



House of Representatives

General Assembly

File No. 276

January Session, 2009

Substitute House Bill No. 6333

House of Representatives, March 26, 2009

The Committee on Labor and Public Employees reported through REP. RYAN of the 139th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING THE COLLECTION AND STORAGE OF POLICE OFFICER DNA.

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

1 Section 1. Subdivision (11) of subsection (a) of section 46a-60 of the
2 general statutes is repealed and the following is substituted in lieu
3 thereof (*Effective from passage*):

4 (11) For an employer, by the employer or the employer's agent, for
5 an employment agency, by itself or its agent, or for any labor
6 organization, by itself or its agent: (A) To request or require genetic
7 information from an employee, person seeking employment or
8 member, except that a state or local law enforcement agency, the
9 Department of Public Safety or the Division of Scientific Services
10 within the Department of Public Safety may request and require
11 employees to provide such information to be stored in accordance with
12 subsection (c) of section 54-102i, as amended by this act, for the
13 purpose of detecting contamination of samples examined by the

14 Division of Scientific Services, or (B) to discharge, expel or otherwise
15 discriminate against any person on the basis of genetic information.
16 For the purpose of this subdivision, "genetic information" means the
17 information about genes, gene products or inherited characteristics
18 that may derive from an individual or a family member.

19 Sec. 2. Section 54-102i of the general statutes is repealed and the
20 following is substituted in lieu thereof (*Effective from passage*):

21 (a) Whether or not the results of an analysis are to be included in the
22 data bank, the Division of Scientific Services within the Department of
23 Public Safety shall conduct the DNA analysis in accordance with
24 procedures adopted by the division to determine identification
25 characteristics specific to the individual whose blood or other
26 biological sample is being analyzed. Such procedures shall conform to
27 nationally recognized and accepted standards for DNA analysis. The
28 Commissioner of Public Safety or the commissioner's designee shall
29 complete and maintain on file a form indicating the name of the person
30 whose sample is to be analyzed, the date and by whom the sample was
31 received and examined, and a statement that the seal on the tube or
32 container had not been broken or otherwise tampered with. The
33 remainder of a sample submitted for analysis and inclusion in the data
34 bank pursuant to section 54-102g may be divided, labeled as provided
35 for the original sample, and securely stored by the division in
36 accordance with specific procedures set forth in regulations adopted
37 by the Department of Public Safety in accordance with the provisions
38 of chapter 54 to ensure the integrity and confidentiality of the samples.
39 All or part of the remainder of that sample may be used only (1) to
40 create a statistical data base provided no identifying information on
41 the individual whose sample is being analyzed is included, or (2) for
42 retesting by the division to validate or update the original analysis.

43 (b) A report of the results of a DNA analysis conducted by the
44 division as authorized, including the profile and identifying
45 information, shall be made and maintained at the division. A
46 certificate and the results of the analysis shall be admissible in any

47 court as evidence of the facts therein stated. Except as specifically
48 provided in this section and section 54-102j, the results of the analysis
49 shall be securely stored and shall remain confidential.

50 (c) Any employee samples obtained pursuant to subdivision (11) of
51 subsection (a) of section 46a-60, as amended by this act, shall not be
52 entered into the data bank in accordance with subsection (a) of this
53 section. Samples obtained pursuant to subdivision (11) of subsection
54 (a) of section 46a-60, as amended by this act, shall be separately
55 entered into the data bank and assigned a unique designation which
56 shall not identify the employee. No other identifying information of
57 the contributor shall be entered into this system. Information linking
58 identity with the unique designation assigned the sample shall be
59 separately stored in a secure location accessible only by the
60 Commissioner of Public Safety, or the commissioner's designee. The
61 samples may be processed and the generated DNA profiles used to
62 detect contamination from forensic DNA profiles, but the employee
63 samples shall not be used in any general search of the Combined DNA
64 Index System data bank.

