

Lawfully Owed DNA Minnesota

Last Updated: April 2023

Arrest

Question	Answer
Does the law require a DNA sample to be collected from an individual when they are arrested for a crime?	No*
What crimes require collection of a DNA sample at arrest?	N/A*
Does the law mandate when the DNA sample must be collected after arrest?	N/A*
What agency collects the arrest DNA sample?	N/A*
What agency manages the analysis and preservation in the DNA database?	N/A*
Can the arrest DNA sample be expunged?	N/A*

Statutes	<p>*The provisions below are still on the books although they were struck down with respect to arrest only (not conviction) in 2006. See Case Law/Notes.</p> <p>Minn. Stat. § 299C.105 DNA data required</p> <p>§ 609.117 DNA Analysis of Certain Offenders Required</p> <p>§ 609A.03 Petition to Expunge Criminal Records</p> <p>Case Law:</p> <p>In 2005, Minnesota enacted a DNA-collection statute that required law enforcement agencies to take DNA samples from persons who have been arrested for, but not convicted of, certain enumerated offenses (Minn. Stat. § 299C.105 DNA data required). This law was struck down by the Minnesota Court of Appeals in 2006 as unconstitutional under the Fourth Amendment and a provision of the Minnesota State Constitution that is generally interpreted as coterminous with the Fourth Amendment. <i>In re Welfare of C.T.L.</i>, 722 N.W.2d 484, 492 & n.1 (Minn. Ct. App. 2006) (“statutory provisions that direct law enforcement to take biological specimens from juveniles and adults who have had a probable cause determination on a charged offense but who have not been convicted violate state and federal constitutional prohibitions against unreasonable searches and seizures. “). But a 2013 Supreme Court decision held that a similar Maryland law was permissible under the Fourth Amendment. See <i>Maryland v. King</i>, 569 U.S. 435, 465 (2013) (“In light of the context of a valid arrest supported by probable cause respondent’s expectations of privacy were not offended by the minor intrusion of a brief swab of his cheeks. By contrast, that same context of arrest gives rise to significant state interests in identifying respondent not only so that the proper name can be attached to his charges but also so that the criminal justice system can make informed decisions concerning pretrial custody. Upon these considerations the Court concludes that DNA identification of arrestees is a reasonable search that can be considered part of a routine booking procedure.”).</p>
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Conviction

Question	Answer
Statutes	<p>Minn. Stat. § 299C.105 DNA data required</p> <p>§ 609.117 DNA Analysis of Certain Offenders Required</p> <p>§ 609A.02 Grounds for Order</p>

	<p>§ 609A.03 Petition to Expunge Criminal Records al records</p> <p>Case Law:</p> <p><i>In re Welfare of M.L.M.</i>, 813 N.W.2d 26, 28 (Minn. 2012) (upholding DNA collection when convicted of a misdemeanor arising out of the same set of circumstances as a felony).</p> <p><i>State v. Bartylla</i>, 755 N.W.2d 8 (Minn. 2008) (DNA in the database collected properly for a past conviction may be used to match to unknown DNA collected from crime scene without violating the Fourth Amendment).</p>
Does the law require a DNA sample to be collected from the defendant when they are convicted of a crime?	Yes.
What convictions require collection of a DNA sample?	<p>Murder, manslaughter, assault, robbery, aggravated robbery, kidnapping, false imprisonment, criminal sexual conduct, incest, burglary, indecent exposure or attempts thereof.</p> <p>If a juvenile is adjudicated delinquent for committing or attempting a crime that, if committed by an adult, would constitute the above, they will be subject to DNA collection.</p> <p>Convictions pursuant to which the defendant is sentenced as a “patterned sex offender”</p>
Does the law require DNA collection when a defendant is found not guilty by reason of insanity/mental defect/illness?	Not specifically required.
Does the law mandate when the DNA sample must be collected after conviction?	If not taken at arrest, upon sentencing or adjudication or before release from a prison term served for a qualifying underlying conviction
What agency collects the DNA sample after conviction?	Sheriffs, peace officers, and community corrections agencies operating secure juvenile detention facilities. Prosecutors, courts, and probation officers shall attempt to ensure that the biological specimen is taken.
What agency manages the analysis and preservation in the DNA database?	Bureau of Criminal Apprehension
Can the conviction DNA sample be expunged?	<p>There has been a time period after release, depending on the type of crime underlying the conviction.</p> <p>Other than pursuant to the above, upon petition and hearing whereby the defendant presents clear and convincing evidence that expungement will yield a</p>

benefit to the defendant commensurate with the disadvantages to the public and public safety.

Records are sealed, but not deleted, and may be reopened in certain instances.