

FARNSWORTH FLOOR AMENDMENT

HOUSE OF REPRESENTATIVES AMENDMENTS TO S.B. 1367

(Reference to the JUDICIARY Committee amendment)

1 Page 1, line 21, after "D." strike remainder of line; line 22, strike "EXPUNGEMENT  
2 OF SAMPLES AS PROVIDED IN"

3 Between lines 23 and 24, insert:

4           "Sec. 2. Section 13-610, Arizona Revised Statutes, is amended to read:

5           13-610. DNA testing

6           A. Within thirty days after a person is sentenced to the state  
7 department of corrections or a person who is accepted under the interstate  
8 compact for the supervision of parolees and probationers arrives in this  
9 state, the state department of corrections shall secure a sufficient sample  
10 of blood or other bodily substances for deoxyribonucleic acid testing and  
11 extraction from the person if the person was convicted of an offense listed  
12 in this section and was sentenced to a term of imprisonment or was convicted  
13 of any offense that was committed in another jurisdiction that if committed  
14 in this state would be a violation of any offense listed in this section and  
15 the person is under the supervision of the state department of corrections.  
16 The state department of corrections shall transmit the sample to the  
17 department of public safety.

18           B. Within thirty days after a person is placed on probation and  
19 sentenced to a term of incarceration in a county jail detention facility or  
20 is detained in a county juvenile detention facility, the county detention  
21 facility shall secure a sufficient sample of blood or other bodily substances  
22 for deoxyribonucleic acid testing and extraction from the person if the  
23 person was convicted of or adjudicated delinquent for an offense listed in  
24 this section. The county detention facility shall transmit the sample to the  
25 department of public safety.

26           C. Within thirty days after a person is convicted and placed on  
27 probation without a term of incarceration or adjudicated delinquent and  
28 placed on probation, the county probation department shall secure a  
29 sufficient sample of blood or other bodily substances for deoxyribonucleic  
30 acid testing and extraction from the person if the person was convicted of or

1 adjudicated delinquent for an offense listed in this section. The county  
2 probation department shall transmit the sample to the department of public  
3 safety.

4 D. Within thirty days after the arrival of a person who is accepted  
5 under the interstate compact for the supervision of parolees and probationers  
6 and who is under the supervision of a county probation department, the county  
7 probation department shall secure a sufficient sample of blood or other  
8 bodily substances for deoxyribonucleic acid testing and extraction from the  
9 person if the person was convicted of an offense that was committed in  
10 another jurisdiction that if committed in this state would be a violation of  
11 any offense listed in this section and was sentenced to a term of probation.  
12 The county probation department shall transmit the sample to the department  
13 of public safety.

14 E. Within thirty days after a juvenile is committed to the department  
15 of juvenile corrections, the department of juvenile corrections shall secure  
16 a sufficient sample of blood or other bodily substances for deoxyribonucleic  
17 acid testing and extraction from the youth if the youth was adjudicated  
18 delinquent for an offense listed in this section and was committed to a  
19 secure care facility. The department of juvenile corrections shall transmit  
20 the sample to the department of public safety.

21 F. Within thirty days after the arrival in this state of a juvenile  
22 who is accepted by the department of juvenile corrections pursuant to the  
23 interstate compact on juveniles and who was adjudicated for an offense that  
24 was committed in another jurisdiction that if committed in this state would  
25 be a violation of any offense listed in this section, the compact  
26 administrator shall request that the sending state impose as a condition of  
27 supervision that the juvenile submit a sufficient sample of blood or other  
28 bodily substances for deoxyribonucleic acid testing. If the sending state  
29 does not impose that condition, the department of juvenile corrections shall  
30 request a sufficient sample of blood or other bodily substances for  
31 deoxyribonucleic acid testing within thirty days after the juvenile's arrival

1       in this state. The department of juvenile corrections shall transmit the  
2       sample to the department of public safety.

3           G. Notwithstanding subsections A through F, K, L and O of this  
4       section, the agency that is responsible for securing a sample pursuant to  
5       this section shall not secure the sample if the scientific criminal analysis  
6       section of the department of public safety has previously received and is  
7       maintaining a sample sufficient for deoxyribonucleic acid testing.

8           H. The department of public safety shall do all of the following:

9           1. Conduct or oversee through mutual agreement an analysis of the  
10       samples that it receives pursuant to subsections K, L and O of this section.

