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AN ACT

RELATING TO CRIMINAL LAW; REQUIRING DNA SAMPLES FROM ALL PERSONS ARRESTED FOR THE COMMISSION OF A FELONY; REQUIRING CERTAIN CONDITIONS BEFORE A DNA SAMPLE IS ANALYZED.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 29-3-10 NMSA 1978 (being Laws 2006, Chapter 104, Section 1) is amended to read:

"29-3-10. DNA COLLECTION FROM PERSONS ARRESTED.--

A. A person eighteen years of age or over who is arrested for the commission of a felony under the laws of this state or any other jurisdiction shall provide a DNA sample to jail or detention facility personnel upon booking. A sample is not required if it is determined that a sample has previously been taken, is in the possession of the administrative center, has not been expunged pursuant to the DNA Identification Act and is sufficient for DNA identification testing.

B. Jail or detention facility personnel who collect samples pursuant to this section shall forward the samples to the administrative center. A sample shall not be analyzed and shall be destroyed unless one of the following conditions has been met:

(1) the arrest was made upon an arrest warrant for a felony;

1 (2) the defendant has appeared before a
2 judge or magistrate who made a finding that there was
3 probable cause for the arrest; or

4 (3) the defendant posted bond or was
5 released prior to appearing before a judge or magistrate and
6 then failed to appear for a scheduled hearing.

7 C. Samples shall be collected in accordance with
8 rules and procedures adopted by the DNA oversight committee,
9 shall be subject to the confidentiality and penalty
10 provisions of the DNA Identification Act and shall be used
11 only as authorized by that act.

12 D. As used in this section:

13 (1) "administrative center" means the law
14 enforcement agency or unit that administers and operates the
15 DNA identification system pursuant to the provisions of the
16 DNA Identification Act;

17 (2) "DNA" means deoxyribonucleic acid; and

18 (3) "sample" means a sample of biological
19 material that is sufficient for DNA testing."

20 SECTION 2. EFFECTIVE DATE.--The effective date of the
21 provisions of this act is July 1, 2011. _____