



Senate

General Assembly

File No. 588

January Session, 2007

Substitute Senate Bill No. 838

Senate, April 26, 2007

The Committee on Judiciary reported through SEN. MCDONALD of the 27th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT REQUIRING DNA TESTING OF CERTAIN ARRESTED PERSONS.

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 Section 54-102g of the general statutes is repealed and the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, 2007*):

3 (a) Any person who is arrested on or after the effective date of this
4 section for the commission of a class A or B felony shall, prior to
5 release from custody and at such time as the law enforcement agency
6 that arrested such person may specify, submit to the taking of a blood
7 or other biological sample for DNA (deoxyribonucleic acid) analysis to
8 determine identification characteristics specific to the person.

9 [(a)] (b) Any person who has been convicted of a criminal offense
10 against a victim who is a minor, a nonviolent sexual offense or a
11 sexually violent offense, as those terms are defined in section 54-250, or
12 a felony, and has been sentenced on that conviction to the custody of
13 the Commissioner of Correction, and who has not submitted to the

14 taking of a blood or other biological sample pursuant to subsection (a)
15 of this section with respect to such offense, shall, prior to release from
16 custody and at such time as the commissioner may specify, submit to
17 the taking of a blood or other biological sample for DNA
18 (deoxyribonucleic acid) analysis to determine identification
19 characteristics specific to the person. If any person required to submit
20 to the taking of a blood or other biological sample pursuant to this
21 subsection refuses to do so, the Commissioner of Correction or the
22 commissioner's designee shall notify the Department of Public Safety
23 within thirty days of such refusal for the initiation of criminal
24 proceedings against such person.

25 [(b)] (c) Any person who is convicted of a criminal offense against a
26 victim who is a minor, a nonviolent sexual offense or a sexually violent
27 offense, as those terms are defined in section 54-250, or a felony and is
28 not sentenced to a term of confinement, and who has not submitted to
29 the taking of a blood or other biological sample pursuant to subsection
30 (a) of this section with respect to such offense, shall, as a condition of
31 such sentence and at such time as the sentencing court may specify,
32 submit to the taking of a blood or other biological sample for DNA
33 (deoxyribonucleic acid) analysis to determine identification
34 characteristics specific to the person.

35 [(c)] (d) Any person who has been found not guilty by reason of
36 mental disease or defect pursuant to section 53a-13 of a criminal
37 offense against a victim who is a minor, a nonviolent sexual offense or
38 a sexually violent offense, as those terms are defined in section 54-250,
39 or a felony [,] and is in custody as a result of that finding, and who has
40 not submitted to the taking of a blood or other biological sample
41 pursuant to subsection (a) of this section with respect to such offense,
42 shall, prior to discharge from custody in accordance with subsection
43 (e) of section 17a-582, section 17a-588 or subsection (g) of section
44 17a-593 and at such time as the Commissioner of Mental Health and
45 Addiction Services or the Commissioner of Mental Retardation with
46 whom such person has been placed may specify, submit to the taking
47 of a blood or other biological sample for DNA (deoxyribonucleic acid)

48 analysis to determine identification characteristics specific to the
49 person.

50 [(d)] (e) Any person who has been convicted of a criminal offense
51 against a victim who is a minor, a nonviolent sexual offense or a
52 sexually violent offense, as those terms are defined in section 54-250, or
53 a felony, and is serving a period of probation or parole, and who has
54 not submitted to the taking of a blood or other biological sample
55 pursuant to subsection (a), (b), [or] (c) or (d) of this section, shall, prior
56 to discharge from the custody of the Court Support Services Division
57 or the Department of Correction and at such time as said division or
58 department may specify, submit to the taking of a blood or other
59 biological sample for DNA (deoxyribonucleic acid) analysis to
60 determine identification characteristics specific to the person.

61 [(e)] (f) Any person who has been convicted or found not guilty by
62 reason of mental disease or defect in any other state or jurisdiction of a
63 felony or of any crime, the essential elements of which are
64 substantially the same as a criminal offense against a victim who is a
65 minor, a nonviolent sexual offense or a sexually violent offense, as
66 those terms are defined in section 54-250, and is in the custody of the
67 Commissioner of Correction, is under the supervision of the Judicial
68 Department or the Board of Pardons and Paroles or is under the
69 jurisdiction of the Psychiatric Security Review Board, and who has not
70 submitted to the taking of a blood or other biological sample pursuant
71 to subsection (a) of this section with respect to the offense that caused
72 such person to be in such custody or under such supervision or
73 jurisdiction, shall, prior to discharge from such custody, supervision or
74 jurisdiction submit to the taking of a blood or other biological sample
75 for DNA (deoxyribonucleic acid) analysis to determine identification
76 characteristics specific to the person.

