provisions establishing the DNA and Forensic Identification Database.

Existing law requires persons convicted or found not guilty by reason of insanity of any of certain specified crimes to provide, among other things, saliva samples for identification purposes.

The bill would require persons to supply a buccal swab sample, rather than a saliva sample, and would expand the scope of persons subject to that DNA sample collection by requiring collection of forensic samples, as specified from any person who is convicted of, pleads guilty or no contest to, or is found not guilty of, by reason of insanity, any felony, from any adult person who is arrested or charged with any of certain specified felonies, and from any person who is required to register as a sex offender, as specified.

The bill would revise provisions relating to the collection of forensic samples, including DNA in the form of a buccal swab, and require collection, as specified, from adult persons arrested for a felony, from persons confined or in custody after conviction or adjudication, from persons on parole, probation, or other release, from parole violators and other persons returned to custody, persons accepted into the state from other jurisdictions, and from persons in federal institutions.

The bill would revise provisions for the administration of the collected forensic identification samples.

This bill would provide that any person required to submit a sample, as specified, who engages or attempts to engage in acts that would wrongfully attribute the origin of the identifying information or who tampers with a specimen or sample with the intent to deceive regarding the origin of the identifying information would be guilty of a felony, as specified.

By creating a new crime, 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 with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

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. This act shall be known and may be cited as the  
2 DNA Fingerprint, Unsolved Crime, and Innocence Protection  
3 Act.

4 SEC. 2. The Legislature finds and declares the following:

5 (a) Our communities have a compelling interest in protecting  
6 themselves from crime.

7 (b) There is critical and urgent need to provide law  
8 enforcement officers and agencies with the latest scientific  
9 technology available for accurately and expeditiously identifying,  
10 apprehending, arresting, and convicting criminal offenders and  
11 exonerating persons wrongly suspected or accused of crime.

12 (c) Law enforcement should be able to use the DNA Database  
13 and Databank Program to substantially reduce the number of  
14 unsolved crimes; to help stop serial crime by quickly comparing  
15 DNA profiles of qualifying persons and evidence samples with as  
16 many investigations and cases as necessary to solve crime and  
17 apprehend perpetrators; to exonerate persons wrongly suspected  
18 or accused of crime; and to identify human remains.

19 (d) Expanding the statewide DNA Database and Databank  
20 Program is:

21 (1) The most reasonable and certain means to accomplish  
22 effective crime solving in California, to aid in the identification of  
23 missing and unidentified persons, and to exonerate persons  
24 wrongly suspected or accused of crime.

25 (2) The most reasonable and certain means to solve crime as  
26 effectively as other states which have found that the majority of  
27 violent criminals have nonviolent criminal prior convictions, and  
28 that the majority of cold hits and criminal investigation links are



1 missed if a DNA Database or Databank is limited only to violent  
2 crimes.

3 (3) The most reasonable and certain means to rapidly and  
4 substantially increase the number of cold hits and criminal  
5 investigation links so that serial crime offenders may be identified,  
6 apprehended, and convicted for crimes they committed in the past  
7 and prevented from committing future crimes that would  
8 jeopardize public safety and devastate lives.

9 (4) The most reasonable and certain means to ensure that  
10 California’s Database and Databank Program is fully compatible  
11 with, and a meaningful part of, the nationwide Combined DNA  
12 Index System (CODIS).

13 (e) The state has a compelling interest in the accurate  
14 identification of criminal offenders, and DNA testing at the  
15 earliest stages of criminal proceedings for felony offenses will  
16 help thwart criminal perpetrators from concealing their identities  
17 and thus prevent time consuming and expensive investigations of  
18 innocent persons.

19 (f) The state has a compelling interest in the accurate  
20 identification of criminal offenders, and it is reasonable to expect  
21 qualifying offenders to provide forensic DNA samples for the  
22 limited identification purposes set forth in this chapter.

23 (g) Expanding the statewide DNA Database and Databank  
24 Program is the most reasonable and certain means to ensure that  
25 persons wrongly suspected or accused of crime are quickly  
26 exonerated so that they may reestablish their standing in the  
27 community. Moreover, a person whose sample has been collected  
28 for database and databank purposes must be able to seek  
29 expungement of his or her profile from the database and databank.

30 SEC. 3. Section 76104 is added to the Government Code, to  
31 read:

32 76104. (a) For the purpose of implementing the DNA  
33 Fingerprint, Unsolved Crime and Innocence Protection Act, there  
34 shall be levied an additional penalty of one dollar (\$1) for every  
35 ten dollars (\$10) or fraction thereof in each county which shall be  
36 collected together with and in the same manner as the amounts  
37 established by Section 1464 of the Penal Code, upon every fine,  
38 penalty, or forfeiture imposed and collected by the courts for  
39 criminal offenses, including all offenses involving a violation of  
40 the Vehicle Code or any local ordinance adopted pursuant to the



1 Vehicle Code, except parking offenses subject to Article 3  
2 (commencing with Section 40200) of Chapter 1 of Division 17 of  
3 the Vehicle Code. These moneys shall be taken from fines and  
4 forfeitures deposited with the county treasurer prior to any  
5 division pursuant to Section 1463 of the Penal Code. The board of  
6 supervisors shall establish in the county treasury a DNA  
7 Identification Fund into which the moneys collected pursuant to  
8 this section shall be deposited. The moneys of the fund shall be  
9 allocated pursuant to subdivision (b).

10 (b) (1) The fund moneys described in subdivision (a), together  
11 with any interest earned thereon, shall be held by the county  
12 treasurer separate from any funds subject to transfer or division  
13 pursuant to Section 1463 of the Penal Code.

14 (2) On the last day of each calendar quarter of the year specified  
15 in this subdivision, the county treasurer shall transfer fund moneys  
16 in the county's DNA Identification Fund to the state Controller for  
17 credit to the state's DNA Identification Fund, which is hereby  
18 established in the State Treasury, as follows:

19 (A) In the first two calendar years following the effective date  
20 of this section, 70 percent of the amounts collected, including  
21 interest earned thereon.

22 (B) In the third calendar year following the effective date of this  
23 section, 50 percent of the amounts collected, including interest  
24 earned thereon.

25 (C) In the fourth calendar year following the effective date of  
26 this section and in each calendar year thereafter, 25 percent of the  
27 amounts collected, including interest earned thereon.

28 (3) Funds remaining in the county's DNA Identification Fund  
29 shall only be used to reimburse local sheriff or other law  
30 enforcement agencies to collect DNA specimens, samples, and  
31 print impressions pursuant to this chapter for expenditures and  
32 administrative costs made or incurred to comply with the  
33 requirements of paragraph (5) of subdivision (b) of Section 298 of  
34 the Penal code including the procurement of equipment and  
35 software integral to confirming that a person qualifies for entry  
36 into the Department of Justice DNA Database and Databank  
37 Program; and to local sheriff, police, district attorney, and regional  
38 state crime laboratories for expenditures and administrative costs  
39 made or incurred in connection with the processing, analysis,  
40 tracking, and storage of DNA crime scene samples from cases in



1 which DNA evidence would be useful in identifying or  
2 prosecuting suspects, including the procurement of equipment and  
3 software for the processing, analysis, tracking, and storage of  
4 DNA crime scene samples from unsolved cases.

5 (4) The state's DNA Identification Fund shall be administered  
6 by the Department of Justice. Funds in the state's DNA  
7 Identification Fund, upon appropriation by the Legislature, shall  
8 only be used by the Attorney General to support DNA testing in  
9 the state and to offset the impacts of increased testing and shall be  
10 allocated as follows:

11 (A) Of the amount transferred pursuant to subparagraph (A) of  
12 paragraph (2) of subdivision (b), 90 percent to the Department of  
13 Justice DNA Laboratory first to comply with the requirements of  
14 Section 298.3 of the Penal Code and second for expenditures and  
15 administrative costs made or incurred in connection with the  
16 processing, analysis, tracking, and storage of DNA specimens and  
17 samples, including the procurement of equipment and software for  
18 the processing, analysis, tracking, and storage of DNA samples  
19 and specimens obtained pursuant to the DNA and Forensic  
20 Identification Database and Databank Act, as amended, and 10  
21 percent to the Department of Justice Information Bureau Criminal  
22 History Unit for expenditures and administrative costs that have  
23 been approved by the Chief of the Department of Justice Bureau  
24 of Forensic Services made or incurred to update equipment and  
25 software to facilitate compliance with the requirements of  
26 subdivision (e) of Section 299.5 of the Penal Code.

27 (B) Of the amount transferred pursuant to subparagraph (B) of  
28 paragraph (2) of subdivision (b) funds shall be allocated by the  
29 Department of Justice DNA Laboratory first to comply with the  
30 requirements of Section 298.3 of the Penal Code and second for  
31 expenditures and administrative costs made or incurred in  
32 connection with the processing, analysis, tracking, and storage of  
33 DNA specimens and samples, including the procurement of  
34 equipment and software for the processing, analysis, tracking, and  
35 storage of DNA samples and specimens obtained pursuant to the  
36 DNA and Forensic Identification Database and Databank Act, as  
37 amended.

38 (C) Of the amount transferred pursuant to subparagraph (C) of  
39 paragraph (2) of subdivision (b) funds shall be allocated by the  
40 Department of Justice to the DNA Laboratory to comply with the



1 requirements of Section 298.3 of the Penal Code and for  
2 expenditures and administrative costs made or incurred in  
3 connection with the processing, analysis, tracking, and storage of  
4 DNA specimens and samples, including the procurement of  
5 equipment and software for the processing, analysis, tracking, and  
6 storage of DNA samples and specimens obtained pursuant to the  
7 DNA and Forensic Identification Database and Databank Act, as  
8 amended.

9 (c) On or before April 1, 2006, and annually thereafter, the  
10 board of supervisors of each county shall submit a report to the  
11 Legislature and the Department of Justice. The report shall include  
12 the total amount of fines collected and allocated pursuant to this  
13 section, and the amounts expended by the county for each program  
14 authorized pursuant to paragraph (3) of subdivision (b) of this  
15 section. The Department of Justice shall make the reports publicly  
16 available on the department's Web site.

17 (d) All requirements imposed on the Department of Justice  
18 pursuant to the bill that added this section are contingent upon the  
19 availability of funding and are limited by revenue, on a fiscal year  
20 basis, received by the Department of Justice pursuant to this  
21 section and any additional appropriation approved by the  
22 Legislature for purposes related to implementing the bill.

