



# House of Representatives

General Assembly

**File No. 594**

January Session, 2011

House Bill No. 6489

*House of Representatives, April 20, 2011*

The Committee on Judiciary reported through REP. FOX of the 146th Dist., Chairperson of the Committee on the part of the House, that the bill ought to pass.

***AN ACT REQUIRING DNA TESTING OF PERSONS ARRESTED FOR THE COMMISSION OF A SERIOUS FELONY.***

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 Section 54-102g of the general statutes is repealed and the  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, 2011*):

3 (a) Any person who is arrested on or after the effective date of this  
4 section for the commission of a serious felony shall, prior to release  
5 from custody and at such time as the law enforcement agency that  
6 arrested such person may specify, submit to the taking of a blood or  
7 other biological sample for DNA (deoxyribonucleic acid) analysis to  
8 determine identification characteristics specific to the person. For  
9 purposes of this subsection, "serious felony" means a violation of  
10 section 53a-54a, 53a-54b, 53a-54c, 53a-54d, 53a-55, 53a-55a, 53a-56, 53a-  
11 56a, 53a-56b, 53a-57, 53a-59, 53a-59a, 53a-60, 53a-60a, 53a-60b, 53a-60c,  
12 53a-70, 53a-70a, 53a-70b, 53a-72b, 53a-92, 53a-92a, 53a-94, 53a-94a, 53a-  
13 95, 53a-100aa, 53a-101, 53a-102, 53a-102a, 53a-103a, 53a-111, 53a-112,  
14 53a-134, 53a-135, 53a-136, 53a-167c, 53a-179b, 53a-179c or 53a-181c.

15        [(a)] (b) Any person who has been convicted of a criminal offense  
16 against a victim who is a minor, a nonviolent sexual offense or a  
17 sexually violent offense, as those terms are defined in section 54-250, or  
18 a felony, and has been sentenced on that conviction to the custody of  
19 the Commissioner of Correction, and who has not submitted to the  
20 taking of a blood or other biological sample pursuant to subsection (a)  
21 of this section with respect to such offense, shall, prior to release from  
22 custody and at such time as the commissioner may specify, 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. If any person required to submit  
26 to the taking of a blood or other biological sample pursuant to this  
27 subsection refuses to do so, the Commissioner of Correction or the  
28 commissioner's designee shall notify the Department of Public Safety  
29 within thirty days of such refusal for the initiation of criminal  
30 proceedings against such person.

31        [(b)] (c) Any person who is convicted of a criminal offense against a  
32 victim who is a minor, a nonviolent sexual offense or a sexually violent  
33 offense, as those terms are defined in section 54-250, or a felony and is  
34 not sentenced to a term of confinement, and who has not submitted to  
35 the taking of a blood or other biological sample pursuant to subsection  
36 (a) of this section with respect to such offense, shall, as a condition of  
37 such sentence and at a time and place specified by the Court Support  
38 Services Division of the Judicial Department, submit to the taking of a  
39 blood or other biological sample for DNA (deoxyribonucleic acid)  
40 analysis to determine identification characteristics specific to the  
41 person.

42        [(c)] (d) Any person who has been found not guilty by reason of  
43 mental disease or defect pursuant to section 53a-13 of a criminal  
44 offense against a victim who is a minor, a nonviolent sexual offense or  
45 a sexually violent offense, as those terms are defined in section 54-250,  
46 or a felony, and is in custody as a result of that finding, and who has  
47 not submitted to the taking of a blood or other biological sample  
48 pursuant to subsection (a) of this section with respect to such offense,

49 shall, prior to discharge from custody in accordance with subsection  
50 (e) of section 17a-582, section 17a-588 or subsection (g) of section  
51 17a-593 and at such time as the Commissioner of Mental Health and  
52 Addiction Services or the Commissioner of Developmental Services  
53 with whom such person has been placed may specify, submit to the  
54 taking of a blood or other biological sample for DNA  
55 (deoxyribonucleic acid) analysis to determine identification  
56 characteristics specific to the person.

