

Document: C.R.S. 19-2-925.6

C.R.S. 19-2-925.6

Copy Citation

Current through all laws passed during the 2020 Regular Legislative Session and Measures approved at the November 2020 General Election

CO - Colorado Revised Statutes Annotated **TITLE 19. CHILDREN'S CODE** **ARTICLE 2. THE COLORADO JUVENILE JUSTICE SYSTEM** **PART 9. POSTADJUDICATORY PROCESS**

19-2-925.6. Genetic testing of adjudicated offenders - definitions

(1) Beginning July 1, 2007, each of the following adjudicated offenders shall submit to and pay for collection and a chemical testing of the offender's biological substance sample to determine the genetic markers thereof, unless the offender has already provided a biological substance sample for such testing pursuant to a statute of this state:

(a) Every offender who, on or after July 1, 2007, is in the custody of the department of human services for a commitment imposed before that date, including an offender on parole, based on adjudication for an offense involving unlawful sexual behavior, or for which the underlying factual basis involved an offense involving unlawful sexual behavior. The department shall collect the sample as soon as possible.

(b) Every offender who, on or after July 1, 2007, is on probation or supervision for a sentence that was imposed before that date, or is on a deferred adjudication that was before that date, for an offense involving unlawful sexual behavior or for which the factual basis involved an offense involving unlawful sexual behavior. The judicial department shall collect the sample at least thirty days prior to the offender's scheduled termination of probation, supervision, or deferred adjudication.

(c) Every offender who, on or after July 1, 2007, is in a county jail or a community corrections facility for a sentence imposed before that date based on adjudication for an offense that would constitute a felony if committed by an adult. The sheriff or the community corrections program shall collect the sample at least thirty days prior to the offender's release from the custody of the county jail or community corrections facility.

(d) Every offender who, on or after July 1, 2007, is in a county jail or a community corrections facility for a sentence imposed before that date based on adjudication for a misdemeanor offense involving unlawful

sexual behavior or for which the factual basis involved an offense involving unlawful sexual behavior. The

sheriff or the community corrections program shall collect the sample at least thirty days prior to the offender's release from the custody of the county jail or community corrections facility.

(e) Every offender sentenced on or after July 1, 2007, for an offense that would constitute a felony if committed by an adult. This paragraph (e) shall not apply to an offender granted a deferred adjudication, unless otherwise required to submit to a sample pursuant to this section or unless the deferred adjudication is revoked and a sentence is imposed. The sample shall be collected:

(I) From an offender committed to the department of human services, by the department during the intake process but in any event within thirty days after the offender is received by the department;

(II) From an offender sentenced to county jail or to community corrections, by the sheriff or by the community corrections program within thirty days after the offender is received into the custody of the county jail or the community corrections facility;

(III) From an offender sentenced to probation, by the judicial department within thirty days after the offender is placed on probation; and

(IV) From an offender who receives any other sentence, by the judicial department within thirty days after the offender is sentenced.

(f) Every offender who, on or after July 1, 2007, is sentenced for an adjudication of, or who receives a deferred adjudication for, an offense involving unlawful sexual behavior or for which the underlying factual basis involves unlawful sexual behavior. The sample shall be collected:

(I) From an offender committed to the department of human services, by the department during the intake process but in any event within thirty days after the offender is received by the department;

(II) From an offender sentenced to county jail or community corrections, by the sheriff or by the community corrections facility within thirty days after the offender is received into the custody of the county jail or the community corrections facility;

(III) From an offender sentenced to probation, by the judicial department within thirty days after the offender is placed on probation;

(IV) From an offender who receives a deferred adjudication, by the judicial department within thirty days after the offender is granted the deferred adjudication; and

(V) From an offender who receives any other sentence, by the judicial department within thirty days after the offender is sentenced.

(2) For purposes of this section:

(a) "Adjudicated" means having received a verdict of guilty by a judge or jury or having pled guilty or nolo contendere. Except where otherwise indicated, "adjudicated" does not include deferred adjudication unless the deferred adjudication is revoked and a sentence is imposed.

(b) "Unlawful sexual behavior" shall have the same meaning as in section 16-22-102 (9), C.R.S.

(3) The judicial department, the department of human services, a sheriff, or a contractor may:

(a) Use reasonable force to obtain biological substance samples in accordance with this section using medically recognized procedures. In addition, an offender's refusal to comply with this section may be

grounds for revocation or denial of parole, probation, or deferred adjudication. Failure to pay for

collection and a chemical testing of a biological substance sample shall be considered a refusal to comply if the offender has the present ability to pay.

(b) Collect biological substance samples notwithstanding that the collection was not accomplished within an applicable deadline set forth in this section.

(4) Any moneys received from an offender pursuant to this section shall be deposited in the offender identification fund created in section 24-33.5-415.6, C.R.S.

(5) The Colorado bureau of investigation shall conduct the chemical testing of the biological substance samples obtained pursuant to this section. The Colorado bureau of investigation shall file and maintain the results thereof and shall furnish the results to a law enforcement agency upon request. The Colorado bureau of investigation shall store and preserve all biological substance samples obtained pursuant to this section.

History

Source: L. 2006: Entire section added, p. 1690, § 13, effective July 1, 2007. **L. 2007:** Entire section R&RE, p. 1616, § 2, effective July 1.

▼ Annotations

Case Notes

ANNOTATION

A juvenile offender granted a deferred adjudication supervised by probation, by virtue of the deferment, is not considered sentenced to probation for purposes of subsection (1)(e)(III). Casillas v. People, 2018 CO 78M, 427 P.3d 804.

The collection of a cheek swab from a juvenile under deferred adjudication violates this section and the fourth amendment. Evidence derived from such improper collection must be suppressed. Casillas v. People, 2018 CO 78M, 427 P.3d 804.

Content Type: Statutes and Legislation

Terms: 19-2-925.6

Narrow By: custom: custom Sources: CO - Colorado Revised Statutes Annotated

Date and Time: Jan 28, 2021 03:12:28 p.m. EST



[Cookie Policy](#)

[Terms & Conditions](#)