

FIFTIETH LEGISLATURE
FIRST SESSION, 2011

SB 365a

February 26, 2011

Mr. President:

Your **JUDICIARY COMMITTEE**, to whom has been referred

SENATE BILL 365

has had it under consideration and reports same with recommendation that it **DO PASS**, amended as follows:

1. On page 1, line 12, before the period, insert "; REQUIRING A FINDING OF PROBABLE CAUSE BEFORE COLLECTION OF DNA SAMPLES".

2. On page 1, line 21, strike "upon booking" and insert in lieu thereof "after a court has found that probable cause exists that the person has committed a felony".

3. On page 2, between lines 24 and 25, insert the following section:

"SECTION 2. Section 29-16-6 NMSA 1978 (being Laws 1997, Chapter 105, Section 6, as amended) is amended to read:

"29-16-6. COLLECTION OF SAMPLES.--

A. A covered offender shall provide one or more samples to the administrative center, as follows:

(1) a covered offender convicted on or after July 1, 1997 shall provide a sample immediately upon request to the corrections department as long as the request is made before release from any correctional facility or, if the covered offender is not sentenced to incarceration, before the end of any period of probation or other supervised release;

(2) a covered offender incarcerated on or after July 1, 1997 shall provide a sample immediately upon request to the corrections department as long as the request is made before release from any correctional facility;

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(3) a covered offender on probation or other supervised release on or after July 1, 1997 shall provide a sample immediately upon request to the corrections department as long as the request is made before the end of any period of probation or other supervised release; and

(4) a covered offender required to register or renew ~~[his] the covered offender's~~ registration pursuant to the provisions of the Sex Offender Registration and Notification Act shall provide a sample immediately upon request to the county sheriff located in any county in which the sex offender is required to register, unless the sex offender provided a sample while in the custody of the corrections department or to the county sheriff of another county in New Mexico in which the sex offender is registered.

B. A person eighteen years of age or over who is arrested on or after January 1, 2007 for the commission of a felony as provided in Section ~~[1 of this 2006 act]~~ 29-3-10 NMSA 1978 shall provide a sample immediately upon request to jail or detention facility personnel, unless:

(1) the person has previously provided a sample sufficient for DNA testing pursuant to the provisions of this section;

(2) the sample is in the possession of the administrative center; and

(3) the sample has not been expunged.

C. Jail and detention facility personnel shall not request or collect a DNA sample from a person arrested for the commission of a felony unless a court has found that probable cause exists that the person has committed a felony.

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~~[G.]~~ D. Samples from unidentified persons or relatives of a missing person shall be provided to the administrative center, as follows:

- (1) upon the completion of a permission to search form authorizing the collection of a DNA sample;
- (2) upon the receipt of a properly executed search warrant; or
- (3) upon the issuance of a court order.

~~[D.]~~ E. Samples from unidentified human remains shall be provided by the state medical investigator.

~~[E.]~~ F. Samples of known reference materials from missing persons shall be provided by the investigating law enforcement agency."".

4. Renumber the succeeding section accordingly.,

and thence referred to the **FINANCE COMMITTEE.**

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Respectfully submitted,

Richard C. Martinez, Chairman

Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

Date _____

The roll call vote was 6 For 4 Against

Yes: 6

No: Lopez, McSorley, Sanchez, M., Wirth

Excused: Eichenberg

Absent: None

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