



House of Representatives

General Assembly

File No. 622

January Session, 2011

Substitute House Bill No. 6538

House of Representatives, April 26, 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 substitute bill ought to pass.

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 Section 54-102g of the general statutes is repealed and the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

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 of sufficient quality for DNA
10 (deoxyribonucleic acid) analysis to determine identification
11 characteristics specific to the person. If any person required to submit
12 to the taking of a blood or other biological sample pursuant to this
13 subsection refuses or fails to do so, the Commissioner of Correction or
14 the commissioner's designee shall notify the Department of Public

15 Safety within thirty days of such refusal or failure for the initiation of
16 criminal proceedings against such 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 a time and place specified by the Court Support
22 Services Division of the Judicial Department, submit to the taking of a
23 blood or other biological sample of sufficient quality 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 the custody of the Commissioner of Mental Health
31 and Addiction Services or the Commissioner of Developmental
32 Services as a result of that finding, shall, prior to [discharge from
33 custody in accordance with subsection (e) of section 17a-582, section
34 17a-588 or subsection (g) of section 17a-593] a court hearing
35 commenced in accordance with subsection (d) of section 17a-582, and
36 at such time as the Commissioner of Mental Health and Addiction
37 Services or the Commissioner of Developmental Services with whom
38 such person has been placed may specify, submit to the taking of a
39 blood or other biological sample of sufficient quality for DNA
40 (deoxyribonucleic acid) analysis to determine identification
41 characteristics specific to the person.

42 (d) Any person who has been convicted of a criminal offense against
43 a victim who is a minor, a nonviolent sexual offense or a sexually
44 violent offense, as those terms are defined in section 54-250, or a
45 felony, and is serving a period of probation or parole, and who has not
46 submitted to the taking of a blood or other biological sample pursuant
47 to subsection (a), (b) or (c) of this section, shall, prior to discharge from

48 the custody of the Court Support Services Division or the Department
49 of Correction and at such time as said division or department may
50 specify, submit to the taking of a blood or other biological sample of
51 sufficient quality for DNA (deoxyribonucleic acid) analysis to
52 determine identification characteristics specific to the person.

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

66 (f) If the blood or other biological sample taken from a person
67 pursuant to this section is not of sufficient quality for DNA
68 (deoxyribonucleic acid) analysis to determine identification
69 characteristics specific to the person, the person shall submit to the
70 taking of an additional sample or samples until a sample of sufficient
71 quality is obtained.

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

78 ~~[(g)]~~ (h) Any person who refuses or fails to submit to the taking of a
79 blood or other biological sample pursuant to this section shall be guilty
80 of a class D felony. Any person required to submit to the taking of a

81 blood or other biological sample pursuant to subsection (b) of this
82 section who refuses to submit to the taking of such sample within five
83 business days of the time specified by the Court Support Services
84 Division may be arrested pursuant to a warrant issued under section
85 54-2a.

86 (i) If any person required to submit to the taking of a blood or other
87 biological sample pursuant to any provision of this section is in the
88 custody of the Commissioner of Correction and refuses to submit to
89 the taking of such sample, the commissioner or the commissioner's
90 designee may use reasonable force to obtain a blood or other biological
91 sample from such person.

92 Sec. 2. Section 54-102j of the general statutes is repealed and the
93 following is substituted in lieu thereof (*Effective October 1, 2011*):

94 (a) It shall be the duty of the Division of Scientific Services within
95 the Department of Public Safety to receive blood or other biological
96 samples and to analyze, classify and file the results of DNA
97 identification characteristics profiles of blood or other biological
98 samples submitted pursuant to section 54-102g, as amended by this
99 act, and to make such information available as provided in this section.
100 The results of an analysis and comparison of the identification
101 characteristics from two or more blood or other biological samples
102 shall be made available directly to federal, state and local law
103 enforcement officers upon request made in furtherance of an official
104 investigation of any criminal offense. Only when a sample or DNA
105 profile supplied by the person making the request satisfactorily
106 matches a profile in the data bank shall the existence of data in the data
107 bank be confirmed or identifying information from the data bank be
108 disseminated, except that if the results of an analysis and comparison
109 does not reveal a match between the sample or samples supplied and a
110 DNA profile contained in the data bank, the division may, upon
111 request of the law enforcement officer, disseminate identifying
112 information from the data bank concerning whether the DNA profile
113 of any of the named suspects whose sample or samples were supplied

114 is contained in the data bank. A request pursuant to this subsection
115 may be made by personal contact, mail or electronic means. The name
116 of the person making the request and the purpose for which the
117 information is requested shall be maintained on file with the division.

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

122 (c) Upon the request of any person identified and charged with an
123 offense as the result of a search of information in the data bank, a copy
124 of the request for a search shall be furnished to such person so
125 identified and charged. [Only when a sample or DNA profile supplied
126 by the person making the request satisfactorily matches a profile in the
127 data bank shall the existence of data in the data bank be confirmed or
128 identifying information from the data bank be disseminated.]