23 (e) There shall be a loan from the General Fund to the DNA  
24 Identification Fund in the amount of seven million dollars  
25 (\$7,000,000) for purposes of implementing the DNA Fingerprint,  
26 Unsolved Crime, and Innocence Protection Act. This loan shall be  
27 repaid with interest calculated at the rate earned by the Pooled  
28 Money Investment Account at the time the loan is made. Principal  
29 and interest on the loan shall be repaid in full no later than four  
30 years from the date the loan was made and shall be repaid from  
31 revenue generated pursuant to this section.

32 SEC. 4. Section 295 of the Penal Code is amended to read:

33 295. (a) This chapter shall be known and may be cited as the  
34 DNA and Forensic Identification ~~Data Base Database and Data~~  
35 ~~Bank Databank~~ Act of 1998, *as amended*.

36 (b) The Legislature finds and declares all of the following:

37 (1) Deoxyribonucleic acid (DNA) and forensic identification  
38 analysis is a useful law enforcement tool for identifying and  
39 prosecuting ~~sexual and violent offenders~~ *criminal offenders and*  
40 *exonerating the innocent.*



1 (2) It is the intent of the Legislature, in order to further the  
2 purposes of this chapter, to require DNA and forensic  
3 identification databank samples *from all persons, including*  
4 *juveniles*, for the felony *and misdemeanor* offenses described in  
5 subdivision (a) of Section 296.

6 (3) It is necessary to enact this act defining and governing the  
7 state's DNA and forensic identification database and databank in  
8 order to clarify existing law and to enable the state's DNA and  
9 ~~forensic identification database and databank program~~ *Forensic*  
10 *Identification Database and Databank Program* to become a more  
11 effective law enforcement tool.

12 (c) The purpose of the DNA and ~~forensic identification~~  
13 ~~databank~~ *Forensic Identification Database and Databank*  
14 *Program* is to assist federal, state, and local criminal justice and  
15 law enforcement agencies within and outside California in the  
16 expeditious *and accurate* detection and prosecution of individuals  
17 responsible for sex offenses and other ~~violent~~ crimes, the exclusion  
18 of suspects who are being investigated for these crimes, and the  
19 identification of missing and unidentified persons, particularly  
20 abducted children.

21 (d) *Like the collection of fingerprints, the collection of DNA*  
22 *samples pursuant to this chapter is an administrative requirement*  
23 *to assist in the accurate identification of criminal offenders.*

24 (e) *Unless otherwise requested by the Department of Justice,*  
25 *collection of biological samples for DNA analysis from qualifying*  
26 *persons under this chapter is limited to collection of inner cheek*  
27 *cells of the mouth by buccal swab.*

28 (f) *The Department of Justice DNA Laboratory may obtain*  
29 *through federal, state, or local law enforcement agencies blood*  
30 *specimens from qualifying persons as defined in subdivision (a) of*  
31 *Section 296, and according to procedures set forth in Section 298,*  
32 *when it is determined in the discretion of the Department of Justice*  
33 *that those specimens are necessary in a particular case or would*  
34 *aid the department in obtaining an accurate forensic DNA profile*  
35 *for identification purposes.*

36 (g) The Department of Justice, through its DNA Laboratory,  
37 shall be responsible for the management and administration of the  
38 state's ~~DNA database and databank identification program~~ *DNA*  
39 *and Forensic Identification Database and Databank Program* and  
40 for liaison with the Federal Bureau of Investigation (FBI)



1 regarding the state's participation in a national *or international*  
2 DNA database *and databank program* such as the FBI's Combined  
3 DNA Index System (CODIS) that allows the storage and exchange  
4 of DNA records submitted by state and local forensic DNA  
5 laboratories nationwide.

6 ~~(e)~~

7 *(h)* The Department of Justice shall be responsible for  
8 implementing this chapter. ~~The~~

9 *(1)* ~~The~~ Department of Justice DNA Laboratory, the  
10 Department of Corrections, *the Board of Corrections*, and the  
11 Department of the Youth Authority ~~shall~~ *may* adopt policies and  
12 enact regulations for the implementation of this chapter, as  
13 necessary, to give effect to the intent and purpose of this chapter,  
14 and to ensure that databank blood specimens, ~~saliva~~ *buccal swab*  
15 samples, and thumb and palm print impressions *as required by this*  
16 *chapter* are collected from qualifying ~~offenders~~ *persons* in a timely  
17 manner, as soon as possible after *arrest*, conviction, or a plea or  
18 finding of guilty, no contest, or not guilty by reason of insanity, or  
19 upon ~~the~~ *any* disposition rendered in the case of a juvenile who is  
20 ~~adjudged a ward of the court~~ *adjudicated* under Section 602 of the  
21 Welfare and Institutions Code for commission of any of this  
22 chapter's enumerated qualifying offenses, *including attempts*, or  
23 when it is determined that a qualifying ~~offender~~ *person* has not  
24 given the required *specimens*, samples, or *print impressions*. ~~The~~  
25 *Before adopting any policy or regulation implementing this*  
26 *chapter*, the Department of Corrections, *the Board of Corrections*,  
27 and the Department of the Youth Authority shall ~~adopt the policies~~  
28 ~~and regulations for implementing this chapter with~~ *seek* advice  
29 from and ~~in consultation~~ *consult* with the Department of Justice  
30 DNA Laboratory Director.

31 *(2)* *Given the specificity of this chapter, and except as provided*  
32 *in subdivision (c) of Section 298.1, any administrative bulletins,*  
33 *notices, regulations, policies, procedures, or guidelines adopted*  
34 *by the Department of Justice and its DNA Laboratory, the*  
35 *Department of Corrections, the Department of the Youth Authority,*  
36 *or the Board of Corrections for the purpose of implementing this*  
37 *chapter are exempt from the provisions of the Administrative*  
38 *Procedure Act, Chapter 3.5 (commencing with Section 11340) and*  
39 *Chapter 4 (commencing with Section 11370) of the Government*  
40 *Code.*



1 (3) The Department of Corrections, *the Board of Corrections,*  
2 and the Department of the Youth Authority shall submit copies of  
3 *any of their policies and regulations with respect to this chapter to*  
4 *the Department of Justice DNA Laboratory Director, and*  
5 ~~periodically~~ *quarterly* shall submit to the director written reports  
6 updating the director as to the status of their compliance with this  
7 chapter.

8 (4) *On or before April 1, 2006, and quarterly thereafter, the*  
9 *Department of Justice DNA Laboratory shall submit a report to be*  
10 *published electronically on a Department of Justice Web site and*  
11 *made available for public review. The quarterly report shall state*  
12 *the total number of samples received, the number of samples*  
13 *received from the Department of Corrections, the number of*  
14 *samples fully analyzed for inclusion in the CODIS database, and*  
15 *the number of profiles uploaded into the CODIS database for the*  
16 *reporting period. Each quarterly report shall state the total,*  
17 *annual and quarterly number of qualifying profiles in the*  
18 *Department of Justice DNA Laboratory databank both from*  
19 *persons and case evidence, and the number of hits and*  
20 *investigations aided, as reported to the National DNA Index*  
21 *System. The quarterly report shall also confirm laboratory's*  
22 *accreditation status and participation in CODIS and shall include*  
23 *an accounting of the funds collected, expended, and disbursed*  
24 *pursuant to subdivision (k) of this section.*

25 (5) *On or before April 1, 2006, and quarterly thereafter, the*  
26 *Department of Corrections shall submit a quarterly report to be*  
27 *published electronically on a Department of Corrections Web site*  
28 *and made available for public review. The quarterly report shall*  
29 *state the total number of inmates housed in state correctional*  
30 *facilities, including a breakdown of those housed in state prisons,*  
31 *camps, community correctional facilities, and other facilities such*  
32 *as prisoner mother facilities. Each quarterly report shall also state*  
33 *the total, annual, and quarterly number of inmates who have yet*  
34 *to provide specimens, samples, and print impressions pursuant to*  
35 *this chapter and the number of specimens, samples, and print*  
36 *impressions that have yet to be forwarded to the Department of*  
37 *Justice DNA Laboratory within 30 days of collection.*

38 ~~(f)~~

39 (i) (1) When the specimens, samples, and print impressions  
40 required by this chapter are collected at a county jail or other



1 county ~~detention~~ facility, including a private community  
2 correctional facility, the county sheriff or chief administrative  
3 officer of the county jail or other ~~detention~~ facility shall be  
4 responsible for ensuring all of the following:

5 (A) The requisite specimens, samples, and print impressions  
6 are collected from qualifying ~~offenders~~ *persons immediately*  
7 *following arrest, conviction, or adjudication, or during the*  
8 *booking or intake or reception center process at that facility, or*  
9 reasonably promptly thereafter.

10 (B) The requisite specimens, samples, and print impressions  
11 are collected as soon as administratively practicable after a  
12 qualifying ~~offender~~ *person* reports to the facility for the purpose  
13 of providing specimens, samples, and print impressions.

14 (C) The specimens, samples, and print impressions collected  
15 pursuant to this chapter are forwarded immediately to the  
16 Department of Justice, and in compliance with department  
17 policies.

18 (2) The specimens, samples, and print impressions required by  
19 this chapter shall be collected by a person using a collection kit  
20 approved by the Department of Justice and in accordance with the  
21 requirements and procedures set forth in subdivision (b) of Section  
22 298.

23 (3) The counties shall be reimbursed for the costs of obtaining  
24 specimens, samples, and print impressions subject to the  
25 conditions and limitations set forth by the Department of Justice  
26 policies governing reimbursement for collecting specimens,  
27 samples, and print impressions pursuant to this chapter.

28 (j) *The trial court may order that a portion of the costs assessed*  
29 *pursuant to Sections 1203.1c, 1203.1e, or 1203.1m include a*  
30 *reasonable portion of the cost of obtaining specimens, samples,*  
31 *and print impressions in furtherance of this chapter and the funds*  
32 *collected pursuant to this subdivision shall be deposited in the*  
33 *Department of Justice DNA Testing Fund as created by paragraph*  
34 *(2) of subdivision (b) of Section 290.3.*

35 ~~(g)~~

36 (k) Any funds appropriated by the Legislature to implement  
37 this chapter, including funds *or costs ordered pursuant to*  
38 *subdivision (j)* to reimburse counties, shall be deposited into the  
39 Department of Justice DNA Testing Fund as created by paragraph  
40 (2) of subdivision (b) of Section 290.3.



1     ~~(h)~~

2     *(l)* The Department of Justice DNA Laboratory shall be known  
3 as the Jan Bashinski DNA Laboratory.

4     SEC. 5. Section 295.1 of the Penal Code is amended to read:

5     295.1. (a) The Department of Justice shall perform DNA  
6 analysis and other forensic identification analysis pursuant to this  
7 chapter only for identification purposes.