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

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

81 ~~[(f)]~~ (g) The analysis shall be performed by the Division of Scientific

82 Services within the Department of Public Safety. The identification  
83 characteristics of the profile resulting from the DNA (deoxyribonucleic  
84 acid) analysis shall be stored and maintained by the division in a DNA  
85 data bank and shall be made available only as provided in section 54-  
86 102j.

87 ~~[(g)]~~ (h) Any person who refuses to submit to the taking of a blood  
88 or other biological sample pursuant to this section shall be guilty of a  
89 class D felony. Any person required to submit to the taking of a blood  
90 or other biological sample pursuant to subsection ~~[(b)]~~ (c) of this  
91 section who refuses to submit to the taking of such sample within five  
92 business days of the time specified by the Court Support Services  
93 Division may be arrested pursuant to a warrant issued under section  
94 54-2a.

95 Sec. 2. Subsection (a) of section 54-102h of the general statutes is  
96 repealed and the following is substituted in lieu thereof (*Effective*  
97 *October 1, 2011*):

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

104 ~~[(a)(1)]~~ (2) 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 ~~[(a)]~~ (b) of section 54-102g, as amended by this act, shall be  
107 the responsibility of the Department of Correction and shall be taken at  
108 a time and place specified by the Department of Correction.

109 ~~[(2)]~~ (3) The collection of a blood or other biological sample from  
110 persons required to submit to the taking of such sample pursuant to  
111 subsection ~~[(b)]~~ (c) of section 54-102g, as amended by this act, shall be  
112 the responsibility of the Judicial Department and shall be taken at a  
113 time and place specified by the Court Support Services Division.

114        [(3)] (4) The collection of a blood or other biological sample from  
115 persons required to submit to the taking of such sample pursuant to  
116 subsection [(c)] (d) of section 54-102g, as amended by this act, shall be  
117 the responsibility of the Commissioner of Mental Health and  
118 Addiction Services or the Commissioner of Developmental Services, as  
119 the case may be, and shall be taken at a time and place specified by  
120 said commissioner.

121        [(4)] (5) The collection of a blood or other biological sample from  
122 persons required to submit to the taking of such sample pursuant to  
123 subsection [(d)] (e) of section 54-102g, as amended by this act, shall be  
124 the responsibility of the Judicial Department if such person is serving a  
125 period of probation and of the Department of Correction if such person  
126 is serving a period of parole and shall be taken at a time and place  
127 specified by the Court Support Services Division or the Department of  
128 Correction, as the case may be.

129        [(5)] (6) The collection of a blood or other biological sample from  
130 persons required to submit to the taking of such sample pursuant to  
131 subsection [(e)] (f) of section 54-102g, as amended by this act, shall be  
132 the responsibility of the agency in whose custody or under whose  
133 supervision such person has been placed, and shall be taken at a time  
134 and place specified by such agency.

135        Sec. 3. Section 54-102l of the general statutes is repealed and the  
136 following is substituted in lieu thereof (*Effective October 1, 2011*):

137        (a) A [person whose] DNA profile that has been included in the data  
138 bank pursuant to sections 54-102g to 54-102k, inclusive, as amended by  
139 this act, [may request expungement on the grounds that] shall be  
140 expunged in the event that (1) the criminal conviction or the finding of  
141 not guilty by reason of mental disease or defect on which the authority  
142 for including the person's DNA profile was based has been reversed  
143 and the case dismissed, or (2) if the DNA profile of a person has been  
144 included in the data bank on account of the person being arrested as  
145 provided in subsection (a) of section 54-102g, as amended by this act,  
146 the charge has been dismissed or nolleed or the person has been

147 acquitted of the charge.

148 (b) The State Police Forensic Science Laboratory shall purge all  
149 records and identifiable information in the data bank pertaining to the  
150 person and destroy all samples from the person upon receipt of [(1) a  
151 written request for expungement pursuant to this section, and (2)] a  
152 certified copy of (1) the court order reversing and dismissing the  
153 conviction or the finding of not guilty by reason of mental disease or  
154 defect, or (2) the court order dismissing or nolling the charge or  
155 acquitting the person of the charge.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2011</i>	54-102g
Sec. 2	<i>October 1, 2011</i>	54-102h(a)
Sec. 3	<i>October 1, 2011</i>	54-102l

