

JUDICIAL PROOF

CHAPTER 302

HOUSE BILL NO. 1208

(Representatives Klemin, Mahoney)

(Senator Watne)

DNA TESTING

AN ACT to amend and reenact section 31-13-03 of the North Dakota Century Code, relating to DNA testing; and to provide an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 31-13-03 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

31-13-03. Persons to be tested - Costs. The court shall order any person convicted on or after August 1, 1995, of any sexual offense or attempted sexual offense in violation of sections 12.1-20-03, 12.1-20-03.1, 12.1-20-04, 12.1-20-05, 12.1-20-06, subdivision e or f of subsection 1 of section 12.1-20-07, or section 12.1-20-11 or any other offense when the court finds at sentencing that the person engaged in a nonconsensual sexual act or sexual contact with another person during, in the course of, or as a result of, the offense and any person who is in the custody of the department ~~on or after August 4~~ after July 31, 1995, as a result of a conviction of one of these offenses to have a sample of blood ~~and or~~ or other body fluids taken by the department for DNA law enforcement identification purposes and inclusion in law enforcement identification data bases. The court shall order any person convicted after July 31, 2001, of a felony offense contained in chapter 12.1-16, 12.1-17, or 12.1-18, section 12.1-22-01, or chapter 12.1-27.2 and any person who is in the custody of the department after July 31, 2001, as a result of a conviction for one of these offenses to have a sample of blood or other body fluids taken by the department for DNA law enforcement identification purposes and inclusion in the law enforcement identification data bases. Notwithstanding any other provision of law, if the sentencing court has not previously ordered a sample of blood ~~and or~~ or other body fluids to be taken, the court retains jurisdiction and authority to enter an order that the convicted person provide a sample of blood ~~and or~~ or other body fluids as required by this section. Any person convicted ~~on or after August 4~~ after July 31, 1995, who is not sentenced to a term of confinement shall provide a sample of blood ~~and or~~ or other body fluids as a condition of the sentence or probation at a time and place specified by the sentencing court. The sentencing court shall assess the cost of the procedure ~~must be assessed to~~ against the person being tested. The department shall collect the cost of the procedure from the person being tested and transfer the amount collected to the state department of health for deposit in the general fund.

SECTION 2. GRANT APPLICATION - IMPLEMENTATION. The governor shall apply for grant funds available under the federal DNA Analysis Backlog Elimination Act of 2000 [Pub. L. 106-546; 114 Stat. 2726] and certify the offenses in section 31-13-03 as qualifying offenses. The department of corrections and

rehabilitation and the forensic science division of the state department of health shall limit the implementation of this Act to stay within funds provided by legislative appropriation and from any other public or private source.

SECTION 3. EXPIRATION DATE. This Act is effective through July 31, 2004, and after that date is ineffective.

Approved April 13, 2001

Filed April 16, 2001