House Bill No. 5251

Public Act No. 10-102

AN ACT CONCERNING PAYMENT OF THE COSTS OF FORENSIC SEXUAL ASSAULT EVIDENCE EXAMINATIONS AND THE COLLECTION OF DNA SAMPLES.

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

Section 1. Subdivision (1) of subsection (e) of section 19a-112a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(e) (1) No costs incurred by a health care facility for the examination of a victim of sexual assault, when such examination is performed for the purpose of gathering evidence as prescribed in the protocol, including the costs of testing for pregnancy and sexually transmitted diseases and the costs of prophylactic treatment as provided in the protocol, shall be charged directly or indirectly to such victim. Any such costs shall be charged to the **[**Division of Criminal Justice**]** Office of Victim Services within the Judicial Department.

Sec. 2. Section 54-102g of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2010*):

(a) Any person who has been convicted of a criminal offense against a victim who is a minor, a nonviolent sexual offense or a sexually violent offense, as those terms are defined in section 54-250, or a

felony, and has been sentenced on that conviction to the custody of the Commissioner of Correction shall, prior to release from custody and at such time as the commissioner may specify, submit to the taking of a blood or other biological sample for DNA (deoxyribonucleic acid) analysis to determine identification characteristics specific to the person. If any person required to submit to the taking of a blood or other biological sample pursuant to this subsection refuses to do so, the Commissioner of Correction or the commissioner's designee shall notify the Department of Public Safety within thirty days of such refusal for the initiation of criminal proceedings against such person.

(b) Any person who is convicted of a criminal offense against a victim who is a minor, a nonviolent sexual offense or a sexually violent offense, as those terms are defined in section 54-250, or a felony and is not sentenced to a term of confinement shall, as a condition of such sentence and at **[**such time as the sentencing court may specify**]** a time and place specified by the Court Support Services Division of the Judicial Department, submit to the taking of a blood or other biological sample for DNA (deoxyribonucleic acid) analysis to determine identification characteristics specific to the person.

(c) Any person who has been found not guilty by reason of mental disease or defect pursuant to section 53a-13 of a criminal offense against a victim who is a minor, a nonviolent sexual offense or a sexually violent offense, as those terms are defined in section 54-250, or a felony, and is in custody as a result of that finding, shall, prior to discharge from custody in accordance with subsection (e) of section 17a-582, section 17a-588 or subsection (g) of section 17a-593 and at such time as the Commissioner of Mental Health and Addiction Services or the Commissioner of Developmental Services with whom such person has been placed may specify, submit to the taking of a blood or other biological sample for DNA (deoxyribonucleic acid) analysis to determine identification characteristics specific to the person.

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

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

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

(g) Any person who refuses to submit to the taking of a blood or other biological sample pursuant to this section shall be guilty of a

class **[**A misdemeanor**]** D felony. Any person required to submit to the taking of a blood or other biological sample pursuant to subsection (b) of this section who refuses to submit to the taking of such sample within five business days of the time specified by the Court Support Services Division may be arrested pursuant to a warrant issued under section 54-2a.

Sec. 3. Section 54-102h of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2010*):

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

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

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

(4) The collection of a blood or other biological sample from persons required to submit to the taking of such sample pursuant to subsection (d) of section 54-102g, as amended by this act, shall be the

responsibility of the Judicial Department if such person is serving a period of probation and of the Department of Correction if such person is serving a period of parole and shall be taken at a time and place specified by the Court Support Services Division or the Department of Correction, as the case may be.

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

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

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

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

(2) Only collection kits approved by the Division of Scientific Services within the Department of Public Safety may be used for the

collection of biological samples by buccal swabs.

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

Sec. 4. Section 54-102m of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2010*):

(a) There is established a DNA Data Bank Oversight Panel composed of the Chief State's Attorney, the Attorney General, the Commissioner of Public Safety, [and] the Commissioner of Correction and the executive director of the Court Support Services Division of the Judicial Department, or their designees. The Chief State's Attorney shall serve as chairperson of the panel and shall coordinate the agencies responsible for the implementation and maintenance of the DNA data bank established pursuant to section 54-102j.

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

(c) The panel shall meet on a quarterly basis and shall maintain records of its meetings. Such records shall be retained by the chairperson. The meetings and records of the panel shall be subject to the provisions of the Freedom of Information Act, as defined in section 1-200, except that discussions and records of personally identifiable

DNA information contained in the data bank shall be confidential and not subject to disclosure pursuant to the Freedom of Information Act.

Approved June 2, 2010