



House of Representatives

General Assembly

File No. 499

February Session, 2004

House Bill No. 5662

House of Representatives, April 6, 2004

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

AN ACT CONCERNING DNA TESTING.

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

1 Section 1. Section 54-102g of the general statutes, as amended by
2 section 4 of public act 03-242, is repealed and the following is
3 substituted in lieu thereof (*Effective October 1, 2004*):

4 (a) Any person who [is] has been convicted of a criminal offense
5 against a victim who is a minor, a nonviolent sexual offense or a
6 sexually violent offense, as those terms are defined in section 54-250, or
7 a felony, and [is] has been sentenced on that conviction to the custody
8 of the Commissioner of Correction shall, prior to release from custody
9 and at such time as the commissioner may specify, submit to the
10 taking of a blood or other biological sample for DNA
11 (deoxyribonucleic acid) analysis to determine identification
12 characteristics specific to the person. If any person required to submit
13 to the taking of a blood or other biological sample pursuant to this
14 subsection refuses to do so, the Commissioner of Correction or the

15 commissioner's designee shall notify the Department of Public Safety
16 within thirty days of such refusal for the initiation of criminal
17 proceedings against such person.

18 (b) Any person who is convicted of a criminal offense against a
19 victim who is a minor, a nonviolent sexual offense or a sexually violent
20 offense, as those terms are defined in section 54-250, or a felony and is
21 not sentenced to a term of confinement shall, as a condition of such
22 sentence and at such time as the sentencing court may specify, submit
23 to the taking of a blood or other biological sample for DNA
24 (deoxyribonucleic acid) analysis to determine identification
25 characteristics specific to the person.

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

39 (d) Any person who has been convicted of a criminal offense against
40 a victim who is a minor, a nonviolent sexual offense or a sexually
41 violent offense, as those terms are defined in section 54-250, or a
42 felony, and is serving a period of probation or parole, and who has not
43 submitted to the taking of a blood or other biological sample pursuant
44 to subsection (a), (b) or (c) of this section, shall, prior to discharge from
45 the custody of the Court Support Services Division or the Board of
46 Parole and at such time as said division or board may specify, submit
47 to the taking of a blood or other biological sample for DNA

48 (deoxyribonucleic acid) analysis to determine identification
49 characteristics specific to the person.

50 (e) Any person who has been convicted or found not guilty by
51 reason of mental disease or defect in any other state or jurisdiction of a
52 felony or of any crime, the essential elements of which are
53 substantially the same as a criminal offense against a victim who is a
54 minor, a nonviolent sexual offense or a sexually violent offense, as
55 those terms are defined in section 54-250, and is in the custody of the
56 Commissioner of Correction or the Psychiatric Security Review Board
57 or is under the supervision of the Judicial Department or the Board of
58 Parole, shall, prior to discharge from such custody or supervision,
59 submit to the taking of a blood or other biological sample for DNA
60 (deoxyribonucleic acid) analysis to determine identification
61 characteristics specific to the person.

62 (f) If the original blood or biological sample collected from a person
63 pursuant to this section is lost or is contaminated, inadequate or
64 otherwise unsuitable for DNA analysis, such person shall resubmit to
65 the taking of a blood or other biological sample for DNA
66 (deoxyribonucleic acid) analysis to determine identification
67 characteristics specific to the person.

68 ~~[(e)]~~ (g) The analysis shall be performed by the Division of Scientific
69 Services within the Department of Public Safety. The identification
70 characteristics of the profile resulting from the DNA analysis shall be
71 stored and maintained by the division in a DNA data bank and shall
72 be made available only as provided in section 54-102j, as amended.

73 (h) Any person who refuses to submit to the taking of a blood or
74 other biological sample pursuant to this section shall be guilty of a
75 class D felony.

76 Sec. 2. Section 54-102h of the general statutes, as amended by section
77 2 of public act 03-242, is repealed and the following is substituted in
78 lieu thereof (*Effective October 1, 2004*):

79 (a) [Each blood or other biological sample required pursuant to
80 section 54-102g from persons who are to be incarcerated] (1) The
81 collection of a blood or other biological sample from persons required
82 to submit to the taking of such sample pursuant to subsection (a) of
83 section 54-102g, as amended by this act, shall be the responsibility of
84 the Department of Correction and shall be taken at [the receiving unit
85 or at such other place as is designated] a time and place specified by
86 the Department of Correction.

