

**First Regular Session  
Sixty-ninth General Assembly  
STATE OF COLORADO**

**PREAMENDED**

*This Unofficial Version Includes Committee  
Amendments Not Yet Adopted on Second Reading*

LLS NO. 13-0054.01 Michael Dohr x4347

**HOUSE BILL 13-1251**

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**HOUSE SPONSORSHIP**

**Pabon,** Foote

**SENATE SPONSORSHIP**

**Morse,**

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**House Committees**

Judiciary  
Finance

**Senate Committees**

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**A BILL FOR AN ACT**

101     **CONCERNING COLLECTION OF A DNA SAMPLE FROM OFFENDERS**  
102             **CONVICTED OF A CLASS 1 MISDEMEANOR IN THE COLORADO**  
103             **CRIMINAL CODE.**

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**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)*

Under current law, only an offender convicted of a misdemeanor involving unlawful sexual conduct must provide a DNA sample for inclusion in the DNA database at the Colorado Bureau of Investigation. The bill would require collection of a DNA sample from all persons

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
*Capital letters indicate new material to be added to existing statute.  
Dashes through the words indicate deletions from existing statute.*

convicted of a class 1, 2, or 3 misdemeanor.

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1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 16-11-102.4, **amend**  
3 (1) (g); and **add** (7) as follows:

4 **16-11-102.4. Genetic testing of convicted offenders.**

5 (1) Beginning July 1, 2007, each of the following convicted offenders  
6 shall submit to and pay for collection and a chemical testing of the  
7 offender's biological substance sample to determine the genetic markers  
8 thereof, unless the offender has already provided a biological substance  
9 sample for such testing pursuant to a statute of this state:

10 (g) Every offender sentenced on or after July 1, 2007, for a felony  
11 conviction OR SENTENCED ON OR AFTER JULY 1, 2013, FOR A CLASS 1  
12 MISDEMEANOR CONVICTION FOR A CRIME IN TITLE 18, C.R.S.; except  
13 that this paragraph (g) shall not apply to an offender granted a deferred  
14 judgment and sentencing as authorized in section 18-1.3-102, C.R.S.,  
15 unless otherwise required to submit to a sample pursuant to this section,  
16 or unless the deferred judgment and sentencing is revoked and a sentence  
17 is imposed. The sample shall be collected:

18 (I) From an offender sentenced to the department of corrections,  
19 by the department during the intake process but in any event within  
20 thirty-five days after the offender is received by the department;

21 (II) From an offender sentenced to county jail or community  
22 corrections, by the sheriff or by the community corrections program  
23 within thirty-five days after the offender is received into the custody of  
24 the county jail or the community corrections facility;

25 (III) From an offender sentenced to probation, by the judicial

1 department OR PROBATION DEPARTMENT within thirty-five days after the  
2 offender is placed on probation;

3 (IV) From an offender sentenced to the youthful offender system,  
4 by the department of corrections within thirty-five days after the offender  
5 is received at the youthful offender system; and

6 (V) From an offender who receives any other sentence or who  
7 receives a suspended sentence, by the judicial department OR PROBATION  
8 DEPARTMENT within thirty-five days after the offender is sentenced or the  
9 sentence is suspended.

10 (7) (a) IF AN OFFENDER'S MISDEMEANOR CONVICTION IS  
11 OVERTURNED ON POST-CONVICTION RELIEF OR APPEAL, THE OFFENDER  
12 MAY SUBMIT A WRITTEN REQUEST FOR EXPUNGEMENT TO THE COLORADO  
13 BUREAU OF INVESTIGATION. THE REQUEST SHALL INCLUDE THE ITEMS  
14 LISTED IN THIS PARAGRAPH (a) AND ANY ADDITIONAL INFORMATION THAT  
15 MAY ASSIST THE BUREAU IN LOCATING THE RECORDS OF CONVICTION OR  
16 THE BIOLOGICAL SUBSTANCE SAMPLE OR TESTING RESULTS. THE  
17 FOLLOWING INFORMATION MUST BE INCLUDED IN THE REQUEST:

18 (I) THE PERSON'S NAME, DATE OF BIRTH, AND MAILING ADDRESS;

19 (II) THE NAME OF THE AGENCY THAT COLLECTED THE BIOLOGICAL  
20 SUBSTANCE SAMPLE;

21 (III) THE DATE WHEN THE SAMPLE WAS TAKEN;

22 (IV) A COPY OF THE POST-CONVICTION OR APPELLATE ORDER  
23 OVERTURNING THE CONVICTION; AND

24 (V) A DECLARATION THAT, TO THE BEST OF THE PERSON'S  
25 KNOWLEDGE, HE OR SHE QUALIFIES FOR EXPUNGEMENT.

26 (b) WITHIN NINETY DAYS AFTER RECEIVING THE REQUEST  
27 SUBMITTED PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION, THE

1 COLORADO BUREAU OF INVESTIGATION SHALL DESTROY THE BIOLOGICAL  
2 SUBSTANCE SAMPLE COLLECTED AND EXPUNGE THE RESULTS OF THE  
3 TESTING OF THE SAMPLE FROM THE FEDERAL COMBINED DNA INDEX  
4 SYSTEM AND ANY STATE INDEX SYSTEM.

5 (c) THE COLORADO BUREAU OF INVESTIGATION SHALL SEND  
6 NOTIFICATION BY FIRST CLASS MAIL TO THE OFFENDER, EITHER STATING  
7 THAT THE BUREAU DESTROYED THE BIOLOGICAL SUBSTANCE SAMPLE AND  
8 EXPUNGED THE SAMPLE TEST RESULTS OR STATING WHY THE BUREAU HAS  
9 NOT DESTROYED THE SAMPLE AND EXPUNGED THE TEST RESULTS.

10 (d) A DATA BANK OR DATABASE MATCH SHALL NOT BE ADMITTED  
11 AS EVIDENCE AGAINST A PERSON IN A CRIMINAL PROSECUTION AND SHALL  
12 NOT BE USED AS A BASIS TO IDENTIFY A PERSON IF THE MATCH IS:

13 (I) DERIVED FROM A BIOLOGICAL SUBSTANCE SAMPLE THAT IS  
14 REQUIRED TO BE EXPUNGED PURSUANT TO THIS SECTION; AND

15 (II) OBTAINED AFTER THE REQUIRED DATE OF EXPUNGEMENT.

16 **SECTION 2. Safety clause.** The general assembly hereby finds,  
17 determines, and declares that this act is necessary for the immediate  
18 preservation of the public peace, health, and safety.