**JUD**      *Joint Favorable*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

**OFA Fiscal Note**

**State Impact:**

<b>Agency Affected</b>	<b>Fund-Effect</b>	<b>FY 12 \$</b>	<b>FY 13 \$</b>
Public Safety, Dept.	GF - Cost	522,975	697,300
Judicial Dept.	GF - Savings	15,000	20,000
Correction, Dept.	GF - Savings	6,000	8,000
Comptroller Misc. Accounts (Fringe Benefits) <sup>1</sup>	GF - Cost	41,700	55,600

Note: GF=General Fund

**Municipal Impact:**

<b>Municipalities</b>	<b>Effect</b>	<b>FY 12 \$</b>	<b>FY 13 \$</b>
All Municipalities	STATE MANDATE - Cost	At least 38,925 in aggregate	At least 51,900 in aggregate

**Explanation**

**Summary**

The bill will result in an annualized cost of approximately \$752,900 (including fringe benefits) to the Department of Public Safety (DPS) associated with an increase in the number of DNA samples that must be taken by law enforcement officers and tested by the forensic science laboratory<sup>2</sup>. It requires individuals arrested for serious felonies to submit a DNA sample. Under current law, an individual must do so if he or she has been convicted of a felony or a crime requiring

<sup>1</sup> The fringe benefit costs for most state employees are budgeted centrally in accounts administered by the Comptroller. The estimated non-pension fringe benefit cost associated with personnel changes is 23.76% of payroll in FY 12 and FY 13. In addition, there could be an impact to potential liability for the applicable state pension funds.

<sup>2</sup> The processing of DNA samples has been partially funded by \$1.4 million in American Recovery and Reinvestment Act (ARRA) Justice Assistance Grant moneys over the past two years. This ARRA grant is set to expire in June 2011.

registration as a sex offender. The bill also results in a state mandate and an annualized aggregate municipal cost of at least \$51,900.

A combined annualized savings of approximately \$28,000 will be experienced by the Department of Correction (DOC) and the Judicial Department as the agencies will have to collect fewer DNA samples.

### **Forensic Laboratory Costs**

Based on 2009 data, approximately 9,200 arrests for serious felonies occur annually. Incorporating arrestees of serious felonies into its DNA databank will result in a significant cost to DPS for additional staff; collection supplies; reagents, chemicals and consumables; and equipment. These costs are anticipated to total approximately \$749,600 annually (\$694,000 DPS; \$55,600 fringe benefits).

Expansion of the DNA databank could also 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 collected information.

### **State and Local Law Enforcement**

The Department of Public Safety will also incur costs of approximately \$3,300 to provide the State Police with DNA testing kits. This estimate is based on the need to purchase 550<sup>3</sup> kits annually at an average cost of \$6.00.

Municipalities would incur annual costs, estimated at approximately \$51,900 in aggregate, to purchase testing kits directly. This estimate is based on 8,650 test kits a year.<sup>4</sup> Additional costs would be incurred to package and deliver samples to the forensic science lab, and support any related overtime work.

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<sup>3</sup> 2009 data indicates that the State Police made approximately 6% of statewide arrests for murder, negligent manslaughter, rape, robbery, burglary and aggravated assault.

<sup>4</sup> Local costs would be reduced should the DPS provide testing kits to law enforcement on a statewide basis. However, DPS costs would rise accordingly.



**Savings from Averted Tests**

The Judicial Department will experience savings since the bill would decrease the number of DNA tests that the Judicial Department's Court Support Services Division (or CSSD, 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 to the CSSD are estimated to be less than \$20,000 annually, as the agency would no longer conduct tests on an estimated 150 individuals at a contracted rate of \$128.60 per sample.

The Department of Correction (DOC) will experience annual savings of approximately \$8,000, as it will no longer have to purchase an estimated 1,200 tests kits at a cost of \$6.60 each.

***The Out Years***

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation and arrest rates. Pension related costs for the identified personnel changes will be recognized in the state's annual required pension contribution as of FY 14.

