



House of Representatives

General Assembly

File No. 613

January Session, 2003

Substitute House Bill No. 5022

House of Representatives, May 1, 2003

The Committee on Judiciary reported through REP. LAWLOR of the 99th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT REQUIRING THE COLLECTION OF DNA SAMPLES FROM PERSONS CONVICTED OF A CRIME.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 54-102g of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2003*):

3 (a) Any person who is convicted of a [criminal offense against a
4 victim who is a minor, a nonviolent sexual offense or a sexually violent
5 offense, as those terms are defined in section 54-250, or of a felony
6 found by the sentencing court to have been committed for a sexual
7 purpose as provided in section 54-254] crime, as defined in section 53a-
8 24, and is sentenced to the custody of the Commissioner of Correction
9 shall, [at any time] prior to release from custody [, have a sample of
10 such person's blood taken] and at such time as the commissioner may
11 specify, submit to the taking of a blood or other biological sample for
12 DNA (deoxyribonucleic acid) analysis to determine identification
13 characteristics specific to the person.

14 (b) Any person who is convicted of a [criminal offense against a
15 victim who is a minor, a nonviolent sexual offense or a sexually violent
16 offense, as those terms are defined in section 54-250, or of a felony
17 found by the sentencing court to have been committed for a sexual
18 purpose, as provided in section 54-254, who] crime, as defined in
19 section 53a-24, and is not sentenced to a term of confinement shall, as a
20 condition of such sentence [, have a sample of such person's blood
21 taken] and at such time as the sentencing court may specify, submit to
22 the taking of a blood or other biological sample for DNA
23 (deoxyribonucleic acid) analysis to determine identification
24 characteristics specific to the person.

25 (c) Any person who is found not guilty by reason of mental disease
26 or defect pursuant to section 53a-13 of a [criminal offense against a
27 victim who is a minor, a nonviolent sexual offense or a sexually violent
28 offense, as those terms are defined in section 54-250, or of a felony
29 found by the sentencing court to have been committed for a sexual
30 purpose, as provided in section 54-254] crime, as defined in section
31 53a-24, shall, [at any time] prior to discharge from custody in
32 accordance with subsection (e) of section 17a-582, section 17a-588 or
33 subsection (g) of section 17a-593 [, have a sample of such person's
34 blood taken] and at such time as the superintendent of the hospital for
35 psychiatric disabilities in which such person is confined or the
36 Commissioner of Mental Retardation with whom such person has been
37 placed may specify, submit to the taking of a blood or other biological
38 sample for DNA (deoxyribonucleic acid) analysis to determine
39 identification characteristics specific to the person.

40 (d) Any person who has been convicted of a crime, as defined in
41 section 53a-24, and is serving a period of probation or parole, and who
42 has not submitted to the taking of a blood or other biological sample
43 pursuant to subsection (a), (b) or (c) of this section, shall, prior to
44 discharge from the custody of the Court Support Services Division or
45 the Board of Parole and at such time as said division or board may
46 specify, submit to the taking of a blood or other biological sample for
47 DNA (deoxyribonucleic acid) analysis to determine identification

48 characteristics specific to the person.

49 [(d)] (e) The analysis shall be performed by the Division of Scientific
50 Services within the Department of Public Safety. The identification
51 characteristics of the profile resulting from the DNA analysis shall be
52 stored and maintained by the division in a DNA data bank and shall
53 be made available only as provided in section 54-102j, as amended by
54 this act.

