



General Assembly

**Substitute Bill No. 906**

January Session, 2009

\* SB00906PS\_JUD030609 \*

**AN ACT CONCERNING THE COLLECTION OF BLOOD AND OTHER BIOLOGICAL SAMPLES FOR DNA ANALYSIS.**

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 Section 54-102g of the general statutes is repealed and the  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, 2009*):

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

17 (b) Any person who is convicted of a criminal offense against a  
18 victim who is a minor, a nonviolent sexual offense or a sexually violent  
19 offense, as those terms are defined in section 54-250, or a felony and is

20 not sentenced to a term of confinement shall, as a condition of such  
21 sentence and at [such time as the sentencing court may specify] a time  
22 and place specified by the Court Support Services Division, submit to  
23 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 has been found not guilty by reason of mental  
27 disease or defect pursuant to section 53a-13 of a criminal offense  
28 against a victim who is a minor, a nonviolent sexual offense or a  
29 sexually violent offense, as those terms are defined in section 54-250, or  
30 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 Commissioner of Mental Health and Addiction Services or  
34 the Commissioner of Developmental Services with whom such person  
35 has been placed may specify, submit to the taking of a blood or other  
36 biological sample for DNA (deoxyribonucleic acid) analysis to  
37 determine identification characteristics specific to the person.

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

49 (e) Any person who has been convicted or found not guilty by  
50 reason of mental disease or defect in any other state or jurisdiction of a  
51 felony or of any crime, the essential elements of which are  
52 substantially the same as a criminal offense against a victim who is a

53 minor, a nonviolent sexual offense or a sexually violent offense, as  
54 those terms are defined in section 54-250, and is in the custody of the  
55 Commissioner of Correction, is under the supervision of the Judicial  
56 Department or the Board of Pardons and Paroles or is under the  
57 jurisdiction of the Psychiatric Security Review Board, shall, prior to  
58 discharge from such custody, supervision or jurisdiction submit to the  
59 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 blood or other biological sample taken pursuant to this  
63 section is not of a sufficient quality for analysis, an additional sample  
64 or samples may be taken until a sample of sufficient quality is  
65 obtained.

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

72 ~~[(g)]~~ (h) Any person who refuses or fails to submit to the taking of a  
73 blood or other biological sample pursuant to this section shall be guilty  
74 of a class [A misdemeanor] D felony. Any person required to submit to  
75 the taking of blood or other biological sample pursuant to subsection  
76 (b) of this section who refuses or fails to submit to the taking of such  
77 sample or blood within five business days of the time specified by the  
78 Court Support Services Division may be arrested pursuant to a  
79 warrant issued under section 54-2a.

80 (i) With respect to any person convicted under subsection (h) of this  
81 section for refusing to submit to the taking of a blood or other  
82 biological sample pursuant to this section, if such person is in the  
83 custody of the Commissioner of Correction after such conviction, has  
84 not submitted to the taking of a blood or other biological sample

85 pursuant to any applicable provision of this section, and continues to  
86 refuse to submit to the taking of a blood or other biological sample, the  
87 commissioner or the commissioner's designee may use reasonable  
88 force to obtain the blood or other biological sample required by this  
89 section.

90 Sec. 2. Section 54-102h of the general statutes is repealed and the  
91 following is substituted in lieu thereof (*Effective October 1, 2009*):

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

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

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

110 (4) The collection of a blood or other biological sample from persons  
111 required to submit to the taking of such sample pursuant to subsection  
112 (d) of section 54-102g, as amended by this act, shall be the  
113 responsibility of the Judicial Department if such person is serving a  
114 period of probation and of the Department of Correction if such person  
115 is serving a period of parole and shall be taken at a time and place  
116 specified by the Court Support Services Division or the Department of

117 Correction, as the case may be.

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

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

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

133 (d) (1) Chemically clean sterile disposable needles and vacuum  
134 draw tubes shall be used for all blood samples. The tube or container  
135 for a blood or other biological sample shall be sealed and labeled with  
136 the subject's name, Social Security number, date of birth, race and  
137 gender, the name of the person collecting the sample, and the date and  
138 place of collection. The tube or container shall be secured to prevent  
139 tampering with the contents.

140 (2) Only collection kits approved by the Division of Scientific  
141 Services within the Department of Public Safety may be used for the  
142 collection of biological samples by buccal swabs.

143 (e) The steps set forth in this section relating to the taking, handling,  
144 identification and disposition of blood or other biological samples are  
145 procedural and not substantive. Substantial compliance therewith shall  
146 be deemed to be sufficient. The samples shall be transported to the  
147 Division of Scientific Services within the Department of Public Safety

148 not more than fifteen days following their collection and shall be  
149 analyzed and stored in the DNA data bank in accordance with sections  
150 54-102i and 54-102j, as amended by this act.

151 Sec. 3. Section 54-102j of the general statutes is repealed and the  
152 following is substituted in lieu thereof (*Effective October 1, 2009*):

153 (a) It shall be the duty of the Division of Scientific Services within  
154 the Department of Public Safety to receive blood or other biological  
155 samples and to analyze, classify and file the results of DNA  
156 identification characteristics profiles of blood or other biological  
157 samples submitted pursuant to section 54-102g, as amended by this  
158 act, and to make such information available as provided in this section.  
159 The results of an analysis and comparison of the identification  
160 characteristics from two or more blood or other biological samples  
161 shall be made available directly to federal, state and local law  
162 enforcement officers upon request made in furtherance of an official  
163 investigation of any criminal offense. When the results of such an  
164 analysis and comparison reveal no match between the samples  
165 provided and the DNA profiles contained within the data bank, the  
166 division may disseminate identifying information concerning whether  
167 the DNA profile of one or more of the named suspects whose samples  
168 were provided for analysis in furtherance of such official investigation  
169 are contained within the data bank upon the request of the law  
170 enforcement officer who is conducting such investigation. A request  
171 pursuant to this subsection may be made by personal contact, mail or  
172 electronic means. The name of the person making the request and the  
173 purpose for which the information is requested shall be maintained on  
174 file with the division.

