

HOUSE BILL NO. 113

INTRODUCED BY JENT

BY REQUEST OF THE DEPARTMENT OF JUSTICE

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING ALL FELONS TO SUBMIT A DNA SAMPLE; AUTHORIZING THE USE OF PREVIOUSLY COLLECTED SAMPLES; AMENDING SECTION 44-6-101, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 44-6-101, MCA, is amended to read:

**"44-6-101. Definitions.** As used in this part, the following definitions apply:

(1) "Biological sample" means cheek cells removed by using a buccal swab of a type authorized by the department or a vial or other container of blood.

(2) "Department" means the department of justice provided for in 2-15-2001.

(3) "DNA" means deoxyribonucleic acid.

(4) "DNA identification index" means the DNA identification record system established under 44-6-102.

(5) "DNA record" means DNA identification information stored in the DNA identification index for purposes of establishing identification in connection with law enforcement investigations or supporting statistical interpretation of the results of DNA analysis. The DNA record is considered the objective form of the results of a DNA analysis, such as the numerical representation of DNA fragment lengths, autoradiographs and the digital image of autoradiographs, and discrete allele assignment numbers.

(6) "DNA testing" means DNA analysis of materials derived from the human body for the purposes of identification consistent with this part.

(7) "Felony offense" means any offense under ~~Title 45, chapter 5 or 9, THE MONTANA CODE ANNOTATED~~ for which the maximum potential sentence under statute is death or imprisonment in a state prison for a term exceeding 1 year ~~or burglary or aggravated burglary under 45-6-204.~~

(8) "Forensic DNA laboratory" means any laboratory operated by state government that performs DNA analysis on materials derived from the human body for use as evidence in a criminal proceeding or for purposes of identification.



1           (9) "Marker" means a method of describing individuals by genetic profile, such as blood or DNA type,  
2 and has the specific meaning given to the word by department rule, which must take into account the meaning  
3 generally given to the word for forensic typing by DNA technologists.

4           (10) "Sexual offense" means the offenses contained in the definition of that term in 46-23-502.

5           (11) "Violent offense" has the meaning contained in 46-23-502."

6

7           NEW SECTION. **Section 2. Effective date.** [This act] is effective on passage and approval.

8

9           NEW SECTION. **Section 3. Retroactive applicability.** [This act] applies retroactively, within the  
10 meaning of 1-2-109, to biological samples collected prior to [the effective date of this act].

11

- END -