55 Sec. 2. Section 54-102h of the general statutes is repealed and the
56 following is substituted in lieu thereof (*Effective October 1, 2003*):

57 (a) Each blood or other biological sample required pursuant to
58 section 54-102g, as amended by this act, from persons who are to be
59 incarcerated shall be [withdrawn] taken at the receiving unit or at such
60 other place as is designated by the Department of Correction. The
61 required samples from persons who are not sentenced to a term of
62 confinement shall be [withdrawn] taken at a time and place specified
63 by the sentencing court. The required samples from persons who are
64 found not guilty by reason of mental disease or defect pursuant to
65 section 53a-13 and are confined in a hospital for psychiatric disabilities
66 or placed with the Commissioner of Mental Retardation shall be taken
67 at a time and place specified by the superintendent of such hospital or
68 said commissioner, as the case may be. The required samples from
69 persons who are serving periods of probation or parole shall be taken
70 at a time and place specified by the Court Support Services Division or
71 the Board of Parole, as the case may be. Only a person licensed to
72 practice medicine and surgery in this state, a qualified laboratory
73 technician, a registered nurse or a phlebotomist shall [withdraw] take
74 any blood sample to be submitted to analysis. No civil liability shall
75 attach to any person authorized to [withdraw blood] take a blood or
76 other biological sample as provided in this section as a result of the act
77 of [withdrawing blood] taking such sample from any person
78 submitting thereto, if the blood or other biological sample was
79 [withdrawn] taken according to recognized medical procedures,
80 provided no person shall be relieved from liability for negligence in

81 the [withdrawing] taking of any [blood] such sample.

82 (b) Chemically clean sterile disposable needles and vacuum draw
83 tubes shall be used for all blood samples. The tube or container for a
84 blood or other biological sample shall be sealed and labeled with the
85 subject's name, Social Security number, date of birth, race and gender,
86 the name of the person collecting the sample, and the date and place of
87 collection. The [tubes] tube or container shall be secured to prevent
88 tampering with the contents.

89 (c) The steps set forth in this section relating to the taking, handling,
90 identification and disposition of blood or other biological samples are
91 procedural and not substantive. Substantial compliance therewith shall
92 be deemed to be sufficient. The samples shall be transported to the
93 Division of Scientific Services within the Department of Public Safety
94 not more than fifteen days following [withdrawal] their collection and
95 shall be analyzed and stored in the DNA data bank in accordance with
96 sections 54-102i, as amended by this act, and 54-102j, as amended by
97 this act.

98 Sec. 3. Section 54-102i of the general statutes is repealed and the
99 following is substituted in lieu thereof (*Effective October 1, 2003*):

100 (a) Whether or not the results of an analysis are to be included in the
101 data bank, the Division of Scientific Services within the Department of
102 Public Safety shall conduct the DNA analysis in accordance with
103 procedures adopted by the division to determine identification
104 characteristics specific to the individual whose blood or other
105 biological sample is being analyzed. Such procedures shall conform to
106 nationally recognized and accepted standards for DNA analysis. The
107 Commissioner of Public Safety or the commissioner's designee shall
108 complete and maintain on file a form indicating the name of the person
109 whose sample is to be analyzed, the date and by whom the [blood]
110 sample was received and examined, and a statement that the seal on
111 the tube or container had not been broken or otherwise tampered with.
112 The remainder of a [blood] sample submitted for analysis and
113 inclusion in the data bank pursuant to section 54-102g, as amended by

114 this act, may be divided, labeled as provided for the original sample,
115 and securely stored by the division in accordance with specific
116 procedures set forth in regulations adopted by the Department of
117 Public Safety in accordance with the provisions of chapter 54 to ensure
118 the integrity and confidentiality of the samples. All or part of the
119 remainder of that sample may be used only (1) to create a statistical
120 data base provided no identifying information on the individual
121 whose sample is being analyzed is included, or (2) for retesting by the
122 division to validate or update the original analysis.

123 (b) The division shall initiate a DNA testing process not later than
124 forty-five days after the receipt of a blood or other biological sample
125 that has been submitted for analysis. A report of the results of a DNA
126 analysis conducted by the division as authorized, including the profile
127 and identifying information, shall be made and maintained at the
128 division. A certificate and the results of the analysis shall be admissible
129 in any court as evidence of the facts therein stated. Except as
130 specifically provided in this section and section 54-102j, as amended by
131 this act, the results of the analysis shall be securely stored and shall
132 remain confidential.

