

TITLE 42 - THE PUBLIC HEALTH AND WELFARE
CHAPTER 136 - VIOLENT CRIME CONTROL AND LAW ENFORCEMENT
SUBCHAPTER IX - STATE AND LOCAL LAW ENFORCEMENT
Part A - DNA Identification

§ 14135a. Collection and use of DNA identification information from certain Federal offenders

(a) Collection of DNA samples

(1) From individuals in custody

(A) The Attorney General may, as prescribed by the Attorney General in regulation, collect DNA samples from individuals who are arrested, facing charges, or convicted or from non-United States persons who are detained under the authority of the United States. The Attorney General may delegate this function within the Department of Justice as provided in section 510 of title 28 and may also authorize and direct any other agency of the United States that arrests or detains individuals or supervises individuals facing charges to carry out any function and exercise any power of the Attorney General under this section.

(B) The Director of the Bureau of Prisons shall collect a DNA sample from each individual in the custody of the Bureau of Prisons who is, or has been, convicted of a qualifying Federal offense (as determined under subsection (d) of this section) or a qualifying military offense, as determined under section 1565 of title 10.

(2) From individuals on release, parole, or probation

The probation office responsible for the supervision under Federal law of an individual on probation, parole, or supervised release shall collect a DNA sample from each such individual who is, or has been, convicted of a qualifying Federal offense (as determined under subsection (d) of this section) or a qualifying military offense, as determined under section 1565 of title 10.

(3) Individuals already in CODIS

For each individual described in paragraph (1) or (2), if the Combined DNA Index System (in this section referred to as "CODIS") of the Federal Bureau of Investigation contains a DNA analysis with respect to that individual, or if a DNA sample has been collected from that individual under section 1565 of title 10, the Attorney General, the Director of the Bureau of Prisons, or the probation office responsible (as applicable) may (but need not) collect a DNA sample from that individual.

(4) Collection procedures

(A) The Attorney General, the Director of the Bureau of Prisons, or the probation office responsible (as applicable) may use or authorize the use of such means as are reasonably necessary to detain, restrain, and collect a DNA sample from an individual who refuses to cooperate in the collection of the sample.

(B) The Attorney General, the Director of the Bureau of Prisons, or the probation office, as appropriate, may enter into agreements with units of State or local government or with private entities to provide for the collection of the samples described in paragraph (1) or (2).

(5) Criminal penalty

An individual from whom the collection of a DNA sample is authorized under this subsection who fails to cooperate in the collection of that sample shall be—

(A) guilty of a class A misdemeanor; and

(B) punished in accordance with title 18.

(b) Analysis and use of samples

NB: This unofficial compilation of the U.S. Code is current as of Jan. 5, 2009 (see <http://www.law.cornell.edu/uscode/uscprint.html>).

The Attorney General, the Director of the Bureau of Prisons, or the probation office responsible (as applicable) shall furnish each DNA sample collected under subsection (a) of this section to the Director of the Federal Bureau of Investigation, who shall carry out a DNA analysis on each such DNA sample and include the results in CODIS.

(c) Definitions

In this section:

- (1) The term “DNA sample” means a tissue, fluid, or other bodily sample of an individual on which a DNA analysis can be carried out.
- (2) The term “DNA analysis” means analysis of the deoxyribonucleic acid (DNA) identification information in a bodily sample.

(d) Qualifying Federal offenses

The offenses that shall be treated for purposes of this section as qualifying Federal offenses are the following offenses, as determined by the Attorney General:

- (1) Any felony.
- (2) Any offense under chapter 109A of title 18.
- (3) Any crime of violence (as that term is defined in section 16 of title 18).
- (4) Any attempt or conspiracy to commit any of the offenses in paragraphs (1) through (3).

(e) Regulations

(1) In general

Except as provided in paragraph (2), this section shall be carried out under regulations prescribed by the Attorney General.

(2) Probation officers

The Director of the Administrative Office of the United States Courts shall make available model procedures for the activities of probation officers in carrying out this section.

(f) Commencement of collection

Collection of DNA samples under subsection (a) of this section shall, subject to the availability of appropriations, commence not later than the date that is 180 days after December 19, 2000.

(Pub. L. 106–546, § 3, Dec. 19, 2000, 114 Stat. 2728; Pub. L. 107–56, title V, § 503, Oct. 26, 2001, 115 Stat. 364; Pub. L. 108–405, title II, § 203(b), Oct. 30, 2004, 118 Stat. 2270; Pub. L. 109–162, title X, § 1004(a), Jan. 5, 2006, 119 Stat. 3085; Pub. L. 109–248, title I, § 155, July 27, 2006, 120 Stat. 611.)

Codification

Section was enacted as part of the DNA Analysis Backlog Elimination Act of 2000, and not as part of the Violent Crime Control and Law Enforcement Act of 1994 which enacted this chapter.

Amendments

2006—Subsec. (a)(1). Pub. L. 109–162, § 1004(a)(1), added subpar. (A) and designated existing provisions as subpar. (B).

Subsec. (a)(1)(A). Pub. L. 109–248 substituted “arrested, facing charges, or convicted” for “arrested”.

Subsec. (a)(3), (4). Pub. L. 109–162, § 1004(a)(1)(B), substituted “Attorney General, the Director of the Bureau of Prisons,” for “Director of the Bureau of Prisons” in par. (3) and subpars. (A) and (B) of par. (4).

Subsec. (b). Pub. L. 109–162, § 1004(a)(2), substituted “Attorney General, the Director of the Bureau of Prisons,” for “Director of the Bureau of Prisons”.

2004—Subsec. (d). Pub. L. 108–405 reenacted heading without change and amended text generally, substituting pars. (1) to (4) for former pars. (1) and (2) with multiple subpars. listing specific offenses.

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2001—Subsec. (d)(2). Pub. L. 107–56 amended par. (2) generally. Prior to amendment, par. (2) read as follows: “The initial determination of qualifying Federal offenses shall be made not later than 120 days after December 19, 2000.”