8     (b) The Department of Justice Bureau of Criminal  
9 Identification and Information shall perform examinations of  
10 palm prints pursuant to this chapter only for identification  
11 purposes.

12     (c) The DNA Laboratory of the Department of Justice shall  
13 serve as a repository for blood specimens and ~~saliva~~ *buccal swab*  
14 and other biological samples collected, and shall analyze  
15 specimens and samples, and store, compile, correlate, compare,  
16 maintain, and use DNA and forensic identification profiles and  
17 records related to the following:

18     (1) Forensic casework *and forensic unknowns*.

19     (2) Known and evidentiary specimens and samples from crime  
20 scenes or criminal investigations.

21     (3) Missing or unidentified persons.

22     (4) ~~Offenders~~ *Persons* required to provide specimens, samples,  
23 and print impressions under this chapter.

24     (5) *Legally obtained samples*.

25     (6) Anonymous DNA records used for training, research,  
26 statistical analysis of populations, *quality assurance*, or quality  
27 control.

28     (d) The computerized ~~data bank~~ *databank* of the DNA  
29 Laboratory of the Department of Justice shall include files as  
30 necessary to implement this chapter.

31     (e) Nothing in this section shall be construed as requiring the  
32 Department of Justice to provide *specimens or* samples for quality  
33 control or other purposes to those who request *specimens or*  
34 samples.

35     (f) *Submission of samples, specimens, or profiles for the state*  
36 *DNA and Forensic Identification Database and Databank*  
37 *program shall include information as required by the Department*  
38 *of Justice for ensuring search capabilities and compliance with*  
39 *National DNA Index System (NDIS) standards.*

40     SEC. 6. Section 296 of the Penal Code is amended to read:



1 296. (a) *The following persons shall provide buccal swab*  
2 *samples, right thumb prints, and a full palm print impression of*  
3 *each hand, and any blood specimens or other biological samples*  
4 *required pursuant to this chapter for law enforcement*  
5 *identification analysis:*

6 (1) Any person, *including any juvenile*, who is convicted of  
7 ~~any of the following crimes or pleads guilty or no contest to any~~  
8 ~~felony offense~~, or is found not guilty by reason of insanity of any  
9 ~~of the following crimes~~, shall, regardless of sentence imposed or  
10 disposition rendered, be required to provide two specimens of  
11 ~~blood, a saliva sample, right thumbprints, and a full palm print~~  
12 ~~impression of each hand for law enforcement identification~~  
13 ~~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.~~

25 (E) ~~Aggravated sexual assault of a child in violation of Section~~  
26 ~~269.~~

27 (F) ~~A felony offense of assault or battery in violation of Section~~  
28 ~~217.1, 220, 241.1, 243, 243.1, 243.3, 243.4, 243.7, 244, 245,~~  
29 ~~245.2, 245.3, or 245.5.~~

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

33 (H) ~~Mayhem in violation of Section 203 or aggravated~~  
34 ~~mayhem in violation of Section 205, or an attempt to commit either~~  
35 ~~of these offenses.~~

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

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



1 ~~(K) Robbery as defined in subdivision (a) or (b) of Section~~  
2 ~~212.5 or an attempt to commit either of these offenses.~~

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

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

7 ~~(N) Terrorist activity in violation of Section 11418 or 11419, or~~  
8 ~~a felony violation of Section 11418.5, or an attempt to commit any~~  
9 ~~of these offenses felony offense, or any juvenile who is adjudicated~~  
10 ~~under Section 602 of the Welfare and Institutions Code for~~  
11 ~~committing any felony offense.~~

12 (2) Any adult person who is arrested for or charged with any of  
13 the following felony offenses:

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

18 (B) Murder or voluntary manslaughter or any attempt to  
19 commit murder or voluntary manslaughter.

20 (C) Commencing on January 1, 2010, any adult person  
21 arrested or charged with any felony offense.

22 (3) Any person, including any juvenile, who is required to  
23 register under Section 290 or Section 457.1 because of the  
24 commission of, or the attempt to commit, a felony or misdemeanor  
25 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 or any person, including any juvenile, who is housed in a  
36 mental health facility or sex offender treatment program after  
37 referral to such facility or program by a court after being charged  
38 with any felony offense.

39 (4) The term felony as used in this subdivision includes an  
40 attempt to commit the offense.



1 (5) Nothing in this chapter shall be construed as prohibiting  
2 collection and analysis of specimens, samples, or print  
3 impressions as a condition of a plea for a nonqualifying offense.

4 (b) The provisions of this chapter and its requirements for  
5 submission of specimens, samples, and print impressions as soon  
6 as administratively practicable shall apply to all qualifying  
7 persons regardless of sentence imposed, including any sentence of  
8 death, life without the possibility of parole, or any life or  
9 indeterminate term, or any other disposition rendered in the case  
10 of an adult or juvenile tried as an adult, or whether the person is  
11 diverted, fined, or referred for evaluation, and regardless of  
12 disposition rendered or placement made in the case of juvenile who  
13 is found to have committed any felony offense or is adjudicated  
14 under Section 602 of the Welfare and Institutions Code.

15 ~~(b)~~

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

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

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

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

34 ~~(c)~~

35 (d) 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 databank and database 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,



1 *or any admission to any of the offenses described in subdivision*  
2 *(a).*

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

10 (e) *If at any stage of court proceedings the prosecuting attorney*  
11 *determines that specimens, samples, and print impressions*  
12 *required by this chapter have not already been taken from any*  
13 *person, as defined under subdivision (a) of Section 296, the*  
14 *prosecuting attorney shall notify the court orally on the record, or*  
15 *in writing, and request that the court order collection of the*  
16 *specimens, samples, and print impressions required by law.*  
17 *However, a failure by the prosecuting attorney or any other law*  
18 *enforcement agency to notify the court shall not relieve a person*  
19 *of the obligation to provide specimens, samples, and print*  
20 *impressions pursuant to this chapter.*

21 (f) *Prior to final disposition or sentencing in the case the court*  
22 *shall inquire and verify that the specimens, samples and print*  
23 *impressions required by this chapter have been obtained and that*  
24 *this fact is included in the abstract of judgment or dispositional*  
25 *order in the case of a juvenile.* The abstract of judgment issued by  
26 the court shall indicate that the court has ordered the person to  
27 comply with the requirements of this chapter and that the person  
28 shall be included in the state's DNA and Forensic Identification  
29 ~~Data Base Database~~ and ~~Data Bank Databank~~ program and be  
30 subject to this chapter. However, failure by the court to *verify*  
31 *specimen, sample, and print impression collection or enter these*  
32 *facts in the abstract of judgment or dispositional order in the case*  
33 *of a juvenile* shall not invalidate ~~a~~ *an arrest, plea, conviction, or*  
34 *disposition, or otherwise relieve a person from the requirements*  
35 *of this chapter.*

36 SEC. 7. Section 296.1 of the Penal Code is repealed.

37 ~~296.1. (a) Any person, including any juvenile, who comes~~  
38 ~~within the provisions of this chapter for an offense set forth in~~  
39 ~~subdivision (a) of Section 296, and who is granted probation, or~~  
40 ~~serves his or her entire term of confinement in a county jail, or is~~



1 ~~not sentenced to a term of confinement in a state prison facility, or~~  
2 ~~otherwise bypasses a prison inmate reception center maintained by~~  
3 ~~the Department of Corrections, shall, as soon as administratively~~  
4 ~~practicable, but in any case, prior to physical release from custody,~~  
5 ~~be required to provide two specimens of blood, a saliva sample,~~  
6 ~~and thumb and palm print impressions as set forth in subdivision~~  
7 ~~(a) of Section 296, at a county jail facility or other state, local, or~~  
8 ~~private facility designated for the collection of these specimens;~~  
9 ~~samples, and print impressions, in accordance with subdivision (f)~~  
10 ~~of Section 295.~~

11 ~~If the person subject to this chapter is not incarcerated at the time~~  
12 ~~of sentencing, the court shall order the person to report within five~~  
13 ~~calendar days to a county jail facility or other state, local, or private~~  
14 ~~facility designated for the collection of specimens, samples, and~~  
15 ~~print impressions to provide these specimens, samples, and print~~  
16 ~~impressions in accordance with subdivision (f) of Section 295.~~

17 ~~(b) If a person who comes within the provisions of this chapter~~  
18 ~~for an offense set forth in subdivision (a) of Section 296 is~~  
19 ~~sentenced to serve a term of imprisonment in a state correctional~~  
20 ~~institution, the Director of Corrections shall collect the blood~~  
21 ~~specimens, saliva samples, and thumb and palm print impressions~~  
22 ~~required by this chapter from the person during the intake process~~  
23 ~~at the reception center designated by the director, or as soon as~~  
24 ~~administratively practicable thereafter at a receiving penal~~  
25 ~~institution.~~

26 ~~(c) Any person, including, but not limited to, any juvenile and~~  
27 ~~any person convicted and sentenced to death, life without the~~  
28 ~~possibility of parole, or any life or indeterminate term, who is~~  
29 ~~imprisoned or confined in a state correctional institution, a county~~  
30 ~~jail, a facility within the jurisdiction of the Department of the~~  
31 ~~Youth Authority, or any other state, local, or private facility after~~  
32 ~~a conviction of any crime, or disposition rendered in the case of a~~  
33 ~~juvenile, whether or not that crime or offense is one set forth in~~  
34 ~~subdivision (a) of Section 296, shall provide two specimens of~~  
35 ~~blood, a saliva sample, and thumb and palm print impressions~~  
36 ~~pursuant to this chapter, as soon as administratively practicable~~  
37 ~~once it has been determined that both of the following apply:~~

38 ~~(1) The person has been convicted or adjudicated a ward of the~~  
39 ~~court in California of a qualifying offense described in subdivision~~  
40 ~~(a) of Section 296 or has been convicted or had a disposition~~



1 rendered in any other court, including any state, federal, or  
2 military court, of any offense that, if committed or attempted in  
3 this state, would have been punishable as an offense described in  
4 subdivision (a) of Section 296.

5 (2) The person's blood specimens, saliva samples, and thumb  
6 and palm print impressions authorized by this chapter are not in the  
7 possession of the Department of Justice DNA Laboratory as part  
8 of the DNA data bank program.

9 This subdivision applies regardless of when the person was  
10 convicted of the qualifying offense described in subdivision (a) of  
11 Section 296 or a similar crime under the laws of the United States  
12 or any other state, or when disposition was rendered in the case of  
13 a juvenile who is adjudged a ward of the court for commission of  
14 a qualifying offense described in subdivision (a) of Section 296 or  
15 a similar crime under the laws of the United States or any other  
16 state.