133 Sec. 4. Section 54-102j of the general statutes is repealed and the
134 following is substituted in lieu thereof (*Effective October 1, 2003*):

135 (a) It shall be the duty of the Division of Scientific Services within
136 the Department of Public Safety to receive blood or other biological
137 samples and to analyze, classify and file the results of DNA
138 identification characteristics profiles of blood or other biological
139 samples submitted pursuant to section 54-102g, as amended by this
140 act, and to make such information available as provided in this section.
141 The results of an analysis and comparison of the identification
142 characteristics from two or more blood or other biological samples
143 shall be made available directly to federal, state and local law
144 enforcement officers upon request made in furtherance of an official
145 investigation of any criminal offense. A request may be made by
146 personal contact, mail or electronic means. The name of the person

147 making the request and the purpose for which the information is
148 requested shall be maintained on file with the division.

149 (b) Upon the request of any person identified and charged with an
150 offense as the result of a search of information in the data bank, a copy
151 of the request for a search shall be furnished to such person so
152 identified and charged. Only when a sample or DNA profile supplied
153 by the person making the request satisfactorily matches a profile in the
154 data bank shall the existence of data in the data bank be confirmed or
155 identifying information from the data bank be disseminated.

156 (c) The Department of Public Safety shall adopt regulations, in
157 accordance with the provisions of chapter 54, governing (1) the
158 methods of obtaining information from the data bank in accordance
159 with this section, and (2) procedures for verification of the identity and
160 authority of the person making the request. The department shall
161 specify the positions in that agency which require regular access to the
162 data bank and samples submitted as a necessary function of the job.

163 (d) The Division of Scientific Services shall create a separate
164 statistical data base comprised of DNA profiles of blood or other
165 biological samples of persons whose identity is unknown. Nothing in
166 this section or section 54-102k shall prohibit the Division of Scientific
167 Services from sharing or otherwise disseminating the information in
168 the statistical data base with law enforcement or criminal justice
169 agencies within or without the state.

170 (e) The Division of Scientific Services may charge a reasonable fee to
171 search and provide a comparative analysis of DNA profiles in the data
172 bank to any authorized law enforcement agency outside of the state.

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|--|------------------------|
| This act shall take effect as follows: | |
| Section 1 | <i>October 1, 2003</i> |
| Sec. 2 | <i>October 1, 2003</i> |
| Sec. 3 | <i>October 1, 2003</i> |
| Sec. 4 | <i>October 1, 2003</i> |

JUD *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact:

| Agency Affected | Fund-Type | FY 04 \$ | FY 05 \$ |
|--|------------------|-----------------|-----------------|
| Public Safety, Dept. | GF - Cost | 4,031,500 | 1,485,000 |
| Correction, Dept.; Mental Health & Addiction Serv., Dept.; Mental Retardation, Dept. | GF - Cost | Minimal | Minimal |
| Judicial Dept.; Parole, Bd. of | GF - Cost | 260,000 | 110,000 |

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill requires DNA testing of the following: all individuals convicted of a felony or misdemeanor, sentenced and unsentenced; all individuals found not guilty by reason of mental disease or defect and consequently assigned to the custody of the Departments of Mental Health and Addiction Services (DMHAS) and Mental Retardation (DMR); and all individuals convicted of a felony or misdemeanor and consequently assigned to the custody of the Court Support Services Division or the Board of Parole. The bill provides that the Department of Public Safety (DPS) conduct all such DNA analysis and that the results be included in the department’s DNA databank.¹

Passage of the bill could result in a significant cost of \$4 million to DPS in FY 04.² There are over 21,000 offenders in the custody of the Department of Correction (DOC) with 5,000 new admissions annually; there are 50,000 offenders on probation with 22,000 new probationers

¹ DPS conducts 500-600 DNA tests per year. These primarily involve sexual offenses, offenses against children and kidnapping as provided under current law. The data bank currently maintains more than 5,000 individual accounts.