77 [(f)] (g) The analysis shall be performed by the Division of Scientific
78 Services within the Department of Public Safety. The identification
79 characteristics of the profile resulting from the DNA analysis shall be
80 stored and maintained by the division in a DNA data bank and shall

81 be made available only as provided in section 54-102j.

82 ~~[(g)]~~ (h) Any person who refuses to submit to the taking of a blood
83 or other biological sample pursuant to this section shall be guilty of a
84 class A misdemeanor.

85 Sec. 2. Subsection (a) of section 54-102h of the general statutes is
86 repealed and the following is substituted in lieu thereof (*Effective*
87 *October 1, 2007*):

88 (a) (1) The collection of a blood or other biological sample from
89 persons required to submit to the taking of such sample pursuant to
90 subsection (a) of section 54-102g, as amended by this act, shall be the
91 responsibility of the law enforcement agency that arrested such person
92 and shall be taken at a time and place specified by that agency prior to
93 such person's release from custody.

94 ~~[(a) (1)]~~ (2) The collection of a blood or other biological sample from
95 persons required to submit to the taking of such sample pursuant to
96 subsection ~~[(a)]~~ (b) of section 54-102g, as amended by this act, shall be
97 the responsibility of the Department of Correction and shall be taken at
98 a time and place specified by the Department of Correction.

99 ~~[(2)]~~ (3) The collection of a blood or other biological sample from
100 persons required to submit to the taking of such sample pursuant to
101 subsection ~~[(b)]~~ (c) of section 54-102g, as amended by this act, shall be
102 the responsibility of the Department of Public Safety and shall be taken
103 at a time and place specified by the sentencing court.

104 ~~[(3)]~~ (4) The collection of a blood or other biological sample from
105 persons required to submit to the taking of such sample pursuant to
106 subsection ~~[(c)]~~ (d) of section 54-102g, as amended by this act, shall be
107 the responsibility of the Commissioner of Mental Health and
108 Addiction Services or the Commissioner of Mental Retardation, as the
109 case may be, and shall be taken at a time and place specified by said
110 commissioner.

111 ~~[(4)]~~ (5) The collection of a blood or other biological sample from

112 persons required to submit to the taking of such sample pursuant to
113 subsection [(d)] (e) of section 54-102g, as amended by this act, shall be
114 the responsibility of the Judicial Department if such person is serving a
115 period of probation and of the Board of Pardons and Paroles if such
116 person is serving a period of parole and shall be taken at a time and
117 place specified by the Court Support Services Division or the Board of
118 Pardons and Paroles, as the case may be.

119 [(5)] (6) The collection of a blood or other biological sample from
120 persons required to submit to the taking of such sample pursuant to
121 subsection [(e)] (f) of section 54-102g, as amended by this act, shall be
122 the responsibility of the agency in whose custody or under whose
123 supervision such person has been placed, and shall be taken at a time
124 and place specified by such agency.

125 Sec. 3. Section 54-102l of the general statutes is repealed and the
126 following is substituted in lieu thereof (*Effective October 1, 2007*):

127 (a) A [person whose] DNA profile that has been included in the data
128 bank pursuant to sections 54-102g to 54-102k, inclusive, as amended by
129 this act, [may request expungement on the grounds that] shall be
130 expunged in the event that (1) the criminal conviction or finding of not
131 guilty by reason of mental disease or defect on which the authority for
132 including [his] the DNA profile was based has been reversed and the
133 case dismissed, or (2) if the DNA profile of a person has been included
134 in the data bank on account of the person being arrested as provided in
135 subsection (a) of section 54-102g, as amended by this act, the charge
136 has been dismissed or nulled or the person has been acquitted of the
137 charge.

138 (b) The State Police Forensic Science Laboratory shall purge all
139 records and identifiable information in the data bank pertaining to the
140 person and destroy all samples from the person upon receipt of [(1) a
141 written request for expungement pursuant to this section and (2)] a
142 certified copy of (1) the court order reversing and dismissing the
143 conviction or the finding of not guilty by reason of mental disease or
144 defect, or (2) the court order dismissing or nolling the charge or

145 acquitting the person of the charge, as the case may be.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2007</i>	54-102g
Sec. 2	<i>October 1, 2007</i>	54-102h(a)
Sec. 3	<i>October 1, 2007</i>	54-102l

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 chamber thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 08 \$	FY 09 \$
Public Safety, Dept.; Comptroller Misc. Accounts (Fringe Benefits)	GF - Cost	Significant	Significant
Correction, Dept.; Judicial Dept	GF- Savings	Minimal	Minimal
Police Officer Std. & Training Council	GF - Cost	Minimal	Minimal

Note: GF=General Fund

Municipal Impact:

Municipalities	Effect	FY 08 \$	FY 09 \$
Various Municipalities	STATE MANDATE - Cost	Minimal	Minimal

Explanation

The bill will result in a significant cost to the Department of Public Safety (DPS) associated with an increase in the number of DNA samples that must be tested by the forensic science laboratory¹. The bill requires individuals arrested for a class A or B felony to submit a DNA sample. Under current law, an individual must submit a DNA sample if they have been convicted of a felony or a crime requiring registration as a sex offender. These additional samples would be collected by law enforcement agencies, resulting in a state mandate. The state cost would be reduced by minimal savings to the Department of Correction (DOC) and the Judicial Department, which are currently taking DNA samples from various categories of convicted individuals.