11           2. Make and maintain a report of the results of each deoxyribonucleic  
12       acid analysis.

13           3. Maintain samples of blood and other bodily substances for at least  
14       thirty-five years.

15           I. Any sample and the result of any test that is obtained pursuant to  
16       this section **OR SECTION 8-238** may be used only as follows:

17           1. For law enforcement identification purposes.

18           2. In a proceeding in a criminal prosecution or juvenile adjudication.

19           3. In a proceeding under title 36, chapter 37.

20           J. If the conviction **OR ADJUDICATION** of a person who is subject to  
21       this section **OR SECTION 8-238** is overturned on appeal or postconviction  
22       relief and a final mandate has been issued, on petition of the person to the  
23       superior court in the county in which the conviction occurred, the court  
24       shall order that the person's deoxyribonucleic acid profile resulting from  
25       that conviction **OR ADJUDICATION** be expunged from the Arizona deoxyribonucleic  
26       acid identification system established by section 41-2418 unless the person  
27       has been convicted **OR ADJUDICATED DELINQUENT** of another offense that would  
28       require the person to submit to deoxyribonucleic acid testing pursuant to  
29       this section.

30           K. If a person is arrested for any offense listed in subsection O,  
31       paragraph 3 of this section and is transferred by the arresting authority to  
32       a state, county or local law enforcement agency or jail, the arresting

1 authority or its designee shall secure a sufficient sample of buccal cells or  
2 other bodily substances for deoxyribonucleic acid testing and extraction from  
3 the person for the purpose of determining identification characteristics.  
4 The arresting authority or its designee shall transmit the sample to the  
5 department of public safety.

6 L. A person who is charged with a felony or misdemeanor offense listed  
7 in subsection O, paragraph 3 of this section and who is summoned to appear in  
8 court for an initial appearance shall report within five days of release on  
9 bail or on the person's own recognizance to the law enforcement agency that  
10 arrested INVESTIGATED the person or its designee and submit a sufficient  
11 sample of buccal cells or other bodily substances for deoxyribonucleic acid  
12 testing and extraction. The arresting authority or its designee shall  
13 transmit the sample to the department of public safety.

14 M. A person who is subject to subsection K or L of this section OR  
15 SECTION 8-238 may petition the superior court in the county in which the  
16 arrest occurred or the criminal charge was filed to order that the person's  
17 deoxyribonucleic acid profile and sample be expunged from the Arizona  
18 deoxyribonucleic acid identification system, unless the person has been  
19 arrested OR, charged with or convicted of OR ADJUDICATED DELINQUENT OF  
20 another offense that would require the person to submit to deoxyribonucleic  
21 acid testing pursuant to this section, if any of the following applies:

- 22 1. The criminal charges are not filed within the applicable period  
23 prescribed by section 13-107.
- 24 2. The criminal charges are dismissed.
- 25 3. The person is acquitted at trial.

26 N. If any sample that is submitted to the department of public safety  
27 under this section OR SECTION 8-238 is found to be unacceptable for analysis  
28 and use or cannot be used by the department, the department shall require  
29 that another sample of blood or other bodily substances be secured pursuant  
30 to this section.

- 31 O. This section applies to persons who are:

- 1           1. Convicted of any felony offense.
- 2           2. Adjudicated delinquent for any of the following offenses:
  - 3           (a) A violation or an attempt to violate any offense in chapter 11 of  
4           this title, any felony offense in chapter 14 or 35.1 of this title or section  
5           13-1507, 13-1508 or 13-3608.
  - 6           (b) Any offense for which a person is required to register pursuant to  
7           section 13-3821.
  - 8           (c) A violation of any felony offense in chapter 34 of this title that  
9           may be prosecuted pursuant to section 13-501, subsection B, paragraph 2.
  - 10          (d) A violation of any felony offense that is listed in section  
11          13-501.
- 12          3. Arrested for a violation of any offense in chapter 11 of this  
13          title, a violation of section 13-1402, 13-1403, 13-1404, 13-1405, 13-1406,  
14          13-1410, 13-1411, 13-1417, 13-1507, 13-1508, 13-3208, 13-3214, 13-3555 or  
15          13-3608 or a violation of any serious offense as defined in section 13-706  
16          that is a dangerous offense."

17          Renumber to conform

18          Amend title to conform

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EDWIN W. FARNSWORTH

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4/8/11

11:14 AM

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