87 (2) The [required samples from persons who are not sentenced to a
88 term of confinement] collection of a blood or other biological sample
89 from persons required to submit to the taking of such sample pursuant
90 to subsection (b) of section 54-102g, as amended by this act, shall be the
91 responsibility of the Department of Public Safety and shall be taken at
92 a time and place specified by the sentencing court.

93 (3) The [required samples from persons who are found not guilty by
94 reason of mental disease or defect pursuant to section 53a-13 and are
95 confined in a hospital for psychiatric disabilities or placed with the
96 Commissioner of Mental Retardation] collection of a blood or other
97 biological sample from persons required to submit to the taking of
98 such sample pursuant to subsection (c) of section 54-102g, as amended
99 by this act, shall be the responsibility of the Psychiatric Security
100 Review Board and shall be taken at a time and place specified by the
101 superintendent of [such hospital or said commissioner] the hospital for
102 psychiatric disabilities in which such person is confined or the
103 Commissioner of Mental Retardation with whom such person is
104 placed, as the case may be.

105 (4) The [required samples from persons who are serving periods of
106 probation or parole] collection of a blood or other biological sample
107 from persons required to submit to the taking of such sample pursuant
108 to subsection (d) of section 54-102g, as amended by this act, shall be
109 the responsibility of the Judicial Department if such person is serving a
110 period of probation and of the Board of Parole if such person is serving
111 a period of parole and shall be taken at a time and place specified by

112 the Court Support Services Division or the Board of Parole, as the case
113 may be.

114 (5) The collection of a blood or other biological sample from persons
115 required to submit to the taking of such sample pursuant to subsection
116 (e) of section 54-102g, as amended by this act, shall be the
117 responsibility of the agency in whose custody or under whose
118 supervision such person has been placed, and shall be taken at a time
119 and place specified by such agency.

120 (b) Only a person licensed to practice medicine and surgery in this
121 state, a qualified laboratory technician, a registered nurse or a
122 phlebotomist shall take any blood sample to be submitted to analysis.

123 (c) No civil liability shall attach to any person authorized to take a
124 blood or other biological sample as provided in this section as a result
125 of the act of taking such sample from any person submitting thereto, if
126 the blood or other biological sample was taken according to
127 recognized medical procedures, provided no person shall be relieved
128 from liability for negligence in the taking of any such sample.

129 [(b)] (d) Chemically clean sterile disposable needles and vacuum
130 draw tubes shall be used for all blood samples. The tube or container
131 for a blood or other biological sample shall be sealed and labeled with
132 the subject's name, Social Security number, date of birth, race and
133 gender, the name of the person collecting the sample, and the date and
134 place of collection. The tube or container shall be secured to prevent
135 tampering with the contents.

136 [(c)] (e) The steps set forth in this section relating to the taking,
137 handling, identification and disposition of blood or other biological
138 samples are procedural and not substantive. Substantial compliance
139 therewith shall be deemed to be sufficient. The samples shall be
140 transported to the Division of Scientific Services within the
141 Department of Public Safety not more than fifteen days following their
142 collection and shall be analyzed and stored in the DNA data bank in
143 accordance with sections 54-102i, as amended, and 54-102j, as

144 amended.

145 Sec. 3. Subsection (c) of section 5 of public act 03-242 is repealed and
146 the following is substituted in lieu thereof (*Effective October 1, 2004*):

147 (c) The panel shall meet on a quarterly basis and shall maintain
148 records of its meetings. Such records shall be retained by the
149 chairperson. The meetings and records of the panel shall not be subject
150 to the provisions of the Freedom of Information Act, as defined in
151 section 1-200.