² This estimate does not include figures for offenders in the custody of DMR and DMHAS.

each year and another 2,300 offenders that are supervised by the Board of Parole with 1,000 new parolees annually. The cost of a single DNA test could be \$2,500 or more, depending upon its complexity.

While it is anticipated that DOC, DMHAS, and DMR would not require additional resources associated with drawing blood for samples, funds would be needed for this purpose within the Court Support Services Division and the Board of Parole.

OLR Bill Analysis

sHB 5022

AN ACT REQUIRING THE COLLECTION OF DNA SAMPLES FROM PERSONS CONVICTED OF A CRIME**SUMMARY:**

This bill:

1. requires (a) DNA testing of everyone convicted of a felony or misdemeanor or found not guilty of these crimes because of a mental disease or defect and (b) inclusion of their genetic profiles in the Department of Public Safety's (DPS) forensic laboratory data bank,
2. permits non-medical personnel to take biological samples other than blood for use in DNA tests, and
3. specifies the entities responsible for scheduling the tests.

EFFECTIVE DATE: October 1, 2003

EXPANDED DNA TESTING

Currently, people convicted, or acquitted because of insanity, of crimes requiring sex offender registration (specified crimes against minors, nonviolent sexual offenses, crimes committed for a sexual purpose, and sexually violent offenses) must submit blood samples to DPS for analysis and inclusion in its DNA database. The bill adds people convicted or acquitted because of insanity of any crime. By law, these are all offenses, except infractions or designated motor vehicle violations, for which a jail sentence may be imposed.

AGENCY RESPONSIBILITY FOR TESTING

By law, samples for DNA testing must be taken before the offender is released from custody. The bill specifies that the entity releasing the offender may set the time for taking the test. Depending on the circumstances of a particular case, these entities are the: (1) sentencing court; (2) Correction, Mental Health and Addiction Services, or Mental

Retardation department commissioners; or (3) psychiatric hospital superintendent.

The bill also gives the same authority to the Judicial Department's Court Support Services Division and Parole Board for probationers and parolees currently under their supervision.

BACKGROUND

Sample Collection

By law, licensed physicians, qualified lab technicians, registered nurses, or phlebotomists must take the blood samples. They must place the samples in securely sealed and labeled containers and deliver them to the forensic laboratory for analysis and storage.

DNA Data Bank

The laboratory must begin testing samples within 45 days of receiving them. When its analysis is complete, it records identifying characteristics of the person's DNA profile in its data bank. It also keeps secure, confidential records on how it handled the sample and a report of its analysis. It may keep a portion of the sample after testing, but may use it only to create a statistical database with no individually identifiable information or for retesting to confirm the original results.

By law, it must make analysis results and data bank matches available to federal, state, and local law enforcement officers who provide a sample and ask for a data bank search. The laboratory must verify their identity and confirm that the request is made as part of an official criminal investigation. It cannot disclose the existence of data in its bank or identifying information, unless the requestor's sample matches a profile in the data bank. Anyone identified and charged with an offense as a result of a data bank search must get a copy of the law enforcement agency's search request if he asks for it.

DNA data bank profiles can be expunged when a person's case is dismissed or the conviction reversed. The affected person must make a written request and provide a certified copy of the court order reversing or dismissing the case. The laboratory must then purge its records and destroy the sample.

Penalties

It is a class D felony, punishable by one to five years' imprisonment, a fine of up to \$5,000, or both, for someone without legal authority to obtain, or try to obtain, a DNA sample from the laboratory for the purpose of having a DNA analysis performed.

It is a class A misdemeanor, punishable by up to one year's imprisonment, a fine of up to \$2,000, or both, the knowingly disseminate, receive, or use DNA data bank information for a purpose not authorized by law.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 30 Nay 10