



House of Representatives

File No. 695

General Assembly

February Session, 2004 **(Reprint of File No. 499)**

House Bill No. 5662
As Amended by House
Amendment Schedules
"A", "B" and "C"

Approved by the Legislative Commissioner
April 30, 2004

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2 section 4 of public act 03-242, is repealed and the following is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] Commissioner of Mental Health and
35 Addiction Services or the Commissioner of Mental Retardation with
36 whom such person has been placed may specify, submit to the taking
37 of a blood or other biological sample for DNA (deoxyribonucleic acid)
38 analysis to determine identification characteristics specific to the
39 person.

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

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

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

63 [(e)] (f) The analysis shall be performed by the Division of Scientific
64 Services within the Department of Public Safety. The identification
65 characteristics of the profile resulting from the DNA analysis shall be
66 stored and maintained by the division in a DNA data bank and shall
67 be made available only as provided in section 54-102j, as amended.

68 (g) Any person who refuses to submit to the taking of a blood or
69 other biological sample pursuant to this section shall be guilty of a
70 class A misdemeanor.

71 Sec. 2. Section 54-102h of the general statutes, as amended by section
72 2 of public act 03-242, is repealed and the following is substituted in
73 lieu thereof (*Effective October 1, 2004*):

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

81 the Department of Correction.

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

88 (3) The [required samples from persons who are found not guilty by
89 reason of mental disease or defect pursuant to section 53a-13 and are
90 confined in a hospital for psychiatric disabilities or placed with the
91 Commissioner of Mental Retardation] collection of a blood or other
92 biological sample from persons required to submit to the taking of
93 such sample pursuant to subsection (c) of section 54-102g, as amended
94 by this act, shall be the responsibility of the Commissioner of Mental
95 Health and Addiction Services or the Commissioner of Mental
96 Retardation, as the case may be, and shall be taken at a time and place
97 specified by [the superintendent of such hospital or said commissioner,
98 as the case may be] said commissioner.

99 (4) The [required samples from persons who are serving periods of
100 probation or parole] collection of a blood or other biological sample
101 from persons required to submit to the taking of such sample pursuant
102 to subsection (d) of section 54-102g, as amended by this act, shall be
103 the responsibility of the Judicial Department if such person is serving a
104 period of probation and of the Board of Parole if such person is serving
105 a period of parole and shall be taken at a time and place specified by
106 the Court Support Services Division or the Board of Parole, as the case
107 may be.

108 (5) The collection of a blood or other biological sample from persons
109 required to submit to the taking of such sample pursuant to subsection
110 (e) of section 54-102g, as amended by this act, shall be the
111 responsibility of the agency in whose custody or under whose
112 supervision such person has been placed, and shall be taken at a time

113 and place specified by such agency.

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

117 (c) No civil liability shall attach to any person authorized to take a
118 blood or other biological sample as provided in this section as a result
119 of the act of taking such sample from any person submitting thereto, if
120 the blood or other biological sample was taken according to
121 recognized medical procedures, provided no person shall be relieved
122 from liability for negligence in the taking of any such sample.

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

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

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

141 (c) The panel shall meet on a quarterly basis and shall maintain
142 records of its meetings. Such records shall be retained by the
143 chairperson. The meetings and records of the panel shall be subject to

144 the provisions of the Freedom of Information Act, as defined in section
 145 1-200, except that discussions and records of personally identifiable
 146 DNA information contained in the data bank shall be confidential and
 147 not subject to disclosure pursuant to the Freedom of Information Act.

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

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

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 Gain	Potential Minimal	Potential 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 A misdemeanor, which is punishable by up to one year imprisonment, a fine of up to \$2,000, 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 makes the meetings and records of the DNA Data Bank Oversight Panel subject to the Freedom of Information Act. These changes have no fiscal

impact.

House Amendment "A" made technical and clarifying changes.

House Amendment "B" subjected DNA Data Bank Oversight Panel proceedings and records to disclosure under the Freedom of Information Act. These changes may require a workload increase to handle more Freedom of Information requests, but any additional requests can be handled within the agency's resources.

House Amendment "C" reduced the criminal penalty that may be imposed on an offender who refuses to submit to the taking of a DNA sample. It thereby reduced the potential cost of incarceration and revenue from criminal fines.

The amendment also eliminated the bill's provision requiring the re-submittal of blood or biological samples collected from offenders if the original sample is lost or contaminated. It is anticipated that few samples would be lost or contaminated in practice. As a result, any potential reduction in the number of samples taken would not be sufficiently large to reduce the overall cost of the Court Support Services Division's contract to have samples taken. (The cost of the contract is linked to predetermined, specified levels of use, which would not be materially affected by the amendment.) There is no associated fiscal impact.

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.

OLR Bill Analysis

HB 5662 (as amended by House "A," "B," and "C")*

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 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 A misdemeanor punishable by imprisonment for up to one year, a fine of up to \$2,000, or both to refuse to allow a sample to be taken. 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 makes quarterly meetings and records of the DNA Data Bank Oversight Panel subject to disclosure under the state Freedom of Information Act but exempts from disclosure discussions and records of personally identifiable DNA information contained in the data bank. The panel, created by 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 technical changes.

*House Amendment "A" makes the Department of Mental Health and Addiction Services (DMHAS) commissioner, rather than the mental hospital superintendent designated in the original bill, responsible for collecting samples from insanity acquitees.

*House Amendment "B" subjects DNA Data Bank Oversight Panel proceedings and records to disclosure under the Freedom of Information Act but exempts personally identifiable data bank information. The original bill exempted all meetings and records from

disclosure.

*House Amendment "C" eliminates a requirement in the original bill that offenders resubmit DNA samples when the original sample is not usable and reduces the penalty for refusing to submit a sample from a class D felony to a class A misdemeanor.

EFFECTIVE DATE: October 1, 2004

SAMPLING AUTHORITY

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

<i>OFFENDER STATUS</i>	<i>AGENCY RESPONSIBLE FOR COLLECTING DNA SAMPLE</i>
Prisoner serving time for commission of covered crime	Department of Correction (DOC) at a time and place the commissioner specifies
Criminal defendant convicted of covered crime but not sentenced to jail time	DPS at a time and place the sentencing court specifies
People in DMHAS or the Department Mental Retardation (DMR) custody following acquittal for covered crime due to a mental disease or defect	DMHAS or DMR commissioner, at a time and place the commissioner specifies
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, Psychiatric Security Review Board, Judicial's Court	The custodial agency

Support Services Division, or Parole Board	
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BACKGROUND***Legislative History***

On April 13 the House referred the bill (File 499) to the Government Administration and Elections Committee, which reported it favorably without change on April 20.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Report
Yea 37 Nay 4

Government Administration and Elections Committee

Joint Favorable Report
Yea 16 Nay 0