17 (d) Any person, including any juvenile, who comes within the  
18 provisions of this chapter for an offense set forth in subdivision (a)  
19 of Section 296, and who is on probation or parole, shall be required  
20 to provide two specimens of blood, a saliva sample, and thumb and  
21 palm print impressions as required pursuant to this chapter, if it is  
22 determined that the person has not previously provided these  
23 specimens, samples, and print impressions to law enforcement, or  
24 if it is determined that these specimens, samples, and print  
25 impressions are not in the possession of the Department of Justice.  
26 The person shall have the specimens, samples, and print  
27 impressions collected within five calendar days of being notified  
28 by a law enforcement agency or other agency authorized by the  
29 Department of Justice. The specimens, samples, and print  
30 impressions shall be collected in accordance with subdivision (f)  
31 of Section 295 at a county jail facility or other state, local, or  
32 private facility designated for this collection.

33 This subdivision shall apply regardless of when the crime  
34 committed became a qualifying offense pursuant to this chapter.

35 (e) When an offender from another state is accepted into this  
36 state under any of the interstate compacts described in Article 3  
37 (commencing with Section 11175) or Article 4 (commencing with  
38 Section 1189) of Chapter 2 of Title 1 of Part 4 of this code, or  
39 Chapter 4 (commencing with Section 1300) of Part 1 of Division  
40 2 of the Welfare and Institutions Code, or under any other



1 reciprocal agreement with any county, state, or federal agency, or  
2 any other provision of law, whether or not the offender is confined  
3 or released, the acceptance is conditional on the offender  
4 providing blood specimens, saliva samples, and palm and thumb  
5 print impressions pursuant to this chapter, if the offender was  
6 convicted of an offense which would qualify as a crime described  
7 in subdivision (a) of Section 296, or if the person was convicted  
8 of a similar crime under the laws of the United States or any other  
9 state.

10 If the person is not confined, the specimens, samples, and print  
11 impressions required by this chapter must be provided within five  
12 calendar days after the offender reports to the supervising agent or  
13 within five calendar days of notice to the offender, whichever  
14 occurs first. The person shall report to a county jail facility in the  
15 county where he or she resides or temporarily is located to have the  
16 specimens, samples, and print impressions collected pursuant to  
17 this chapter. The specimens, samples, and print impressions shall  
18 be collected in accordance with subdivision (f) of Section 295.

19 If the person is confined, he or she shall provide the blood  
20 specimens, saliva samples, and thumb and palm print impressions  
21 required by this chapter as soon as practicable after his or her  
22 receipt in a state, county, local, private, or other facility.

23 (f) Subject to the approval of the Director of the Federal Bureau  
24 of Investigation, persons confined or incarcerated in a federal  
25 prison or federal institution located in California who are  
26 convicted of a qualifying offense described in subdivision (a) of  
27 Section 296 or of a similar crime under the laws of the United  
28 States or any other state that would constitute an offense described  
29 in subdivision (a) of Section 296, are subject to this chapter and  
30 shall provide blood specimens, saliva samples, and thumb and  
31 palm print impressions pursuant to this chapter if any of the  
32 following apply:

- 33 (1) The person committed a qualifying offense in California.
- 34 (2) The person was a resident of California at the time of the  
35 qualifying offense.
- 36 (3) The person has any record of a California conviction for a  
37 sex or violent offense described in subdivision (a) of Section 296,  
38 regardless of when the crime was committed.
- 39 (4) The person will be released in California.



1 ~~Once a federal data bank is established and accessible to the~~  
2 ~~Department of Justice, the Department of Justice DNA Laboratory~~  
3 ~~shall, upon the request of the United States Department of Justice,~~  
4 ~~forward the samples taken pursuant to this chapter, with the~~  
5 ~~exception of those taken from suspects pursuant to subdivision (b)~~  
6 ~~of Section 297, to the United States Department of Justice DNA~~  
7 ~~data bank laboratory. The samples and impressions required by~~  
8 ~~this chapter shall be taken in accordance with the procedures set~~  
9 ~~forth in subdivision (f) of Section 295.~~

10 ~~(g) If a person who is released on parole, furlough, or other~~  
11 ~~release, is returned to a state correctional institution for a violation~~  
12 ~~of a condition of his or her parole, furlough, or other release, and~~  
13 ~~is serving or at any time has served a term of imprisonment for~~  
14 ~~committing an offense described in subdivision (a) of Section 296,~~  
15 ~~and he or she did not provide specimens, samples, and print~~  
16 ~~impressions pursuant to the state's DNA data bank program, the~~  
17 ~~person shall submit to collection of blood specimens, saliva~~  
18 ~~samples, and thumb and palm print impressions at a state~~  
19 ~~correctional institution.~~

20 ~~This subdivision applies regardless of the crime or Penal Code~~  
21 ~~violation for which a person is returned to a state correctional~~  
22 ~~institution and regardless of the date the qualifying offense was~~  
23 ~~committed.~~

24 SEC. 8. Section 296.1 is added to the Penal Code, to read:

25 296.1. (a) The specimens, samples, and print impressions  
26 required by this chapter shall be collected from persons described  
27 in subdivision (a) of Section 296 for present and past qualifying  
28 offenses of record as follows:

29 (1) Collection from any adult person following arrest for a  
30 felony offense as specified in subparagraphs (A), (B), and (C) of  
31 paragraph (2) of subdivision (a) of Section 296:

32 (A) Each adult person arrested for a felony offense as specified  
33 in subparagraphs (A), (B), and (C) of paragraph (2) of subdivision  
34 (a) of Section 296 shall provide the buccal swab samples and  
35 thumb and palm print impressions and any blood or other  
36 specimens required pursuant to this chapter immediately  
37 following arrest, or during the booking or intake or reception  
38 center process or as soon as administratively practicable after  
39 arrest, but in any case, prior to release on bail or pending trial or  
40 any physical release from confinement or custody.



1 (B) If the person subject to this chapter did not have specimens,  
2 samples, and print impressions taken immediately following arrest  
3 or during booking or intake procedures or is released on bail or  
4 pending trial or is not confined or incarcerated at the time of  
5 sentencing or otherwise bypasses a prison inmate reception center  
6 maintained by the Department of Corrections, the court shall order  
7 the person to report within five calendar days to a county jail  
8 facility or to a city, state, local, private or other designated facility  
9 to provide the required specimens, samples, and print impressions  
10 in accordance with subdivision (i) of Section 295.

11 (2) Collection from persons confined or in custody after  
12 conviction or adjudication:

13 (A) Any person, including any juvenile who is imprisoned or  
14 confined or placed in a state correctional institution, a county jail,  
15 a facility within the jurisdiction of the Department of the Youth  
16 Authority, the Board of Corrections, a residential treatment  
17 program, or any state, local, city, private or other facility after a  
18 conviction of any felony or misdemeanor offense, or any  
19 adjudication or disposition rendered in the case of a juvenile,  
20 whether or not that crime or offense is one set forth in subdivision  
21 (a) of Section 296, shall provide buccal swab samples and thumb  
22 and palm print impressions and any blood or other specimens  
23 required pursuant to this chapter, immediately at intake, or during  
24 the prison reception center process, or as soon as administratively  
25 practicable at the appropriate custodial or receiving institution or  
26 placed in program if:

27 (i) The person has a record of any past or present conviction or  
28 adjudication as a ward of the court in California of a qualifying  
29 offense described in subdivision (a) of Section 296 or has a record  
30 of any past or present conviction or adjudication in any other court,  
31 including any state, federal, or military court, of any offense, that,  
32 if committed or attempted in this state, would have been  
33 punishable as an offense described in subdivision (a) of Section  
34 296.

35 (ii) The person's blood specimens, buccal swab samples, and  
36 thumb and palm print impressions authorized by this chapter are  
37 not in the possession of the Department of Justice DNA  
38 Laboratory or have not been recorded as part of the department's  
39 DNA Database and Databank Program.



1 (3) Collection from persons on probation, parole, or other  
2 release:

3 (A) Any person, including any juvenile, who has a record of  
4 any past or present conviction or adjudication for an offense set  
5 forth in subdivision (a) of Section 296, and who is on probation or  
6 parole for any felony or misdemeanor offense, whether or not that  
7 crime or offense is one set forth in subdivision (a) of Section 296,  
8 shall provide buccal swab samples and thumb and palm print  
9 impressions and any blood specimens required pursuant to this  
10 chapter, if:

11 (i) The person has a record of any past or present conviction or  
12 adjudication as a ward of the court in California of a qualifying  
13 offense described in subdivision (a) of Section 296 or has a record  
14 of any past or present conviction or adjudication in any other court,  
15 including any state, federal, or military court, of any offense that,  
16 if committed or attempted in this state, would have been  
17 punishable as an offense described in subdivision (a) of Section  
18 296.

19 (ii) The person’s blood specimens, buccal swab samples, and  
20 thumb and palm print impressions authorized by this chapter are  
21 not in the possession of the Department of Justice DNA  
22 Laboratory or have not been recorded as part of the department’s  
23 DNA Database and Databank Program.

24 (B) The person shall have any required specimens, samples,  
25 and print impressions collected within five calendar days of being  
26 notified by the court, or a law enforcement agency or other agency  
27 authorized by the Department of Justice. The specimens, samples,  
28 and print impressions shall be collected in accordance with  
29 subdivision (i) of Section 295 at a county jail facility or a city, state,  
30 local, private, or other facility designated for this collection.

31 (4) Collection from parole violators and others returned to  
32 custody:

33 (A) If a person, including any juvenile, who has been released  
34 on parole, furlough, or other release for any offense or crime,  
35 whether or not set forth in subdivision (a) of Section 296, is  
36 returned to a state correctional or other institution for a violation  
37 of a condition of his or her parole, furlough, or other release, or for  
38 any other reason, that person shall provide buccal swab samples  
39 and thumb and palm print impressions and any blood or other



1 specimens required pursuant to this chapter, at a state correctional  
2 or other receiving institution, if:

3 (i) The person has a record of any past or present conviction or  
4 adjudication as a ward of the court in California of a qualifying  
5 offense described in subdivision (a) of Section 296 or has a record  
6 of any past or present conviction or adjudication in any other court,  
7 including any state, federal, or military court, of any offense that,  
8 if committed or attempted in this state, would have been  
9 punishable as an offense described in subdivision (a) of Section  
10 296.

11 (ii) The person's blood specimens, buccal swab samples, and  
12 thumb and palm print impressions authorized by this chapter are  
13 not in the possession of the Department of Justice DNA  
14 Laboratory or have not been recorded as part of the department's  
15 DNA Database and Databank program.