Lab Costs

¹ The processing of DNA samples is funded by \$750,000 of federal grant money (which is projected to end in FY 08). As of April 1, 2007 the backlog of DNA samples is over 500 cases.

Based on 2005 data, approximately 5,300 arrests for class A and B felonies occur annually. Incorporating arrestees of class A and B felonies into the DNA databank will result in a significant cost to DPS for additional: staff; collection supplies; reagents, chemicals, and consumables; and equipment². These costs could total up to \$1.0 million.

In addition, there could also be costs associated with expansion, construction or leasing of additional laboratory facility space. It is unknown if the current laboratory space available would be adequate to accommodate the additional staff and equipment.

Expansion of the DNA databank could require upgrades to the COLLECT computer system to allow various state agencies collecting DNA samples to have the capability of immediate and direct input of the collected information.

Police Training and Law Enforcement Needs

The bill requires local law enforcement agencies to collect DNA samples of individuals arrested for a class A or B felony. This new provision will result in a minimal cost to municipalities. The cost of purchasing a single DNA test collection kit is approximately \$5. There would also be a cost associated with packaging the samples, delivering samples to the forensic science lab, and any potential overtime incurred as a result of the increased responsibilities.

Additionally, the Police Officer Standards and Training Council (POST) would be required to train the 8,039 certified municipal police officers in the collection of DNA samples. The additional training requirements would be incorporated into the recruit curriculum, and in-service training for existing officers would be completed through a one hour seminar offered at the POST training facility. The additional training would result in a minimal cost associated with equipment and

² The estimated fiscal impact to DPS assumes approximately 5,000 additional samples will be processed annually. If this number were to decrease, the associated cost would also be reduced.

any overtime related to training preparation.

Testing Offsets (Savings)

To the extent that individuals in the custody of the Department of Correction (DOC) have been arrested for a class A or B felony, and have not supplied a blood or biological sample for DNA testing prior to entering a DOC facility, DOC would incur minimal costs in the short-term. However, DOC would experience long-term savings as those arrested for a class A or B felony will have been tested prior to admittance to a DOC facility.

The Judicial Department would also experience long-term savings since the bill would decrease the number of DNA tests that the Judicial Department's Court Support Services Division (which administers probation) must conduct pursuant to PA 03-242. That Act requires the CSSD to perform DNA testing of probationers who have been convicted of a felony or other specific offenses. Savings would occur since the bill shifts responsibility for testing certain offenders to law enforcement agencies. Savings to the CSSD under the bill are estimated to be less than \$20,000 annually since there are relatively few Class A or B felony offenders that would be subject to the bill's provisions.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

OLR Bill Analysis**sSB 838*****AN ACT REQUIRING DNA TESTING OF CERTAIN ARRESTED PERSONS.*****SUMMARY:**

This bill requires someone arrested for a class A or B felony to submit a blood or biological sample for DNA testing before being released from custody. The arresting law enforcement agency is responsible for collecting the sample and can specify the time and place for taking the sample.

Under current law, a person must submit a sample for DNA testing if he or she is (1) convicted of a felony or a crime requiring registration as a sex offender; (2) found not guilty by reason of mental disease or defect for one of these crimes and is in custody as a result of it; or (3) convicted or found not guilty by reason of mental disease or defect in another jurisdiction for a felony or a crime substantially similar to those requiring registration as a sex offender in Connecticut and that person is supervised or in custody here. The bill provides that the sample required under these provisions is not necessary if the person already submitted a sample on arrest for that offense.

Current law allows a person to request that his or her DNA profile be removed from the DNA data bank if the conviction that was the basis for including the DNA profile is reversed and the case dismissed. The bill instead requires removal of the DNA profile when (1) the criminal conviction or finding of not guilty by reason of mental disease or defect that is the basis for including the DNA profile is reversed and the case dismissed or (2) the class A or B felony charge that required submitting a sample under the bill's provisions is dismissed or nolleed or the person is acquitted.

As under current law, the bill requires a certified copy of a court order demonstrating the reason for removal.

EFFECTIVE DATE: October 1, 2007

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 31 Nay 9 (04/10/2007)