



House of Representatives

File No. 898

General Assembly

January Session, 2011

(Reprint of File No. 594)

House Bill No. 6489
As Amended by House Amendment
Schedule "A"

Approved by the Legislative Commissioner
June 3, 2011

***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 Section 54-102g of the general statutes is repealed and the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) Whenever any person is arrested on or after the effective date of
4 this section for the commission of a serious felony and, prior to such
5 arrest, has been convicted of a felony but has not submitted to the
6 taking of a blood or other biological sample for DNA
7 (deoxyribonucleic acid) analysis pursuant to this section, the law
8 enforcement agency that arrested such person shall, as available
9 resources allow, require such person to submit to the taking of a blood
10 or other biological sample for DNA (deoxyribonucleic acid) analysis to
11 determine identification characteristics specific to the person. If the law
12 enforcement agency requires such person to submit to the taking of
13 such blood or other biological sample, such person shall submit to the
14 taking of such sample prior to release from custody and at such time
15 and place as the agency may specify. For purposes of this subsection,

16 "serious felony" means a violation of section 53a-54a, 53a-54b, 53a-54c,
17 53a-54d, 53a-55, 53a-55a, 53a-56, 53a-56a, 53a-56b, 53a-57, 53a-59, 53a-
18 59a, 53a-60, 53a-60a, 53a-60b, 53a-60c, 53a-70, 53a-70a, 53a-70b, 53a-
19 72b, 53a-92, 53a-92a, 53a-94, 53a-94a, 53a-95, 53a-100aa, 53a-101, 53a-
20 102, 53a-102a, 53a-103a, 53a-111, 53a-112, 53a-134, 53a-135, 53a-136,
21 53a-167c, 53a-179b, 53a-179c or 53a-181c.

22 [(a)] (b) Any person who has been convicted of a criminal offense
23 against a victim who is a minor, a nonviolent sexual offense or a
24 sexually violent offense, as those terms are defined in section 54-250, or
25 a felony, and has been sentenced on that conviction to the custody of
26 the Commissioner of Correction, and who has not submitted to the
27 taking of a blood or other biological sample pursuant to subsection (a)
28 of this section with respect to such offense, shall, prior to release from
29 custody and at such time as the commissioner may specify, submit to
30 the taking of a blood or other biological sample for DNA
31 (deoxyribonucleic acid) analysis to determine identification
32 characteristics specific to the person. If any person required to submit
33 to the taking of a blood or other biological sample pursuant to this
34 subsection refuses to do so, the Commissioner of Correction or the
35 commissioner's designee shall notify the Department of Public Safety
36 within thirty days of such refusal for the initiation of criminal
37 proceedings against such person.

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

49 [(c)] (d) Any person who has been found not guilty by reason of
50 mental disease or defect pursuant to section 53a-13 of a criminal
51 offense against a victim who is a minor, a nonviolent sexual offense or
52 a sexually violent offense, as those terms are defined in section 54-250,
53 or a felony, and is in custody as a result of that finding, and who has
54 not submitted to the taking of a blood or other biological sample
55 pursuant to subsection (a) of this section with respect to such offense,
56 shall, prior to discharge from custody in accordance with subsection
57 (e) of section 17a-582, section 17a-588 or subsection (g) of section
58 17a-593 and at such time as the Commissioner of Mental Health and
59 Addiction Services or the Commissioner of Developmental Services
60 with whom such person has been placed may specify, submit to the
61 taking of a blood or other biological sample for DNA
62 (deoxyribonucleic acid) analysis to determine identification
63 characteristics specific to the person.

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

75 [(e)] (f) Any person who has been convicted or found not guilty by
76 reason of mental disease or defect in any other state or jurisdiction of a
77 felony or of any crime, the essential elements of which are
78 substantially the same as a criminal offense against a victim who is a
79 minor, a nonviolent sexual offense or a sexually violent offense, as
80 those terms are defined in section 54-250, and is in the custody of the
81 Commissioner of Correction, is under the supervision of the Judicial
82 Department or the Board of Pardons and Paroles or is under the

83 jurisdiction of the Psychiatric Security Review Board, shall, prior to
84 discharge from such custody, supervision or jurisdiction submit to the
85 taking of a blood or other biological sample for DNA
86 (deoxyribonucleic acid) analysis to determine identification
87 characteristics specific to the person.

88 ~~[(f)]~~ (g) The analysis shall be performed by the Division of Scientific
89 Services within the Department of Public Safety, except that the
90 division shall analyze samples taken pursuant to subsection (a) of this
91 section only as available resources allow. The identification
92 characteristics of the profile resulting from the DNA (deoxyribonucleic
93 acid) analysis shall be stored and maintained by the division in a DNA
94 data bank and shall be made available only as provided in section 54-
95 102j, as amended by this act.