**OLR Bill Analysis****HB 6489*****AN ACT REQUIRING DNA TESTING OF PERSONS ARRESTED FOR THE COMMISSION OF A SERIOUS FELONY.*****SUMMARY:**

Beginning October 1, 2011, this bill requires people arrested for any of 39 serious felony offenses to provide a DNA sample before they are released from custody. The law enforcement agency that makes the arrest sets the time and place for collecting, and collects, the sample.

The bill eliminates the requirement for (1) convicted felons and (2) offenders convicted or found not guilty by reason of mental disease or defect of sex offenses that generally require registration with the Department of Public Safety (DPS) to provide a sample before they are released from custody or commitment or are sentenced without confinement, as applicable, if they provided a sample at the time of their arrest.

The bill expands the circumstances under which the DPS' Division of Scientific Services must expunge a DNA profile from the DNA data bank and the State Police forensic laboratory must purge all records of it. It eliminates the requirement for offenders to request the expungement or purging.

Lastly, the bill makes technical changes.

EFFECTIVE DATE: October 1, 2011

**PROVIDING DNA SAMPLES*****Upon Arrest***

The bill requires people arrested for the following selected felony offenses to provide a DNA sample before they are released from

custody.

Murder	Capital Felony	Felony Murder	Arson Murder
First- and Second-Degree Manslaughter	First- and Second-Degree Manslaughter with a Firearm	Second-Degree Manslaughter with a Motor Vehicle	Misconduct with a Motor Vehicle
First- and Second-Degree Assault	First- and Second-Degree Assault of elderly, disabled, or pregnant person	Second-Degree Assault with a Firearm	Second-Degree Assault of elderly, disabled, or pregnant person with a firearm
First-Degree Sexual Assault	Aggravated First-Degree Sexual Assault	Spousal Rape	Third-Degree Sexual Assault with a Firearm
First- and Second-Degree Kidnapping	First- and Second-Degree Kidnapping with a Firearm	First-Degree Unlawful Restraint	Home Invasion
First- and Second-Degree Burglary	Second- and Third-Degree Burglary with a Firearm	First- and Second-Degree Arson	First-, Second-, and Third-Degree Robbery
Assault of Public Safety, Emergency Medical, or Public Transit Personnel	Prison Rioting	Inciting Prison Rioting	First-Degree Stalking

**After Sentencing**

Under current law, convicted felons, convicted sex offenders required to register with DPS, and offenders found not guilty of such sex offenses by reason of mental disease or defect must provide a DNA sample before they are released from prison or confinement or sentenced if their sentence does not include incarceration, as applicable. The bill limits this requirement to those offenders who did not provide a sample at the time of their arrest.

By law, offenders convicted of a criminal offense against a minor, nonviolent sexual offense, or sexually violent offense must register as a sex offender with DPS.

**DESTROYING DNA SAMPLES**

The bill expands the circumstances under which the DPS’ Division of Scientific Services must expunge a DNA profile from the DNA data bank and requires the division to complete the expungement when the circumstances are present, rather than upon the offender’s request. In addition to expunging a profile if a court reverses the criminal

conviction or finding of not guilty by reason of mental disease or defect that constituted grounds for collecting the sample, the bill requires the division to expunge it if an arrestee who provides a sample is acquitted or the charges against him or her are *nolled* or dismissed.

Likewise, the bill requires the State Police Forensic Laboratory to purge all records and identifiable information and destroy all samples submitted and included in its data bank upon receipt of a certified copy of a court order acquitting an accused of the charge against him or her or dismissing or *nolling* the charge that formed the basis for inclusion in the data bank. By law, the laboratory must purge records upon receipt of a certified copy of a court order reversing and dismissing the conviction or commitment.

## **BACKGROUND**

### ***Related Bills***

sHB 5341, reported favorably by the Public Safety Committee, requires offenders to register if they are convicted of a felony that involves the use, attempted use, or threatened use of physical force against another person or results in serious physical injury or death.

HB 6538, also reported favorably by the Judiciary Committee, (1) allows the Department of Correction commissioner to use reasonable force to collect DNA samples, (2) requires people who must provide a sample to submit a second sample if the first one is not of sufficient quality, and (3) amends the law on disseminating information from the DNA databank.

## **COMMITTEE ACTION**

Judiciary Committee

Joint Favorable

Yea 29    Nay 13    (04/06/2011)