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

136 (e) The Division of Scientific Services shall create a separate
137 statistical data base comprised of DNA profiles of blood or other
138 biological samples of persons whose identity is unknown. Nothing in
139 this section or section 54-102k shall prohibit the Division of Scientific
140 Services from sharing or otherwise disseminating the information in
141 the statistical data base with law enforcement or criminal justice
142 agencies within or without the state.

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

146 Sec. 3. (NEW) (*Effective October 1, 2011*) Neither the state nor any
 147 officer or employee thereof shall be held civilly liable to any person for
 148 good faith conduct in carrying out the provisions of sections 54-102g to
 149 54-102m, inclusive, of the general statutes, as amended by this act.

150 Sec. 4. Subsection (b) of section 17a-582 of the general statutes is
 151 repealed and the following is substituted in lieu thereof (*Effective*
 152 *October 1, 2011*):

153 (b) Not later than sixty days after the order of commitment pursuant
 154 to subsection (a) of this section, the superintendent of such hospital or
 155 the Commissioner of Developmental Services shall cause the acquittee
 156 to be examined and file a report of the examination with the court, and
 157 shall send a copy thereof to the state's attorney and counsel for the
 158 acquittee, setting forth the superintendent's or said commissioner's
 159 findings and conclusions as to whether the acquittee is a person who
 160 should be discharged. The report shall indicate whether the acquittee
 161 submitted or refused to submit to the taking of a blood or other
 162 biological sample pursuant to subsection (c) of section 54-102g, as
 163 amended by this act.

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>	54-102j
Sec. 3	<i>October 1, 2011</i>	New section
Sec. 4	<i>October 1, 2011</i>	17a-582(b)

Statement of Legislative Commissioners:

In section 1(c), "a court hearing held" was changed to "a court hearing commenced" for accuracy, and in section 1(f), "for DNA (deoxyribonucleic acid) analysis to determine identification characteristics specific to the person" was added after "sufficient quality" for consistency with subsections (a) to (e), inclusive.

JUD *Joint Favorable Subst.-LCO*

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 - Cost	Approximately \$2,500	Approximately \$2,500
Various State Agencies	GF - Cost	Minimal	Minimal

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill results in a minimal impact to various agencies by authorizing agencies to take repeat DNA samples of sex offenders and felons under their supervision or confinement in order to obtain a sufficient quality sample. The average cost of a DNA test kit is approximately \$6.00.

The bill also results in a cost of approximately \$2,500 to the Department of Public Safety (DPS) to process any additional samples produced under the bill. It is estimated that there are approximately 50 such cases where offenders failed to provide a sufficient sample. To the extent that there are more or less insufficient samples provided, the cost to DPS and the various agencies will either increase or decrease accordingly.

The Out Years

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

OLR Bill Analysis

HB 6538

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

SUMMARY:

By law, sex offenders and felons are required to submit DNA samples which are analyzed by the Department of Public Safety's forensic laboratory and entered into its DNA data bank. This bill authorizes the various agencies under whose authority sex offenders and felons are confined or supervised (the Board of Pardons and Paroles, Court Support Services Division, Department of Correction (DOC), Department of Developmental Services (DDS), Department of Mental Health and Addiction Services, (DMHAS) and the Psychiatric Security Review Board) to take repeat samples until one of sufficient quality is obtained.

It also:

1. authorizes the DOC to use reasonable force to obtain the sample from felons and sex offenders in its custody;
2. makes it a class D felony, punishable by imprisonment for up to five years, a fine of up to \$5,000, or both, for failing to submit a sample (existing law makes this the penalty for refusing to submit a sample);
3. allows DNA data bank information to be supplied to law enforcement agencies to rule out suspects;
4. shields from civil liability state officials and employees for good faith actions undertaken in conjunction with the DNA data bank;
and

5. requires the first report DMHAS or DDS files with the court that addresses whether an acquittee should be discharged from custody to indicate whether the individual has submitted or refused to submit a DNA sample.

EFFECTIVE DATE: October 1, 2011

§ 2 — WIDER DNA DATA BANK SEARCHES

Currently, the Department of Public Safety’s forensic laboratory can confirm the existence of data in the data bank only when a sample or DNA profile supplied by the requestor matches a profile in the data bank. Under the bill, if there is no match, the laboratory can disclose, at law enforcement’s request, information from the data bank concerning whether profiles of any of the named suspects who submitted samples are in it.

§ 3 — PROTECTIONS AGAINST CIVIL LIABILITY

The bill provides that neither the state or state officers or employees may be held civilly liable for good faith actions taken in conjunction with the operations of the DNA data bank. This includes:

1. collecting and analyzing DNA samples,
2. disseminating or using information in the data bank,
3. obtaining or attempting to obtain samples from the forensic laboratory,
4. purging records and destroying samples by laboratory personnel, and
5. actions undertaken by the DNA Data Bank Oversight Panel to purge records and destroy inappropriately obtained samples.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable

Yea 41 Nay 0 (04/06/2011)