65 Sec. 3. Section 54-102l of the general statutes is repealed and the
66 following is substituted in lieu thereof (*Effective from passage*):

67 (a) A person whose DNA profile has been included in the data bank
68 pursuant to sections 54-102g to 54-102k, inclusive, may request
69 expungement on the grounds that the criminal conviction on which the
70 authority for including his DNA profile was based has been reversed
71 and the case dismissed. The State Police Forensic Science Laboratory
72 shall purge all records and identifiable information in the data bank
73 pertaining to the person and destroy all samples from the person upon
74 receipt of (1) a written request for expungement pursuant to this
75 section, and (2) a certified copy of the court order reversing and
76 dismissing the conviction.

77 (b) An employee that has provided genetic information pursuant to
78 subdivision (11) of subsection (a) of section 46a-60, as amended by this
79 act, may request expungement by written request upon retirement or

80 otherwise leaving employment with the law enforcement agency. The
81 State Police Forensic Science Laboratory and the Commissioner of
82 Public Safety shall purge all records and identifiable information
83 pertaining to the employee and destroy all samples from the employee
84 upon such verified request.

85 Sec. 4. Section 54-102m of the general statutes is repealed and the
86 following is substituted in lieu thereof (*Effective from passage*):

87 (a) There is established a DNA Data Bank Oversight Panel
88 composed of the Chief State's Attorney, the Attorney General, the
89 Commissioner of Public Safety and the Commissioner of Correction, or
90 their designees. The Chief State's Attorney shall serve as chairperson of
91 the panel and shall (1) coordinate the agencies responsible for the
92 implementation and maintenance of the DNA data bank established
93 pursuant to section 54-102j; and (2) maintain and provide oversight to
94 the employee DNA samples obtained pursuant to subdivision (11) of
95 subsection (a) of section 46a-60, as amended by this act, and stored
96 pursuant to section 54-102i, as amended by this act.

97 (b) The panel shall take such action as necessary to assure the
98 integrity of the data bank including the destruction of inappropriately
99 obtained samples and the purging of all records and identifiable
100 information pertaining to the persons from whom such
101 inappropriately obtained samples were collected.

102 (c) The panel shall meet on a quarterly basis and shall maintain
103 records of its meetings. Such records shall be retained by the
104 chairperson. The meetings and records of the panel shall be subject to
105 the provisions of the Freedom of Information Act, as defined in section
106 1-200, except that discussions and records of personally identifiable
107 DNA information contained in the data bank shall be confidential and
108 not subject to disclosure pursuant to the Freedom of Information Act.

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>from passage</i>	46a-60(a)(11)
Sec. 2	<i>from passage</i>	54-102i
Sec. 3	<i>from passage</i>	54-102l
Sec. 4	<i>from passage</i>	54-102m

LAB *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-Effect	FY 10 \$	FY 11 \$
Public Safety, Dept.	GF - Cost	Potential	Potential

Note: GF=General Fund

Municipal Impact:

Municipalities	Effect	FY 10 \$	FY 11 \$
Various Municipal Police Departments	Cost	Potential	Potential

Explanation

The bill allows a state or local law enforcement agency, the Department of Public Safety (DPS), or the Division of Scientific Services within DPS to request or require employees to provide genetic information, and provides guidelines as to the storage, oversight, and expunging of such information.¹ This results in a potential cost to the Department of Public Safety and various municipal police departments.

There are currently 1,720 employees of the Department of Public Safety and 7,113 certified officers of local law enforcement agencies in Connecticut. The cost of a kit used to obtain a DNA sample as specified in the bill averages \$7.50 per sample. The cost of processing such a kit is \$40, and is provided at no cost to municipal police departments by the Division of Scientific Services. To the extent that DPS requires employees to be tested, there is a cost of \$47.50 per sample to the agency. To the extent that local law enforcement agencies require employees to be tested, there is a cost of \$7.50 per

¹ As a change in working conditions, requiring employees to provide genetic information would be subject to collective bargaining.

sample to the municipality and \$40 per sample to DPS.

