



General Assembly

February Session, 2004

**Raised Bill No. 5662**

LCO No. 2451

\*02451\_\_\_\_\_JUD\*

Referred to Committee on Judiciary

Introduced by:  
(JUD)

**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2 section 4 of public act 03-242, is repealed and the following is  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>

**Statement of Purpose:**

To clarify the categories of offenders required to submit to DNA testing, establish a penalty for refusal to submit to DNA testing, clarify which agency is responsible for the collection of DNA samples and exempt the DNA Data Bank Oversight Panel from the Freedom of Information Act.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*