

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

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HOUSE BILL 27

Short Title: Expand DNA Databank/All Felonies. (Public)

Sponsors: Representatives Rhodes; Barnhart, Blust, Culp, Ellis, Gorman, Gulley, Hilton, Holmes, McCombs, McGee, McHenry, McMahan, Preston, Setzer, Stam, and Wood.

Referred to: Rules, Calendar, and Operations of the House.

February 17, 2003

A BILL TO BE ENTITLED

AN ACT TO AMEND THE LAW REGARDING THE STATE'S DNA DATABASE AND DATABANK TO PROVIDE THAT A DNA SAMPLE SHALL BE TAKEN FROM ANY PERSON WHO IS CONVICTED OF A FELONY OR WHO IS FOUND NOT GUILTY OF A FELONY BY REASON OF INSANITY AND TO MAKE CONFORMING STATUTORY CHANGES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 15A-266.1 reads as rewritten:

"§ 15A-266.1. Policy.

It is the policy of the State to assist federal, State, and local criminal justice and law enforcement agencies in the identification, detection, or exclusion of individuals who are subjects of the investigation or prosecution of felonies or other violent crimes against the person. Identification, detection, and exclusion is facilitated by the analysis of biological evidence that is often left by the perpetrator or is recovered from the crime scene. The analysis of biological evidence can also be used to identify missing persons and victims of mass disasters."

SECTION 2. G.S. 15A-266.4 reads as rewritten:

"§ 15A-266.4. Blood sample required for DNA analysis upon conviction.

(a) On or after 1 July ~~1994~~,2003, a person who is convicted of any of the crimes listed in subsection (b) of this section or who is found not guilty of any of these crimes by reason of insanity shall have a DNA sample drawn upon intake to a jail or prison. In addition, every person convicted on or after 1 July ~~1994~~,2003, of any of these crimes, or who is found not guilty of any of these crimes by reason of insanity, but who is not sentenced to a term of confinement, shall provide a DNA sample as a condition of the sentence. A person who has been convicted and incarcerated as a result of a conviction of one or more of these crimes prior to 1 July ~~1994~~2003, or who was found not guilty of any of these crimes by reason of insanity and committed to a Forensic Unit in

1 accordance with G.S. 15A-1321 before July 1, 2003, shall have a DNA sample drawn
2 before parole or release from the penal system.

3 (b) Crimes covered by this Article include:

4 (1) All felonies.

5 ~~G.S. 14-17~~ — ~~Murder in the first and second degree.~~

6 ~~G.S. 14-27.2~~ — ~~First degree rape.~~

7 ~~G.S. 14-27.3~~ — ~~Second degree rape.~~

8 ~~G.S. 14-27.4~~ — ~~First degree sexual offense.~~

9 ~~G.S. 14-27.5~~ — ~~Second degree sexual offense.~~

10 ~~G.S. 14-28~~ — ~~Malicious castration.~~

11 ~~G.S. 14-29~~ — ~~Castration or other maiming.~~

12 ~~G.S. 14-30~~ — ~~Malicious maiming.~~

13 ~~G.S. 14-30.1~~ — ~~Malicious throwing of corrosive acid or alkali.~~

14 ~~G.S. 14-31~~ — ~~Malicious assault in secret manner.~~

15 ~~G.S. 14-32~~ — ~~Felonious assault with deadly weapon with
16 intent to kill.~~

17 (2) ~~G.S. 14-32.1~~ — ~~Assaults on handicapped persons.~~

18 ~~G.S. 14-34.1~~ — ~~Discharging barreled weapon or firearm into
19 occupied property.~~

20 ~~G.S. 14-34.2~~ — ~~Assault with firearm or other deadly weapon
21 upon law enforcement officer, fireman, or EMS
22 personnel.~~

23 ~~G.S. 14-39(a)(3)~~ — ~~Kidnapping for the purpose of doing serious
24 bodily harm to the person.~~

25 ~~G.S. 14-49~~ — ~~Malicious use of explosive or incendiary.~~

26 ~~G.S. 14-58.2~~ — ~~Burning of mobile home, manufactured type
27 house, or recreational trailer home.~~

28 ~~G.S. 14-202.1~~ — ~~Taking indecent liberties with children.~~

29 ~~G.S. 14-87~~ — ~~Robbery with a dangerous weapon.~~

30 (3) ~~G.S. 14-277.3~~ — ~~Stalking.~~

31 ~~G.S. 14-87.1~~ — ~~Common law robbery.~~

32 ~~G.S. 14-58~~ — ~~First degree arson."~~

33 **SECTION 3.** G.S. 15A-148 reads as rewritten:

34 "**§ 15A-148. Expunction of DNA records when charges are dismissed on ~~appeal or~~**
35 **appeal, pardon of innocence is ~~granted.~~granted, or person was found not**
36 **guilty by reason of insanity and is discharged from mental health facility.**

37 (a) Upon a motion by the defendant following the issuance of a final order by an
38 appellate court reversing and dismissing a conviction of an offense for which a DNA
39 analysis was done in accordance with Article 13 of Chapter 15A of the General Statutes,
40 or upon receipt of a pardon of innocence with respect to any such offense, or upon
41 motion by a defendant who was found not guilty by reason of insanity following the
42 issuance of a final order discharging the defendant from the mental health facility in
43 accordance with Part 7 of Article 5 of Chapter 122C of the General Statutes, the court
44 shall issue an order of expungement of the DNA record and samples in accordance with

1 subsection (b) of this section. The order of expungement shall include the name and
2 address of the defendant and the defendant's attorney and shall direct the SBI to send a
3 letter documenting expungement as required by subsection (b) of this section.

4 (b) When an order of expungement has been issued pursuant to subsection (a) of
5 this section, the order of expungement, together with a certified copy of the final
6 appellate court order reversing and dismissing the ~~conviction or conviction~~, a certified
7 copy of the instrument granting the pardon of innocence, or a certified copy of the final
8 order discharging the defendant from the mental health facility shall be provided to the
9 SBI by the clerk of court. Upon receiving an order of expungement for an individual
10 whose DNA record or profile has been included in the State DNA Database and whose
11 DNA sample is stored in the State DNA Databank, the DNA profile shall be expunged
12 and the DNA sample destroyed by the SBI, except that the order shall not apply to other
13 offenses committed by the individual that qualify for inclusion in the State DNA
14 Database and the State DNA Databank. A letter documenting expungement of the DNA
15 record and destruction of the DNA sample shall be sent by the SBI to the defendant and
16 the defendant's attorney at the address specified by the court in the order of
17 expungement. The SBI shall adopt procedures to comply with this subsection."

18 **SECTION 4.** This act becomes effective July 1, 2003.