It is anticipated that DPS could accommodate the requirements relating to the storage of such samples within the current database, and would be able to expunge them upon retirement of employees at no additional cost.

The Out Years

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

Source(s): CORE-CT; Police Officer Standards and Training Council; Department of Public Safety Division of Scientific Services

OLR Bill Analysis

sHB 6333

***AN ACT CONCERNING THE COLLECTION AND STORAGE OF
POLICE OFFICER DNA.***

SUMMARY:

Current law prohibits an employer from requesting or requiring genetic information from an employee or prospective employee. This bill authorizes a state or local law enforcement agency, the Department of Public Safety (DPS), or DPS's scientific services division to request and require employees to provide genetic information for detecting contamination of DNA samples examined by scientific services. The bill requires that this information be stored differently than DNA or genetic information taken from suspects or convicted criminals.

The bill also gives employees who provide genetic information a way to have their genetic information expunged when they leaves employment with the law enforcement agency.

The bill expands the duties of the DNA Oversight Panel to include providing oversight for any employee genetic information obtained under the bill's provisions.

Since almost all law enforcement officers in Connecticut are covered by union contracts, and the contracts do not require providing genetic information to the employer or the scientific services division, it is unclear whether this requirement could be implemented before it is incorporated into the appropriate contracts. For state employees, the collective bargaining law states that when state law and a union contract conflict over a matter that is subject to collective bargaining, the union contract prevails.

EFFECTIVE DATE: Upon passage

SEPARATE STORAGE AND LIMITED USE OF EMPLOYEE GENETIC INFORMATION

The bill authorizes a state or local law enforcement agency, DPS, or DPS's scientific services to request and require employees to provide genetic information for the purpose of detecting contamination of DNA samples examined by scientific services.

The bill requires that scientific services store the information differently than other genetic information taken from convicted criminals or those found not guilty by reason of mental defect. The employee information cannot be entered into the data bank according to existing criminal procedure law, but must be separately entered into the data bank and assigned a unique designation that does not identify the employee. No other identifying information may be entered into the system.

Under the bill, information linking identity with the unique designation assigned the sample must be separately stored in a secure location accessible only by the public safety commissioner or his designee.

The bill provides that the employee samples may be processed and the generated DNA profiles used to detect contamination from forensic DNA profiles, but the employee samples must not be used in any general search of the existing DNA data bank.

PROCEDURES FOR OBTAINING GENETIC INFORMATION

There is nothing in the bill regarding procedures or safeguards for obtaining genetic information or samples from an employee. Such procedures and safeguards currently exist for samples taken as part of criminal investigations. While parts of the bill refer to "genetic information" from employees, other parts refer to "samples" from employees. It is unclear if these terms mean the same thing.

ABILITY TO REMOVE GENETIC INFORMATION

An employee who has provided genetic information under the bill's provisions can make a written request to have the information expunged upon his or her retirement or otherwise leaving employment with the law enforcement agency. The State Police Forensic Science Laboratory and the Commissioner of Public Safety must purge all records and identifiable information pertaining to the employee and destroy all samples from the employee once the request is verified.

DNA OVERSIGHT PANEL

The bill expands the duties of the DNA Bank Oversight Panel to include providing oversight for any employee genetic information obtained under the bill's provisions. The panel is established by law and is composed of the chief state's attorney, the attorney general, the DPS commissioner and the correction commissioner, or their designees. The panel coordinates the agencies responsible for the implementation and maintenance of the DNA data bank.

COLLECTIVE BARGAINING

The state employee collective bargaining law states that when state law and a union contract conflict over a matter that is subject to collective bargaining, the union contract prevails (CGS § 5-278(e)). Since existing contracts do not require employees to give genetic information (they are silent on this), it is unclear if or when the bill's provisions could be implemented. It is possible employees would file a grievance over the requirement to provide genetic information and the issue may lead to arbitration.

COMMITTEE ACTION

Labor and Public Employees Committee

Joint Favorable Substitute

Yea 6 Nay 5 (03/12/2009)