

**HOUSE BILL NO. 1355**

Introduced by

Representatives Klemin, Carlisle, Monson

Senators Dever, Kilzer, Lyson

1 A BILL for an Act to amend and reenact section 31-13-03 of the North Dakota Century Code,  
2 relating to persons subject to DNA testing.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1. AMENDMENT.** Section 31-13-03 of the North Dakota Century Code is  
5 amended and reenacted as follows:

6 **31-13-03. Persons to be tested - Costs.** The court shall order any person convicted  
7 on or after August 1, 1995, of any sexual offense or attempted sexual offense in violation of  
8 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  
9 subsection 1 of section 12.1-20-07, or section 12.1-20-11 or any other offense when the court  
10 finds at sentencing that the person engaged in a nonconsensual sexual act or sexual contact  
11 with another person during, in the course of, or as a result of, the offense or any person who is  
12 in the custody of the department after July 31, 1995, as a result of a conviction of one of these  
13 offenses to have a sample of blood or other body fluids taken by the department for DNA law  
14 enforcement identification purposes and inclusion in law enforcement identification data bases.  
15 The court shall order any person convicted after July 31, 2001, of a felony offense contained in  
16 chapter 12.1-16, 12.1-17, or 12.1-18, section 12.1-22-01, or chapter 12.1-27.2 or any person  
17 who is in the custody of the department after July 31, 2001, as a result of a conviction for one of  
18 these offenses to have a sample of blood or other body fluids taken by the department for DNA  
19 law enforcement identification purposes and inclusion in the law enforcement identification data  
20 bases. The court shall order an individual convicted after July 31, 2005, of any felony offense  
21 to have a sample of blood or other body fluids taken by the department for DNA law  
22 enforcement identification purposes and inclusion in the law enforcement identification data  
23 bases. DNA samples must be collected immediately, but may be preserved by the department  
24 for subsequent analysis upon receipt of sufficient funding. Notwithstanding any other provision

1 of law, if the sentencing court has not previously ordered a sample of blood or other body fluids  
2 to be taken, the court retains jurisdiction and authority to enter an order that the convicted  
3 person provide a sample of blood or other body fluids as required by this section. Any person  
4 convicted after July 31, 1995, who is not sentenced to a term of confinement shall provide a  
5 sample of blood or other body fluids as a condition of the sentence or probation at a time and  
6 place specified by the sentencing court. The sentencing court shall assess the cost of the  
7 procedure against the person being tested. The department shall collect the cost of the  
8 procedure from the person being tested and transfer the amount collected to the attorney  
9 general for deposit in the general fund. For purposes of this section, "conviction" and  
10 "convicted" means a plea of guilty or a finding of guilt by a court or a jury of one of the  
11 above-mentioned crimes, notwithstanding that the court suspended execution of sentence or  
12 deferred imposition of sentence in accordance with subsection 3 or 4 of section 12.1-32-02, or a  
13 felony offense was reduced to a misdemeanor offense in accordance with subsection 9 of  
14 section 12.1-32-02 or section 12.1-32-07.1.