16 (B) The person shall have any required specimens, samples,  
17 and print impressions collected within five calendar days of being  
18 notified by the court, or a law enforcement agency or other agency  
19 authorized by the Department of Justice. the specimens, samples,  
20 and print impressions shall be collected in accordance with  
21 subdivision (i) of Section 295 at a county jail facility or a city, state,  
22 local, private, or other facility designated for this collection.

23 (5) Collection from persons accepted into California from  
24 other jurisdictions:

25 (A) When an offender from another state is accepted into this  
26 state under any of the interstate compacts described in Article 3  
27 (commencing with Section 11175) or Article 4 (commencing with  
28 Section 11189) of Chapter 2 of Title 1 of Part 4 of this code, or  
29 Chapter 4 (commencing with Section 1300) of Part 1 of Division  
30 2 of the Welfare and Institutions Code, or under any other  
31 reciprocal agreement with any county, state, or federal agency, or  
32 any other provision of law, whether or not the offender is confined  
33 or released, the acceptance is conditional on the offender  
34 providing blood specimens, buccal swab samples, and palm and  
35 thumb print impressions pursuant to this chapter, if the offender  
36 has a record of any past or present conviction or adjudication in  
37 California of a qualifying offense described in subdivision (a) of  
38 Section 296 or has a record of any past or present conviction or  
39 adjudication or had a disposition rendered in any other court,  
40 including any state, federal, or military court, of any offense that,



1 if committed or attempted in this state, would have been  
2 punishable as an offense described in subdivision (a) of Section  
3 296.

4 (B) If the person is not confined, the specimens, samples, and  
5 thumb and palm print impressions required by this chapter must  
6 be provided within five calendar days after the person reports to  
7 the supervising agent or within five calendar days of notice to the  
8 person, whichever occurs first. The person shall report to a county  
9 jail facility in the county where he or she resides or temporarily is  
10 located to have the specimens, samples, and print impressions  
11 collected pursuant to this chapter. The specimens, samples, and  
12 thumb and palm print impressions shall be collected in accordance  
13 with subdivision (i) of Section 295.

14 (C) If the person is confined, he or she shall provide the blood  
15 specimens, buccal swab samples, and thumb and palm print  
16 impressions required by this chapter as soon as practicable after his  
17 or her receipt in a state, county, city, local, private, or other  
18 designated facility.

19 (6) Collection from persons in federal institutions:

20 (A) Subject to the approval of the Federal Bureau of Prisons,  
21 and any other federal entities, as required, persons confined or  
22 incarcerated in a federal prison or federal institution who have a  
23 record of any past or present conviction or juvenile adjudication  
24 for a qualifying offense described in subdivision (a) of Section 296  
25 or of a similar crime under the laws of the United States or any  
26 other state that would constitute an offense described in  
27 subdivision (a) of Section 296, are subject to this chapter and shall  
28 provide blood specimens, buccal swab samples, and thumb and  
29 palm print impressions pursuant to this chapter if any of the  
30 following apply:

31 (i) The person committed a qualifying offense in California.

32 (ii) The person was resident of California at the time of the  
33 qualifying offense.

34 (iii) The person has any record of a California conviction for an  
35 offense described in subdivision (a) of Section 296, regardless of  
36 when the crime was committed.

37 (iv) The person will be released in California.

38 (B) The Department of Justice DNA Laboratory shall, upon the  
39 request of the United States Department of Justice, forward  
40 portions of the specimens or samples, taken pursuant to this



1 chapter, to the United States Department of Justice DNA Database  
2 and Databank laboratory. The specimens and samples required by  
3 this chapter shall be taken in accordance with the procedures set  
4 forth in subdivision (i) of Section 295. The Department of Justice  
5 DNA Laboratory is authorized to analyze and upload specimens  
6 and samples collected pursuant to this section upon approval of the  
7 Director of the FBI.

8 (b) Subdivision (a) and all of its paragraphs shall have  
9 application to all persons described in paragraphs (2) to (6),  
10 inclusive, regardless of their date of confinement, release on  
11 parole or probation, return to custody, or acceptance from another  
12 jurisdiction.

13 SEC. 9. Section 297 of the Penal Code is amended to read:

14 297. (a) (1) The laboratories of the Department of Justice  
15 that are accredited by the American Society of Crime Laboratory  
16 Directors Laboratory Accreditation Board (ASCLD/LAB) or any  
17 certifying body approved by the ASCLD/LAB, and any *law*  
18 *enforcement* crime laboratory designated by the Department of  
19 Justice that is accredited by the ASCLD/LAB or any certifying  
20 body approved by the ASCLD/LAB, are authorized to analyze  
21 crime scene samples and other samples of known and unknown  
22 origin and to compare and check the forensic identification  
23 profiles, including DNA profiles, of these samples against  
24 available DNA and forensic identification ~~data banks~~ *databanks*  
25 and ~~data bases~~ *databases* in order to establish identity and origin  
26 of samples for identification purposes.

27 ~~(b) (1) Except as provided in paragraph (2), a biological~~  
28 ~~sample taken in the course of a criminal investigation, either~~  
29 ~~voluntarily or by court order, from a person who has not been~~  
30 ~~convicted, may only be compared to samples taken from that~~  
31 ~~specific criminal investigation and may not be compared to any~~  
32 ~~other samples from any other criminal investigation without a~~  
33 ~~court order.~~

34 ~~(2) A biological sample obtained from a suspect, as defined in~~  
35 ~~paragraph (3), in a criminal investigation may be analyzed for~~  
36 ~~forensic identification profiles, including DNA profiles so that the~~  
37 ~~profile can be placed in a suspect data base file and searched~~  
38 ~~against the DNA data bank profiles of case evidence. For the~~  
39 ~~purposes of this subdivision, the DNA data bank comparison of~~  
40 ~~suspect and evidence profiles may be made, by the DNA~~



1 ~~Laboratory of the Department of Justice, or any crime laboratory~~  
2 ~~designated by the Department of Justice that is accredited by the~~  
3 ~~ASCLD/LAB or any certifying body approved by the~~  
4 ~~ASCLD/LAB.~~

5 (3) ~~For the purposes of this subdivision, “a suspect” means a~~  
6 ~~person against whom an information or indictment has been filed~~  
7 ~~for one of the crimes listed in subdivision (a) of Section 296. For~~  
8 ~~the purposes of this subdivision, a person shall remain a suspect for~~  
9 ~~two years from the date of the filing of the information or~~  
10 ~~indictment or until the DNA laboratory receives notification that~~  
11 ~~the person has been acquitted of the charges or the charges were~~  
12 ~~dismissed.~~

13 (2) *Laboratories, including law enforcement laboratories, that*  
14 *are accredited by ASCLD/LAB or any certifying body approved by*  
15 *the ASCLD/LAB who contract with the Department of Justice*  
16 *pursuant to Section 298.3 are authorized to perform anonymous*  
17 *analysis of specimens and samples for forensic identification as*  
18 *provided in this chapter.*

19 (b) (1) *A biological sample obtained from a suspect in a*  
20 *criminal investigation for the commission of any crime may be*  
21 *analyzed for forensic identification profiles, including DNA*  
22 *profiles, by the DNA Laboratory of the Department of Justice or*  
23 *any law enforcement crime laboratory accredited by the*  
24 *ASCLD/LAB or any certifying body approved by the ASCLD/LAB*  
25 *and then compared by the Department of Justice, in and between,*  
26 *as many cases and investigations as necessary, and searched*  
27 *against the forensic identification profiles, including DNA*  
28 *profiles, stored in the files of the Department of Justice DNA*  
29 *databank or database or any available databanks or databases as*  
30 *part of the Department of Justice DNA Database and Databank*  
31 *Program.*

32 (2) *The law enforcement investigating agency submitting a*  
33 *specimen, sample, or print impression to the DNA Laboratory of*  
34 *the Department of Justice or law enforcement crime laboratory*  
35 *pursuant to this section shall inform the Department of Justice*  
36 *DNA Laboratory within two years whether the person remains a*  
37 *suspect in a criminal investigation. Upon written notification from*  
38 *a law enforcement agency that a person is no longer a suspect in*  
39 *a criminal investigation, the Department of Justice DNA*  
40 *Laboratory shall remove the suspect sample from its databank*



1 *files. However, any identification, warrant, arrest, or prosecution*  
2 *based upon a databank or database match shall not be invalidated*  
3 *or dismissed due to a failure to purge or delay in purging records.*  
4

5 (c) All laboratories, including the Department of Justice DNA  
6 laboratories, contributing DNA profiles for inclusion in  
7 California's DNA Data Bank shall be accredited by the  
8 ASCLD/LAB or any certifying body approved by the  
9 ASCLD/LAB. Additionally, each laboratory shall submit to the  
10 Department of Justice for review the annual report required by the  
11 ASCLD/LAB or any certifying body approved by the  
12 ASCLD/LAB which documents the laboratory's adherence to  
13 ASCLD/LAB standards or the standards of any certifying body  
14 approved by the ASCLD/LAB. The requirements of this  
15 subdivision ~~apply to California laboratories only and~~ do not  
16 preclude DNA profiles developed in California from being  
17 searched in the National DNA ~~Data Base Database or Databank~~  
18 (CODIS).

19 (d) Nothing in this section precludes *local law enforcement*  
20 *DNA laboratories meeting Technical Working Group on DNA*  
21 *Analysis Methods (TWGDAM) or Scientific Working Group on*  
22 *DNA Analysis Methods (SWGAM) guidelines or standards*  
23 *promulgated by the DNA Advisory Board as established pursuant*  
24 *to Section 14131 of Title 42 of the United States Code, from*  
25 *maintaining local forensic databases and databanks or*  
26 *performing forensic identification analyses, including DNA*  
27 *profiling, independent of independently from the Department of*  
28 *Justice DNA and Forensic Identification Data Base Database and*  
29 *Data Bank program Databank Program.*

30 (e) The limitation on the types of offenses set forth in  
31 subdivision (a) of Section 296 as subject to the collection and  
32 testing procedures of this chapter is for the purpose of facilitating  
33 the administration of this chapter *by the Department of Justice,*  
34 *and shall not be considered cause for dismissing an investigation*  
35 *or prosecution or reversing a verdict or disposition.*

36 (f) The detention, arrest, wardship, *adjudication,* or conviction  
37 of a person based upon a ~~data bank databank~~ *databank* match or ~~data base~~  
38 *database* information is not invalidated if it is ~~later~~ determined that  
39 the specimens, samples, or print impressions were obtained or



1 placed ~~or retained in a data bank databank or data base database~~  
2 by mistake.

