

SENATE AMENDMENTS TO SENATE BILL 310

By COMMITTEE ON JUDICIARY

April 29

1 On page 1 of the printed bill, delete lines 4 through 28 and delete pages 2 through 4 and insert:
2 **“SECTION 1. (1) Except as provided in subsection (3) of this section, a custodian shall**
3 **preserve biological evidence:**
4 **“(a) That is collected as part of a criminal investigation into a covered offense; or**
5 **“(b)(A) That reasonably may be used to incriminate or exculpate any person for a covered**
6 **offense; and**
7 **“(B) That is in the possession of the custodian before any person is convicted of a cov-**
8 **ered offense.**
9 **“(2) A custodian shall preserve biological evidence described in subsection (1) of this**
10 **section in an amount and manner that is sufficient to develop a DNA profile.**
11 **“(3) A custodian is not required to preserve physical evidence solely because the physical**
12 **evidence contains biological evidence if the physical evidence is of such a size, bulk or phys-**
13 **ical character as to render retention impracticable. When the retention of physical evidence**
14 **is impracticable, the custodian shall remove and preserve portions of the physical evidence**
15 **likely to contain biological evidence in a quantity sufficient to permit future DNA testing**
16 **before returning or disposing of the physical evidence.**
17 **“(4) As used in this section:**
18 **“(a) ‘Biological evidence’ means a sample of an individual’s blood, semen, hair, saliva,**
19 **skin tissue, fingernail scrapings, bone, bodily fluids or other identifiable biological material**
20 **or an item that contains such material, whether the material or item is stored or cataloged**
21 **separately or the material is present upon other evidence. ‘Biological evidence’ includes the**
22 **contents of a sexual assault forensic evidence kit.**
23 **“(b) ‘Convicted’ includes a finding of guilty or responsible except for insanity, or a finding**
24 **that a person is within the jurisdiction of the juvenile court under ORS 419C.005.**
25 **“(c) ‘Covered offense’ means:**
26 **“(A) Aggravated murder;**
27 **“(B) Murder;**
28 **“(C) Manslaughter in the first or second degree;**
29 **“(D) Criminally negligent homicide;**
30 **“(E) Aggravated vehicular homicide; or**
31 **“(F) A sex crime listed in ORS 181.594.**
32 **“(d) ‘Custodian’ means a law enforcement agency as defined in ORS 131.550 or any other**
33 **person or public body as defined in ORS 174.109 that is charged with the collection, storage**
34 **or retrieval of biological evidence in connection with a criminal investigation or criminal**
35 **prosecution. ‘Custodian’ does not include a court.**

1 “(e) ‘DNA’ means deoxyribonucleic acid.
2 “(f) ‘DNA profile’ means the unique identifier of an individual that is derived from DNA.
3 “SECTION 2. Section 1 of this 2009 Act applies to biological evidence in the possession
4 of a custodian, as defined in section 1 of this 2009 Act, on or after the effective date of this
5 2009 Act.
6 “SECTION 3. This 2009 Act is repealed on January 2, 2012.
7 “SECTION 4. This 2009 Act being necessary for the immediate preservation of the public
8 peace, health and safety, an emergency is declared to exist, and this 2009 Act takes effect
9 on its passage.”
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