152 Sec. 4. Subdivision (3) of section 54-250 of the general statutes is
153 repealed and the following is substituted in lieu thereof (*Effective*
154 *October 1, 2004*):

155 (3) "Identifying factors" means fingerprints, a photographic image,
156 and a description of any other identifying characteristics as may be
157 required by the Commissioner of Public Safety. The commissioner
158 shall also require a sample of the registrant's blood or other biological
159 sample be taken for DNA (deoxyribonucleic acid) analysis, unless such
160 sample has been previously obtained in accordance with section 54-
161 102g, as amended by this act.

This act shall take effect as follows:	
Section 1	<i>October 1, 2004</i>
Sec. 2	<i>October 1, 2004</i>
Sec. 3	<i>October 1, 2004</i>
Sec. 4	<i>October 1, 2004</i>

JUD *Joint Favorable*

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-Effect	FY 05 \$	FY 06 \$
Various Criminal Justice Agencies	GF - Cost	Potential	Potential
Resources of the General Fund	GF - Revenue	Potential	Potential
	Gain	Minimal	Minimal

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill makes it a crime for any offender to refuse to submit to the taking of a blood or other biological sample. Under the bill, refusing to submit to the taking of a sample is a class D felony, which is punishable by one to five years’ imprisonment, a fine of up to \$5,000, or both. About 21,000 offenders must submit to the taking of a sample prior to discharge from custody or supervision annually. It is anticipated that the rate of refusal will not be high. However, to the extent that such refusals occur, the number of individuals in custody or under supervision in the community could increase.

The annual cost of imprisonment is about \$25,000; the average, annual cost of probation supervision by the Judicial Department’s Court Support Services Division is estimated to be \$2,000 (excluding services) to \$3,300 (including services).¹ Any revenue gain from imposed fines is expected to be minimal.

The bill makes technical and clarifying changes. It also exempts the meetings and records of the DNA Data Bank Oversight Panel from the Freedom of Information Act. These changes have no fiscal impact.

OLR BILL ANALYSIS

HB 5662

AN ACT CONCERNING DNA TESTING**SUMMARY:**

This bill assigns agency responsibility for ordering and carrying out the collection of DNA samples from sex offenders, felons, and people guilty of those crimes but acquitted because of mental disease or defect. It requires people to resubmit blood or other biological samples if their original sample is lost or is contaminated, inadequate, or unsuitable for DNA analysis and it creates a protocol for obtaining samples from people convicted of sexual offenses in other jurisdictions when they come into contact with designated state agencies. It makes it a class D felony, punishable by imprisonment for one to five years, a fine of up to \$5,000, or both to refuse to submit to the taking of the sample. The Department of Public Safety (DPS) must be notified within 30 days of a prisoner's refusal to submit a sample in order to initiate criminal proceedings against him.

The bill exempts quarterly meetings and records of the DNA Data Bank Oversight Panel from disclosure under the state Freedom of Information Act. The panel, created in PA 03-242, is charged with taking necessary action to assure the data bank's integrity, including destroying inappropriately obtained samples and personally identifying information associated with them.

It also makes minor grammatical and technical changes.

EFFECTIVE DATE: October 1, 2004

SAMPLING AUTHORITY

The table below indicates agency responsibilities for obtaining the DNA samples.

¹ It is anticipated that such individuals would be placed on medium-level supervision or higher. The averages include direct and indirect (overhead) costs to the Judicial Department, in addition to fringe benefits.

OFFENDER STATUS	AGENCY RESPONSIBLE FOR COLLECTING DNA SAMPLE
Prisoner serving time for commission of covered crime	Department of Correction (DOC) at a time and place specified by the commissioner
Criminal defendant convicted of covered crime but not sentenced to jail time	DPS at a time and place specified by the sentencing court
People in the departments of Mental Health and Addiction Services or Mental Retardation's custody following acquittal for covered crime due to a mental disease or defect	Psychiatric Security Review Board (PSRB), at a time and place specified by the department having custody over the acquittee
Probationers and parolees with prior convictions for covered crimes (need not be the crime giving rise to current probation or parole status)	Judicial Department and Parole Board, respectively
People convicted or acquitted because of mental disease or defect in other jurisdictions of crimes substantially similar to Connecticut laws requiring sex offender registration who are in the custody of DOC, PSRB, Judicial's Court Support Services Division, or Parole Board	The custodial agency

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Report
 Yea 37 Nay 4