3 SEC. 10. Section 298 of the Penal Code is amended to read:

4 298. (a) The Director of Corrections, or the Chief  
5 Administrative Officer of the detention facility, jail, or other  
6 facility at which the blood specimens, ~~saliva~~ *buccal swab* samples,  
7 and thumb and palm print impressions were collected shall cause  
8 these specimens, samples, and print impressions to be forwarded  
9 promptly to the Department of Justice. The specimens, samples,  
10 and print impressions shall be collected by a person using a  
11 Department of Justice approved collection kit and in accordance  
12 with the requirements and procedures set forth in subdivision (b).

13 (b) (1) The Department of Justice shall provide all blood  
14 specimen vials, *buccal swab collectors*, mailing tubes, labels, and  
15 instructions for the collection of the blood specimens, ~~saliva~~  
16 *buccal swab* samples, and thumbprints. The specimens, samples,  
17 and thumbprints shall thereafter be forwarded to the DNA  
18 Laboratory of the Department of Justice for analysis of DNA and  
19 other forensic identification markers.

20 Additionally, the Department of Justice shall provide all full  
21 palm print cards, mailing envelopes, and instructions for the  
22 collection of full palm prints. The full palm prints, on a form  
23 prescribed by the Department of Justice, shall thereafter be  
24 forwarded to the Department of Justice for maintenance in a file  
25 for identification purposes.

26 (2) The withdrawal of blood shall be performed in a medically  
27 approved manner. Only health care providers trained and certified  
28 to draw blood may withdraw the blood specimens for purposes of  
29 this section.

30 (3) *Buccal swab samples may be procured by law enforcement*  
31 *or corrections personnel or other individuals trained to assist in*  
32 *buccal swab collection.*

33 (4) Right thumbprints and a full palm print impression of each  
34 hand shall be taken on forms prescribed by the Department of  
35 Justice. The palm print forms shall be forwarded to and maintained  
36 by the Bureau of Criminal Identification and Information of the  
37 Department of Justice. Right thumbprints also shall be taken at the  
38 time of the ~~withdrawal~~ *collection of blood samples and specimens*  
39 and shall be placed on the *sample and specimen containers and*  
40 *forms and the blood vial label as directed by the Department of*



1 *Justice. The blood vial and thumbprint forms samples, specimens,*  
2 *and forms shall be forwarded to and maintained by the DNA*  
3 *Laboratory of the Department of Justice.*

4 ~~(4)~~

5 (5) *The law enforcement or custodial agency collecting*  
6 *specimens, samples, or thumb and palm print impressions is*  
7 *responsible for confirming that the person qualifies for entry into*  
8 *the Department of Justice DNA Database and Databank Program*  
9 *prior to collecting the specimens, samples, or thumb and palm*  
10 *print impressions pursuant to this chapter.*

11 (6) *The DNA Laboratory of the Department of Justice is*  
12 *responsible for establishing procedures for entering data bank*  
13 *databank and data base database information. The DNA*  
14 *laboratory procedures shall confirm that the offender qualifies for*  
15 *entry into the DNA data bank prior to actual entry of the*  
16 *information into the DNA data bank.*

17 (c) (1) *Persons authorized to draw blood or obtain samples or*  
18 *thumb and palm print impressions under this chapter for the data*  
19 *bank databank or data base database shall not be civilly or*  
20 *criminally liable either for withdrawing blood when done in*  
21 *accordance with medically accepted procedures, or for obtaining*  
22 *saliva buccal swab samples by scraping inner cheek cells of the*  
23 *mouth, or thumb or palm print impressions when performed in*  
24 *accordance with standard professional practices.*

25 (2) *There is no civil or criminal cause of action against any law*  
26 *enforcement agency or the Department of Justice, or any employee*  
27 *thereof, for a mistake in confirming a person's or sample's*  
28 *qualifying status for inclusion within the database or databank or*  
29 *in placing an entry in a data bank databank or a data base database.*

30 (3) *The failure of the Department of Justice or local law*  
31 *enforcement to comply with any provision of this chapter shall not*  
32 *invalidate an arrest, plea, conviction, or disposition.*

33 SEC. 11. Section 298.2 is added to the Penal Code, to read:

34 298.2. Any person who is required to submit a specimen  
35 sample or print impression pursuant to this chapter who engages  
36 or attempts to engage in any of the following acts is guilty of a  
37 felony punishable by imprisonment in the state prison for two,  
38 three, or four years:

39 (a) Knowingly facilitates the collection of a wrongfully  
40 attributed blood specimen, buccal swab sample, or thumb or palm



1 print impression, with the intent that a government agent or  
2 employee be deceived as to the origin of a DNA profile or as to any  
3 identification information associated with a specimen, sample, or  
4 print impression required for submission pursuant to this chapter.

5 (b) Knowingly tampers with any specimen, sample, print, or  
6 the collection container for any specimen or sample, with the  
7 intent that any government agent or employee be deceived as to the  
8 identity of the person to whom the specimen, sample, or print  
9 relates.

10 SEC. 12. Section 298.3 is added to the Penal Code, to read:

11 298.3. (a) To ensure expeditious and economical processing  
12 of offender specimens and samples for inclusion in the FBI's  
13 CODIS System and the State's DNA Database and Databank  
14 Program, the Department of Justice DNA Laboratory is authorized  
15 to contract with other laboratories, whether public or private,  
16 including law enforcement laboratories, that have the capability of  
17 fully analyzing offender specimens or samples within 60 days of  
18 receipt, for the anonymous analysis of specimens and samples for  
19 forensic identification testing as provided in this chapter and in  
20 accordance with the quality assurance requirement established by  
21 CODIS and ASCLD/LAB.

22 (b) Contingent upon the availability of sufficient funds in the  
23 state's DNA Identification Fund established pursuant to Section  
24 76104.6 of the Government Code, the Department of Justice DNA  
25 Laboratory shall immediately contract with other laboratories,  
26 whether public or private, including law enforcement laboratories,  
27 for the anonymous analysis of offender reference specimens or  
28 samples and any arrestee reference specimens or samples collected  
29 pursuant to subdivision (a) of Section 296 for forensic  
30 identification testing as provided in subdivision (a) of this section  
31 and in accordance with the quality assurance requirements  
32 established by CODIS and ASCLD/LAB for any specimens or  
33 samples that are not fully analyzed and uploaded into the CODIS  
34 database within six months of the receipt of the reference  
35 specimens or samples by the Department of Justice DNA  
36 Laboratory.

37 SEC. 13. Section 299 of the Penal Code is amended to read:

38 299. (a) ~~A person whose DNA profile has been included in~~  
39 ~~the data bank pursuant to this chapter shall have his or her~~  
40 ~~information and materials expunged from the data bank when the~~



1 ~~underlying conviction or disposition serving as the basis for~~  
2 ~~including the DNA profile has been reversed and the case~~  
3 ~~dismissed, the defendant has been found factually innocent of the~~  
4 ~~underlying offense pursuant to Section 851.8, the defendant has~~  
5 ~~been found not guilty, or the defendant has been acquitted of the~~  
6 ~~underlying offense. The court issuing the reversal, dismissal, or~~  
7 ~~acquittal shall order the expungement and shall send a copy of that~~  
8 ~~order to the Department of Justice DNA Laboratory Director.~~  
9 ~~Upon receipt of the court order, the Department of Justice shall~~  
10 ~~expunge all identifiable information in the data bank and any~~  
11 ~~criminal identification records pertaining to the person~~ *A person*  
12 *whose DNA profile has been included in the databank pursuant to*  
13 *this chapter shall have his or her DNA specimen and sample*  
14 *destroyed and searchable database profile expunged from the*  
15 *databank program pursuant to the procedures set forth in*  
16 *subdivision (b) if the person has no past or present offense or*  
17 *pending charge which qualifies that person for inclusion within the*  
18 *state's DNA and Forensic Identification Database and Databank*  
19 *Program and there otherwise is no legal basis for retaining the*  
20 *specimen or sample or searchable profile.*

21 ~~(b) (1) A person whose DNA profile has been included in a~~  
22 ~~data bank pursuant to this chapter~~ *Pursuant to subdivision (a), a*  
23 *person who has no past or present qualifying offense and for whom*  
24 *there otherwise is no legal basis for retaining the specimen or*  
25 *sample or searchable profile may make a written request to*  
26 ~~expunge information and materials from the data bank~~ *have his or*  
27 *her specimen and sample destroyed and searchable database*  
28 *profile expunged from the databank program if any of the following*  
29 *are met:*

30 *(1) Following arrest, no accusatory pleading has been filed*  
31 *within the applicable period allowed by law charging the person*  
32 *with a qualifying offense as set forth in subdivision (a) of Section*  
33 *296 or if the charges which served as the basis for including the*  
34 *DNA profile in the state's DNA Database and Databank*  
35 *Identification Program have been dismissed prior to adjudication*  
36 *by a trier of fact.*

37 *(2) The underlying conviction or disposition serving as the*  
38 *basis for including the DNA profile has been reversed and the case*  
39 *dismissed.*



1 (3) *The person has been found factually innocent of the*  
2 *underlying offense pursuant to Section 851.8 or Section 781.5 of*  
3 *the Welfare and Institutions Code.*

4 (4) *The defendant has been found not guilty or the defendant*  
5 *has been acquitted of the underlying offense. The*

6 (c) (1) *The person requesting the ~~data bank~~ databank entry to*  
7 *be expunged must send a copy of his or her request to the trial court*  
8 *of the county where the arrest occurred, or that entered the*  
9 *conviction or rendered disposition in the case, to the DNA*  
10 *Laboratory of the Department of Justice, and to the prosecuting*  
11 *attorney of the county in which he or she was arrested or,*  
12 *convicted or adjudicated, with proof of service on all parties. The*  
13 *court has the discretion to grant or deny the request for*  
14 *expungement. The denial of a request for expungement is a*  
15 *nonappealable order and shall not be reviewed by petition for writ.*

16 (2) *Except as provided below, the Department of Justice shall*  
17 *destroy a specimen and sample and expunge all identifiable*  
18 *information in the data bank and any criminal identification*  
19 *records the searchable DNA database profile pertaining to the*  
20 *person who has no present or past qualifying offense of record*  
21 *upon receipt of a court order that verifies the applicant has made*  
22 *the necessary showing at a noticed hearing, and that includes all*  
23 *of the following:*

24 (A) *The written request for expungement pursuant to this*  
25 *section.*

26 (B) *A certified copy of the court order reversing and dismissing*  
27 *the conviction or case, or a letter from the district attorney*  
28 *certifying that no accusatory pleading has been filed or the*  
29 *charges which served as the basis for collecting a DNA specimen*  
30 *and sample have been dismissed prior to adjudication by a trier of*  
31 *fact, the defendant has been found factually innocent, the*  
32 *defendant has been found not guilty, the defendant has been*  
33 *acquitted of the underlying offense, or the underlying conviction*  
34 *has been reversed and the case dismissed.*

35 (C) *Proof of written notice to the prosecuting attorney and the*  
36 *Department of Justice that expungement has been requested.*

37 (D) *A court order verifying that no retrial or appeal of the case*  
38 *is pending, that it has been at least 180 days since the defendant or*  
39 *minor has notified the prosecuting attorney and the Department of*  
40 *Justice of the expungement request, and that the court has not*



1 received an objection from the Department of Justice or the  
2 prosecuting attorney.