96 ~~[(g)]~~ (h) Any person who refuses to submit to the taking of a blood
97 or other biological sample pursuant to this section shall be guilty of a
98 class D felony. Any person required to submit to the taking of a blood
99 or other biological sample pursuant to subsection ~~[(b)]~~ (c) of this
100 section who refuses to submit to the taking of such sample within five
101 business days of the time specified by the Court Support Services
102 Division may be arrested pursuant to a warrant issued under section
103 54-2a.

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

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

113 ~~[(a)(1)]~~ (2) The collection of a blood or other biological sample from
114 persons required to submit to the taking of such sample pursuant to

115 subsection [(a)] (b) of section 54-102g, as amended by this act, shall be
116 the responsibility of the Department of Correction and shall be taken at
117 a time and place specified by the Department of Correction.

118 [(2)] (3) The collection of a blood or other biological sample from
119 persons required to submit to the taking of such sample pursuant to
120 subsection [(b)] (c) of section 54-102g, as amended by this act, shall be
121 the responsibility of the Judicial Department and shall be taken at a
122 time and place specified by the Court Support Services Division.

123 [(3)] (4) The collection of a blood or other biological sample from
124 persons required to submit to the taking of such sample pursuant to
125 subsection [(c)] (d) of section 54-102g, as amended by this act, shall be
126 the responsibility of the Commissioner of Mental Health and
127 Addiction Services or the Commissioner of Developmental Services, as
128 the case may be, and shall be taken at a time and place specified by
129 said commissioner.

130 [(4)] (5) The collection of a blood or other biological sample from
131 persons required to submit to the taking of such sample pursuant to
132 subsection [(d)] (e) of section 54-102g, as amended by this act, shall be
133 the responsibility of the Judicial Department if such person is serving a
134 period of probation and of the Department of Correction if such person
135 is serving a period of parole and shall be taken at a time and place
136 specified by the Court Support Services Division or the Department of
137 Correction, as the case may be.

138 [(5)] (6) The collection of a blood or other biological sample from
139 persons required to submit to the taking of such sample pursuant to
140 subsection [(e)] (f) of section 54-102g, as amended by this act, shall be
141 the responsibility of the agency in whose custody or under whose
142 supervision such person has been placed, and shall be taken at a time
143 and place specified by such agency.

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

146 (a) A [person whose] DNA profile that has been included in the data
147 bank pursuant to sections 54-102g to 54-102k, inclusive, as amended by
148 this act, [may request expungement on the grounds that] shall be
149 expunged in the event that (1) the criminal conviction or the finding of
150 not guilty by reason of mental disease or defect on which the authority
151 for including the person's DNA profile was based has been reversed
152 and the case dismissed, or (2) if the DNA profile of a person has been
153 included in the data bank on account of the person being arrested as
154 provided in subsection (a) of section 54-102g, as amended by this act,
155 the charge has been dismissed or nolleed or the person has been
156 acquitted of the charge.

157 (b) The State Police Forensic Science Laboratory shall purge all
158 records and identifiable information in the data bank pertaining to the
159 person and destroy all samples from the person upon receipt of [(1) a
160 written request for expungement pursuant to this section, and (2)] a
161 certified copy of (1) the court order reversing and dismissing the
162 conviction or the finding of not guilty by reason of mental disease or
163 defect, or (2) the court order dismissing or nolling the charge or
164 acquitting the person of the charge.

165 Sec. 4. Subsection (a) of section 54-102j of the general statutes is
166 repealed and the following is substituted in lieu thereof (*Effective*
167 *October 1, 2011*):

168 (a) It shall be the duty of the Division of Scientific Services within
169 the Department of Public Safety to receive blood or other biological
170 samples and to analyze, classify and file the results of DNA
171 identification characteristics profiles of blood or other biological
172 samples submitted pursuant to section 54-102g, as amended by this
173 act, and to make such information available as provided in this section,
174 except that the division shall analyze samples taken pursuant to
175 subsection (a) of section 54-102g, as amended by this act, only as
176 available resources allow. The results of an analysis and comparison of
177 the identification characteristics from two or more blood or other
178 biological samples shall be made available directly to federal, state and

179 local law enforcement officers upon request made in furtherance of an
180 official investigation of any criminal offense. A request may be made
181 by personal contact, mail or electronic means. The name of the person
182 making the request and the purpose for which the information is
183 requested shall be maintained on file with the division.

