



STATE OF NORTH DAKOTA
OFFICE OF ATTORNEY GENERAL

www.attorneygeneral.nd.gov
(701) 328-2210

Drew H. Wrigley
ATTORNEY GENERAL

HOUSE BILL NO. 1338

TESTIMONY OF CLAIRE NESS

JANUARY 17, 2023

Mr. Chairman and members of the House Human Services Committee:

I am Claire Ness, Chief Deputy Attorney General, and I appear on behalf of the Attorney General in support of House Bill 1338.

Section 1 of House Bill 1338 amends N.D.C.C. § 31-13-04 regarding collection of DNA samples to be added to the DNA database identification system. DNA samples are collected from individuals by using a cotton buccal swab to swab the inside of an individual's cheek. The State Crime Laboratory has found that DNA samples collected with cotton buccal swabs are degrading after about 10 years making it difficult for the Lab to retest those samples when needed to confirm a database match. The Lab intends to begin using collection kits that have a sponge type applicator to obtain the DNA sample. The new kits include special paper containing a preservative to protect the sample and prevent degradation of the sample.

The Lab occasionally receives DNA samples from individuals in jail which were collected by someone who was not qualified by the Lab. Under current law, those samples may not be included in the DNA database identification system. For this reason, Section 1 of House Bill 1338 has language to remove the qualification requirement and allow all licensed peace officers to collect DNA samples.

Section 2 is simply a housekeeping amendment to make N.D.C.C. § 39-20-07(10) consistent with changes to the North Dakota Century Code made in 2005. That year, House Bill 1088 was introduced as a housekeeping bill to replace “state toxicologist” with “the director of the state crime laboratory or the director’s designee” in multiple sections. This change enabled the Lab to operate more efficiently by allowing the director to delegate responsibilities to crime laboratory personnel. Section 2 would change a reference to lab methods approved by the state toxicologist to methods approved by the director or director’s designee.

An emergency clause is added to the bill so the Lab can begin utilizing the new kits immediately. There have been supply chain difficulties in obtaining the old kits, and the new collection kits will ensure that samples are preserved longer than 10 years.