3 ~~(e)~~

4 (d) Upon order of the court, the Department of Justice shall  
5 destroy any specimen or sample collected from the person and any  
6 ~~criminal identification records~~ *searchable DNA database profile*  
7 pertaining to the person, unless the department determines that the  
8 person *is subject to the provisions of this chapter because of a past*  
9 *qualifying offense of record or is or has otherwise become*  
10 *obligated to submit a blood specimen or buccal swab sample as a*  
11 *result of a separate arrest, conviction, juvenile adjudication, or*  
12 *finding of guilty or not guilty by reason of insanity for an offense*  
13 *described in subdivision (a) of Section 296, or as a condition of a*  
14 *plea.*

15 The Department of Justice is not required to destroy an  
16 ~~autoradiograph~~ *analytical data* or other ~~item~~ *items* obtained from  
17 a blood specimen *or saliva, or buccal swab sample* if evidence  
18 relating to another person subject to the provisions of this chapter  
19 would thereby be destroyed *or otherwise compromised.*

20 Any identification, warrant, probable cause to arrest, or arrest  
21 based upon a ~~data bank~~ *databank or database* match is not  
22 invalidated due to a failure to expunge or a delay in expunging  
23 records.

24 ~~(d) The Department of Justice DNA Laboratory shall~~  
25 ~~periodically review its files to determine whether its files contain~~  
26 ~~DNA reference sample profiles from suspects as defined in~~  
27 ~~subdivision (b) of Section 297 who are no longer eligible for~~  
28 ~~inclusion in the data bank. The DNA profiles and samples stored~~  
29 ~~in the suspect data base from a person who is a suspect in a criminal~~  
30 ~~investigation shall be purged within two years of the date of the~~  
31 ~~filing of the information or indictment or when the DNA~~  
32 ~~laboratory receives notice that the suspect was acquitted or the~~  
33 ~~charges against the suspect were dismissed, whichever occurs~~  
34 ~~earlier. The notice shall include a certified copy of the court order~~  
35 ~~dismissing the information or indictment, a certified copy of the~~  
36 ~~defendant's fingerprints and the defendant's CH number.~~

37 (e) *Notwithstanding any other provision of law, the Department*  
38 *of Justice DNA Laboratory is not required to expunge DNA profile*  
39 *or forensic identification information or destroy or return*  
40 *specimens, samples or print impressions taken pursuant to this*



1 *section if the duty to register under Section 290 or Section 457.1*  
2 *is terminated.*

3 (f) *Notwithstanding any other provision of law, including*  
4 *Section 17, Section 1203.4 and 1203.4a of the Penal Code, a judge*  
5 *is not authorized to relieve a person of the separate administrative*  
6 *duty to provide specimens, samples, or print impressions required*  
7 *by this chapter if a person has been found guilty or was adjudicated*  
8 *a ward of the court by a trier of fact of a qualifying offense as*  
9 *defined in subdivision (a) of Section 296, or was found not guilty*  
10 *by reason of insanity or pleads no contest to a qualifying offense*  
11 *as defined in subdivision (a) of Section 296.*

12 SEC. 14. Section 299.5 of the Penal Code is amended to read:

13 299.5. (a) All DNA and forensic identification profiles and  
14 other identification information retained by the Department of  
15 Justice pursuant to this chapter are exempt from any law requiring  
16 disclosure of information to the public and shall be confidential  
17 except as otherwise provided in this chapter.

18 (b) All evidence and forensic samples containing biological  
19 material retained by the Department of Justice DNA Laboratory  
20 or other state law enforcement agency are exempt from any law  
21 requiring disclosure of information to the public or the return of  
22 biological specimens, *samples, or print impressions.*

23 (c) Non-DNA forensic identification information may be filed  
24 with the offender's file maintained by the Sex Registration Unit of  
25 the Department of Justice or in other computerized ~~data bank~~  
26 *databank or database* systems maintained by the Department of  
27 Justice.

28 (d) The DNA and other forensic identification information  
29 retained by the Department of Justice pursuant to this chapter shall  
30 not be included in the state summary criminal history information.  
31 However, nothing in this chapter precludes law enforcement  
32 personnel from entering into a person's criminal history  
33 information or offender file maintained by the Department of  
34 Justice, the fact that the specimens, samples, and print impressions  
35 required by this chapter have or have not been collected from that  
36 person.

37 (e) The fact that the blood specimens, ~~saliva~~ *or buccal swab*  
38 *samples, and print impressions required by this chapter have been*  
39 *received by the DNA Laboratory of the Department of Justice shall*



1 be included in the state summary criminal history information *as*  
2 *soon as administratively practicable.*

3 The full palm prints of each hand shall be filed and maintained  
4 by the Automated Latent Print Section of the Bureau of Criminal  
5 Identification and Information of the Department of Justice, and  
6 may be included in the state summary criminal history  
7 information.

8 (f) DNA *samples and DNA profiles* and other forensic  
9 identification information shall be released only to law  
10 enforcement agencies, including, but not limited to, parole officers  
11 of the Department of Corrections, hearing officers of the parole  
12 authority, probation officers, the Attorney General's office,  
13 district attorneys' offices, and prosecuting city attorneys' offices,  
14 ~~or to a court or administrative tribunal, except as specified in~~  
15 *unless otherwise specifically authorized by this chapter.*  
16 Dissemination of ~~this information~~ *DNA specimens, samples, and*  
17 *DNA profiles and other forensic identification information* to law  
18 enforcement agencies and district attorneys' offices outside this  
19 state shall be performed in conformity with the provisions of this  
20 chapter. ~~A~~

21 (g) A defendant's DNA and other forensic identification  
22 information developed pursuant to this chapter shall be available  
23 to his or her defense counsel upon court order made pursuant to  
24 Chapter 10 (commencing with Section 1054) of Title 6 of Part 2.

25 ~~(g)~~  
26 (h) *Except as provided in subdivision (g) and in order to protect*  
27 *the confidentiality and privacy of database and databank*  
28 *information, the Department of Justice and local public DNA*  
29 *laboratories shall not otherwise be compelled in a criminal or civil*  
30 *proceeding to provide any DNA profile or forensic identification*  
31 *database or databank information or its computer database*  
32 *program software or structures to any person or party seeking*  
33 *those records or information whether by subpoena or discovery, or*  
34 *other procedural device or inquiry.*

35 (i) (1) (A) Any person who knowingly uses an offender  
36 sample or DNA profile *collected pursuant to this chapter* for other  
37 than criminal identification or exclusion purposes, *or for other*  
38 *than the identification of missing persons*, or who knowingly  
39 discloses DNA or other forensic identification information  
40 developed pursuant to this section to an unauthorized individual



1 or agency, for other than criminal identification or exclusion  
2 purposes *or for the identification of missing persons*, in violation  
3 of this chapter, shall be punished by imprisonment in a county jail  
4 not exceeding one year or by imprisonment in the state prison.

5 (B) Any person who, for the purpose of financial gain,  
6 knowingly uses an offender *specimen*, sample, or DNA profile  
7 *collected pursuant to this chapter* for other than criminal  
8 identification or exclusion purposes *or for the identification of*  
9 *missing persons* or who, for the purpose of financial gain,  
10 knowingly discloses DNA or other forensic identification  
11 information developed pursuant to this section to an unauthorized  
12 individual or agency, for other than criminal identification or  
13 exclusion purposes *or for other than the identification of missing*  
14 *persons*, in violation of this chapter, shall, in addition to the penalty  
15 provided in subparagraph (A), be punished by a criminal fine in an  
16 amount three times that of any financial gain received or ten  
17 thousand dollars (\$10,000), whichever is greater.

18 (2) (A) If any employee of the Department of Justice  
19 knowingly uses an offender *specimen*, sample, or DNA profile  
20 *collected pursuant to this chapter* for other than criminal  
21 identification or exclusion purposes, or knowingly discloses DNA  
22 or other forensic identification information developed pursuant to  
23 this section to an unauthorized individual or agency, for other than  
24 criminal identification or exclusion purposes *or for other than the*  
25 *identification of missing persons*, in violation of this chapter, the  
26 department shall be liable in civil damages to the donor of the DNA  
27 identification information in the amount of five thousand dollars  
28 (\$5,000) for each violation, plus attorney's fees and costs. In the  
29 event of multiple disclosures, the total damages available to the  
30 donor of the DNA is limited to fifty thousand dollars (\$50,000)  
31 plus attorney's fees and costs.

32 (B) (i) Notwithstanding any other law, this shall be the sole  
33 and exclusive remedy against the Department of Justice and its  
34 employees available to the donor of the DNA.

35 (ii) The Department of Justice employee disclosing DNA  
36 identification information in violation of this chapter shall be  
37 absolutely immune from civil liability under this or any other law.

38 (3) It is not a violation of this section for a law enforcement  
39 agency *in its discretion* to publicly disclose the fact of a DNA  
40 profile match, *or the name of the person identified by the DNA*



1 *match when this match is the basis of law enforcement's*  
2 *investigation, arrest or prosecution of a particular person, or the*  
3 *identification of a missing or abducted person.*

4 ~~(h)~~

5 (j) It is not a violation of this chapter to furnish DNA or other  
6 forensic identification information of the defendant to his or her  
7 defense counsel for criminal defense purposes in compliance with  
8 discovery.

9 ~~(i)~~

10 (k) It is not a violation of this section *for law enforcement to*  
11 *release DNA and other forensic identification information*  
12 *developed pursuant to this chapter to a jury or grand jury, or in a*  
13 *document filed with a court or administrative agency, or as part of*  
14 *a judicial or administrative proceeding, or for this information to*  
15 *become part of the public transcript or record of proceedings when,*  
16 *in the discretion of law enforcement, disclosure is necessary*  
17 *because the DNA information pertains to the basis for law*  
18 *enforcement's identification, arrest, investigation, prosecution or*  
19 *exclusion of a particular person related to the case.*

20 ~~(j)~~

21 (l) It is not a violation of this section to include information  
22 obtained from a file in a transcript or record of a judicial  
23 proceeding, or in any other public record when the inclusion of the  
24 information in the public record is authorized by a court, statute,  
25 or decisional law.