175 (b) Upon the request of a person from whom a blood or other  
176 biological sample has been taken pursuant to sections 54-102g, as  
177 amended by this act, and 54-102h, as amended by this act, a copy of  
178 such person's DNA profile shall be furnished to such person.

179 (c) Upon the request of any person identified and charged with an

180 offense as the result of a search of information in the data bank, a copy  
181 of the request for a search shall be furnished to such person so  
182 identified and charged. Only when a sample or DNA profile supplied  
183 by the person making the request satisfactorily matches a profile in the  
184 data bank shall the existence of data in the data bank be confirmed or  
185 identifying information from the data bank be disseminated.

186 (d) The Department of Public Safety shall adopt regulations, in  
187 accordance with the provisions of chapter 54, governing (1) the  
188 methods of obtaining information from the data bank in accordance  
189 with this section, and (2) procedures for verification of the identity and  
190 authority of the person making the request. The department shall  
191 specify the positions in that agency which require regular access to the  
192 data bank and samples submitted as a necessary function of the job.

193 (e) The Division of Scientific Services shall create a separate  
194 statistical data base comprised of DNA profiles of blood or other  
195 biological samples of persons whose identity is unknown. Nothing in  
196 this section or section 54-102k shall prohibit the Division of Scientific  
197 Services from sharing or otherwise disseminating the information in  
198 the statistical data base with law enforcement or criminal justice  
199 agencies within or without the state.

200 (f) The Division of Scientific Services may charge a reasonable fee to  
201 search and provide a comparative analysis of DNA profiles in the data  
202 bank to any authorized law enforcement agency outside of the state.

203 Sec. 4. Section 54-102l of the general statutes is repealed and the  
204 following is substituted in lieu thereof (*Effective October 1, 2009*):

205 A [person whose] DNA profile that has been included in the data  
206 bank pursuant to sections 54-102g to 54-102k, inclusive, as amended by  
207 this act, [may request expungement on the grounds] shall be expunged  
208 in the event that the criminal conviction or finding of not guilty by  
209 reason of mental disease or defect on which the authority for including  
210 [his] such DNA profile was based has been reversed and the case  
211 dismissed. The State Police Forensic Science Laboratory shall purge all

212 records and identifiable information in the data bank pertaining to the  
213 person and destroy all samples from the person upon [receipt of (1) a  
214 written request for expungement pursuant to this section and (2) a  
215 certified copy of the court order reversing and dismissing the  
216 conviction] confirmation by the DNA Data Bank Oversight Panel that  
217 the judgment is final and the case has been dismissed.

218 Sec. 5. Section 54-102m of the general statutes is repealed and the  
219 following is substituted in lieu thereof (*Effective October 1, 2009*):

220 (a) There is established a DNA Data Bank Oversight Panel  
221 composed of the Chief State's Attorney, the Attorney General, the  
222 Commissioner of Public Safety, the Chief Court Administrator and the  
223 Commissioner of Correction, or their designees. The Chief State's  
224 Attorney shall serve as chairperson of the panel and shall coordinate  
225 the agencies responsible for the implementation and maintenance of  
226 the DNA data bank established pursuant to section 54-102j, as  
227 amended by this act. The chairperson may invite representatives of  
228 other agencies involved in the collection of blood or other biological  
229 samples pursuant to section 54-102g, as amended by this act, to serve  
230 as ad hoc members of the panel.

231 (b) The panel shall take such action as necessary to assure the  
232 integrity of the data bank including the destruction of inappropriately  
233 obtained samples and the purging of all records and identifiable  
234 information pertaining to the persons from whom such  
235 inappropriately obtained samples were collected.

236 (c) The panel shall meet on a quarterly basis and shall maintain  
237 records of its meetings. Such records shall be retained by the  
238 chairperson. The meetings and records of the panel shall be subject to  
239 the provisions of the Freedom of Information Act, as defined in section  
240 1-200, except that discussions and records of personally identifiable  
241 DNA information contained in the data bank shall be confidential and  
242 not subject to disclosure pursuant to the Freedom of Information Act.

243 Sec. 6. (NEW) (*Effective October 1, 2009*) Neither the state nor any

244 officer or employee thereof shall be held civilly liable to any person for  
245 good faith conduct in carrying out the provisions of sections 54-102g to  
246 54-102m, inclusive, of the general statutes, as amended by this act.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2009</i>	54-102g
Sec. 2	<i>October 1, 2009</i>	54-102h
Sec. 3	<i>October 1, 2009</i>	54-102j
Sec. 4	<i>October 1, 2009</i>	54-102l
Sec. 5	<i>October 1, 2009</i>	54-102m
Sec. 6	<i>October 1, 2009</i>	New section

**Statement of Legislative Commissioners:**

The new language in subsection (a) of section 3 was reworded for clarity and accuracy.

**PS**

*Joint Favorable Subst. C/R*

**JUD**