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
Sec. 4	<i>October 1, 2011</i>	54-102j(a)

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:

Agency Affected	Fund-Effect	FY 12 \$	FY 13 \$
Public Safety, Dept.	GF - Potential Cost	Up to 1,500	Up to 2,000
Judicial Dept.	GF - Potential Savings	Up to 8,250	Up to 11,000
Correction, Dept.	GF - Potential Savings	Up to 3,375	Up to 4,500

Note: GF=General Fund

Municipal Impact:

Municipalities	Effect	FY 12 \$	FY 13 \$
All Municipalities	Potential Cost	Up to 23,625 in aggregate	Up to 31,500 in aggregate

Explanation

Summary

The bill results in a potential annualized aggregate municipal cost of up to \$31,500 and a potential cost to the Department of Public Safety (DPS) of approximately \$2,000 annually associated with an increased number of DNA samples that could be taken by law enforcement officers. It requires law enforcement agencies to take a DNA sample, if resources allow, from individuals arrested for serious felonies. Under current law, an individual must do so if he or she has been convicted of a felony or a crime requiring registration as a sex offender.

A combined potential annualized savings of approximately \$15,500 will be experienced by the Department of Correction (DOC) and the Judicial Department as the agencies will have to collect fewer DNA samples to the extent that DPS processes samples collected under the

bill.

State and Local Law Enforcement

The Department of Public Safety will potentially incur costs of approximately \$2,000 to provide the State Police with DNA testing kits. This estimate is based on the need to purchase 330¹ kits annually at an average cost of \$6.00 if all such arrestees are tested.

It should be noted that the bill requires the forensic laboratory under DPS to process DNA samples, only if available resources allow. It is uncertain how many samples DPS will process, as no funding was included in PA 11-6 (the biennial budget) for the purpose of testing the samples collected under the bill.

Municipalities may incur annual costs to purchase testing kits directly. If all such arrestees are tested, the estimated cost to municipalities is approximately \$31,500 in aggregate. This estimate is based on 5,190 serious felony arrests with a prior conviction per year.² Additional costs would be incurred to package and deliver samples to the forensic science lab, and support any related overtime work.

Savings from Averted Tests

The Judicial Department will experience potential savings since the bill may 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. To the extent that DPS processes the samples collected under the bill, the savings to the CSSD are estimated to be up to \$11,000 annually. If DPS processes all collected samples, CSSD would no longer conduct tests on an

¹ 2009 data indicates that the State Police made approximately 6% of statewide arrests for murder, negligent manslaughter, rape, robbery, burglary and aggravated assault.

² Local costs would be reduced should the DPS provide testing kits to law enforcement on a statewide basis. However, DPS costs would rise accordingly.

estimated 85 individuals at a contracted rate of \$128.60 per sample.

The Department of Correction (DOC) will experience annual potential savings of up to \$4,500, as it may no longer have to purchase an estimated 675 tests kits at a cost of \$6.60 each if DPS processes all collected samples.

House "A" reduces the cost associated with the original bill by \$563,175 in FY 12 and \$750,900 in FY 13 by 1) restricting the collection of DNA samples to those with a prior felony conviction and 2) permitting the Department of Public Safety to process samples only if available resources allow.

The amendment also eliminates a mandated cost to municipalities and instead results in a potential cost by requiring law enforcement agencies to collect a sample from certain arrestees only if such resources are available. To the extent that law enforcement agencies purchase DNA sampling kits to test these certain arrestees, there may be a fiscal impact. The potential annualized aggregate municipal cost could be up to \$31,150 if all municipal law enforcement agencies purchase enough kits to test all of the arrestees.

The Out Years

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

OLR Bill Analysis**HB 6489 (as amended by House "A")******AN ACT REQUIRING DNA TESTING OF PERSONS ARRESTED FOR THE COMMISSION OF A SERIOUS FELONY.*****SUMMARY:**

Beginning October 1, 2011, this bill requires law enforcement agencies to require anyone they arrest for any of 39 serious felonies to provide a DNA sample before they are released from custody if the arrestee (1) is a convicted felon and (2) has not provided a DNA sample. The law enforcement agency that makes the arrest sets the time and place for collecting, and collects, the sample. The agency must use available resources to collect 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.

*House Amendment "A" limits the arrestees who may be required

to provide a DNA sample to convicted felons, requires law enforcement agencies to use available resources, requires the Division of Scientific Services to analyze this DNA only if resources are available, and makes a technical change.

EFFECTIVE DATE: October 1, 2011

PROVIDING DNA SAMPLES

Upon Arrest

The bill requires people arrested for the following select 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

By law, the DPS’ Division of Scientific Services analyzes, classifies, and files the results of all DNA samples. The bill requires the division to analyze, classify, and file arrestees’ DNA only if resources are available to do so.

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 of the sample 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 Bill

HB 6538 (File 594) (1) allows the 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)

Appropriations Committee

Joint Favorable

Yea 44 Nay 10 (05/23/2011)