26 ~~(k)~~

27 (m) It is not a violation of this section for the DNA Laboratory  
28 of the Department of Justice, *or an organization retained as an*  
29 *agent of the Department of Justice, or a local public laboratory to*  
30 *use anonymous DNA records or criminal history information*  
31 *obtained pursuant to this chapter for training, research, statistical*  
32 *analysis of populations, or quality assurance, or quality control.*

33 ~~(l) It is not a violation of this section to disseminate statistical~~  
34 ~~or research information obtained from the offender's file, the~~  
35 ~~computerized databank system, any of the DNA laboratory's~~  
36 ~~databases, or the full palm print file, provided that the subject of~~  
37 ~~the file is not identified and cannot be identified from the~~  
38 ~~information disclosed. All requests for statistical or research~~  
39 ~~information obtained from the DNA databank shall be cataloged~~  
40 ~~by the Department of Justice. Commencing January 1, 2000, the~~



1 ~~department shall submit an annual letter to the Legislature~~  
2 ~~including, with respect to each request, the requester's name or~~  
3 ~~agency, the purpose of the request, whether the request is related~~  
4 ~~to a criminal investigation or court proceeding, whether the~~  
5 ~~request was granted or denied, any reasons for denial, costs~~  
6 ~~incurred or estimates of the cost of the request, and the date of the~~  
7 ~~request.~~

8 ~~(m)~~

9 (n) The Department of Justice shall make public the  
10 methodology and procedures to be used in its DNA program prior  
11 to the commencement of DNA testing in its laboratories. The  
12 Department of Justice shall review and consider on an ongoing  
13 basis the findings and results of any peer review and validation  
14 studies submitted to the department by members of the relevant  
15 scientific community experienced in the use of DNA technology.  
16 This material shall be available to criminal defense counsel upon  
17 court order made pursuant to Chapter 10 (commencing with  
18 Section 1054) of Title 6 of Part 2.

19 ~~(n)~~

20 (o) In order to maintain the computer system security of the  
21 Department of Justice DNA and ~~forensic identification database~~  
22 ~~and databank program~~ *Forensic Identification Database and*  
23 *Databank Program*, the computer software and database  
24 structures used by the DNA Laboratory of the Department of  
25 Justice to implement this chapter are confidential.

26 ~~(o) Nothing in this section shall preclude a court from ordering~~  
27 ~~discovery pursuant to Chapter 10 (commencing with Section~~  
28 ~~1054) of Title 6 of Part 2.~~

29 SEC. 15. Section 299.6 of the Penal Code is amended to read:

30 299.6. (a) Nothing in this chapter shall prohibit *the*  
31 *Department of Justice, in its sole discretion, from the sharing or*  
32 *disseminating of population data-base database or data-bank*  
33 *databank information or DNA profile or forensic identification*  
34 *database or databank information or analytical data and results*  
35 *generated for forensic identification database and databank*  
36 *purposes or protocol and forensic DNA analysis methods and*  
37 *quality assurance or quality control procedures with any of the*  
38 *following:*

39 (1) Federal, state, or local law enforcement agencies.



1 (2) Crime laboratories, whether public or private, that serve  
2 federal, state, and local law enforcement agencies that have been  
3 approved by the Department of Justice.

4 (3) The attorney general's office of any state.

5 (4) *Any state or federally authorized auditing agent or board*  
6 *that inspects or reviews the work of the Department of Justice DNA*  
7 *Laboratory for the purpose of ensuring that the laboratory meets*  
8 *ASCLD/LAB and FBI standards for accreditation and quality*  
9 *assurance standards necessary under this chapter and for the*  
10 *state's participation in CODIS and other national or international*  
11 *crime-solving networks.*

12 (5) Any third party that the Department of Justice deems  
13 necessary to assist the department's crime laboratory with  
14 statistical analyses of ~~the population data-base~~ *databases, or the*  
15 *analyses of forensic protocol, research methods, or quality control*  
16 *procedures, or to assist in the recovery or identification of human*  
17 *remains for humanitarian purposes, including identification of*  
18 *missing persons.*

19 ~~(b) Nothing in this chapter shall prohibit the sharing or~~  
20 ~~disseminating of protocol and forensic DNA analysis methods and~~  
21 ~~quality control procedures with any of the following:~~

22 ~~(1) Federal, state, or local law enforcement agencies.~~

23 ~~(2) Crime laboratories, whether public or private, that serve~~  
24 ~~federal, state, and local law enforcement agencies that have been~~  
25 ~~approved by the Department of Justice.~~

26 ~~(3) The attorney general's office of any state.~~

27 ~~(4) Any third party that the Department of Justice deems~~  
28 ~~necessary to assist the department's crime laboratory with analyses~~  
29 ~~of forensic protocol, research methods, or quality control~~  
30 ~~procedures.~~

31 ~~(e) The population data-base~~ *database and data-bank* ~~databanks~~  
32 *of the DNA Laboratory of the Department of Justice may be made*  
33 *available to and searched by the FBI and any other agency*  
34 *participating in the FBI's CODIS System or any other national or*  
35 *international law enforcement-* ~~data-bank~~ *database or databank*  
36 *system.*

37 ~~(d)~~

38 (c) The Department of Justice may provide portions of  
39 *biological samples including the blood specimens* ~~and~~, *saliva*  
40 *samples, and buccal swab samples collected pursuant to this*



1 chapter to local public *law enforcement* DNA laboratories for  
2 identification purposes provided that the privacy provisions of this  
3 section are followed by the local *public law enforcement*  
4 laboratory and if each of the following conditions is met:

5 (1) The procedures used by the local public DNA laboratory for  
6 the handling of specimens and samples and the disclosure of  
7 results are the same as those established by the Department of  
8 Justice pursuant to Sections 297, 298, and 299.5.

9 (2) The methodologies and procedures used by the local public  
10 DNA laboratory for DNA or forensic identification analysis are  
11 compatible with those ~~established~~ *used* by the Department of  
12 Justice ~~pursuant to subdivision (i) of Section 299.5~~, or otherwise  
13 are determined by the Department of Justice to be valid and  
14 appropriate for identification purposes.

15 (3) Only tests of value to law enforcement for identification  
16 purposes are performed and a copy of the results of the analysis are  
17 sent to the Department of Justice.

18 (4) All provisions of this section concerning privacy and  
19 security are followed.

20 (5) The local public *law enforcement* DNA laboratory assumes  
21 all costs of securing the specimens and samples and provides  
22 appropriate tubes, labels, and ~~instructions~~ *materials* necessary to  
23 secure the *specimens and samples*.

24 (e) Any local DNA laboratory that produces DNA profiles of  
25 known reference samples for inclusion within the permanent files  
26 of the state's DNA ~~Data Bank program shall comply with and be~~  
27 ~~subject to all of the rules, regulations, and restrictions of this~~  
28 ~~chapter and Database and Databank Program shall follow the~~  
29 policies of the DNA Laboratory of the Department of Justice.

30 SEC. 16. Section 300 of the Penal Code is amended to read:

31 300. (a) Nothing in this chapter shall limit or abrogate any  
32 existing authority of law enforcement officers to take, maintain,  
33 store, and utilize DNA or forensic identification markers, blood  
34 specimens, *buccal swab samples*, saliva samples, or thumb or palm  
35 print impressions for identification purposes.

36 (b) *No DNA specimen shall be required to be processed if the*  
37 *person's DNA profile has already been entered into the DNA*  
38 *Database.*

39 SEC. 17. Section 300.1 of the Penal Code is amended to read:



1 300.1. (a) Nothing in this chapter shall be construed to  
2 restrict the authority of *local law enforcement to maintain their*  
3 *own DNA-related databases or databanks, or to restrict the*  
4 Department of Justice with respect to ~~data banks~~ *databanks and*  
5 ~~data bases~~ *databases* created by other statutory authority,  
6 including, but not limited to, ~~data bases~~ *databases* related to  
7 fingerprints, firearms and other weapons, child abuse, domestic  
8 violence deaths, child deaths, driving offenses, missing persons,  
9 violent crime information as described in Title 12 (commencing  
10 with Section 14200) of Part 4, and criminal justice statistics  
11 permitted by Section 13305.

12 (b) *Nothing in this chapter shall be construed to limit the*  
13 *authority of local or county coroners or their agents, in the course*  
14 *of their scientific investigation, to utilize genetic and DNA*  
15 *technology to inquire into and determine the circumstances,*  
16 *manner, and cause of death, or to employ or use outside*  
17 *laboratories, hospitals, or research institutions that utilize genetic*  
18 *and DNA technology.*

19 SEC. 18. Section 300.4 is added to the Penal Code, to read:

20 300.4. Any requirement to provide saliva samples pursuant to  
21 this chapter shall be construed as a requirement to provide buccal  
22 swab samples as of the effective date of this section. However, the  
23 Department of Justice may retain and use previously collected  
24 saliva and other biological samples as part of its database and  
25 databank program and for quality control purposes in conformity  
26 with this chapter.

27 SEC. 19. The provisions of this act are severable. If any  
28 provision of this act or its application is held invalid, that invalidity  
29 shall not affect other provisions or applications that can be given  
30 effect without the invalid provision or application.

31 SEC. 20. No funds distributed to state or local governmental  
32 entities pursuant to this measure shall supplant any federal, state,  
33 or local funds that would, in the absence of this measure, be made  
34 available to support law enforcement and prosecutorial activities.

35 SEC. 21. No reimbursement is required by this act pursuant  
36 to Section 6 of Article XIII B of the California Constitution for  
37 certain costs that may be incurred by a local agency or school  
38 district because in that regard this act creates a new crime or  
39 infraction, eliminates a crime or infraction, or changes the penalty  
40 for a crime or infraction, within the meaning of Section 17556 of



1 the Government Code, or changes the definition of a crime within  
2 the meaning of Section 6 of Article XIII B of the California  
3 Constitution.

4 However, notwithstanding Section 17610 of the Government  
5 Code, if the Commission on State Mandates determines that this  
6 act contains other costs mandated by the state, reimbursement to  
7 local agencies and school districts for those costs shall be made  
8 pursuant to Part 7 (commencing with Section 17500) of Division  
9 4 of Title 2 of the Government Code. If the statewide cost of the  
10 claim for reimbursement does not exceed one million dollars  
11 (\$1,000,000), reimbursement shall be made from the State  
12 Mandates Claims Fund.

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