

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

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HOUSE BILL 79*

Short Title: DNA Registry.

(Public)

Sponsors: Representatives Alexander; Saunders and Pate.

Referred to: Judiciary I.

February 25, 2003

A BILL TO BE ENTITLED

AN ACT TO REQUIRE THAT A DNA SAMPLE BE TAKEN FROM ANY PERSON
ARRESTED OF A VIOLENT FELONY OR CERTAIN OTHER CRIMINAL
OFFENSES AND TO REQUIRE THAT A DNA SAMPLE BE TAKEN FROM
ANY PERSON CONVICTED OF ANY FELONY OR CERTAIN OTHER
CRIMINAL OFFENSES.

The General Assembly of North Carolina enacts:

SECTION 1. Article 23 of Chapter 15A of the General Statutes is amended
by adding a new section to read:

"§ 15A-502A. DNA sample.

(a) The following definitions apply in this section:

(1) 'DNA'. – As defined in G.S. 15A-266.2.

(2) 'DNA Record'. – As defined in G.S. 15A-266.2.

(3) 'DNA Sample'. – A sample of body tissue, blood, or other bodily fluid
that is appropriate for DNA testing or analysis by the SBI Laboratory
pursuant to Article 13 of Chapter 15A of the General Statutes. The
term includes a DNA blood sample as defined in G.S. 15A-266.2 and a
DNA fluid or tissue sample as defined in G.S. 15A-266.2.

(4) 'SBI'. – State Bureau of Investigation.

(b) Any person who is arrested for committing any of the following offenses
must provide his or her DNA sample pursuant to this section for DNA analysis and
testing:

(1) Any Class A through E felony unless the offense is a violation of
Chapter 90 or Chapter 143 of the General Statutes or is a larceny or
embezzlement offense. For purposes of this subdivision, the term
'larceny or embezzlement offense' is a violation of G.S. 14-74, 14-100,
53-129, 58-2-162, or 105-236(9a)a., or Article 18 of Chapter 14 of the
General Statutes.

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

1 (3) G.S. 14-277.3 Stalking.

2 (c) It is the duty of the arresting law enforcement officer to obtain the arrested
3 person's DNA sample and to forward the DNA sample to the appropriate laboratory for
4 DNA analysis and testing. A qualified member of the health profession shall take the
5 DNA sample. No unreasonable or unnecessary force shall be used to obtain the DNA
6 sample.

7 (d) The DNA record of identification characteristics resulting from the DNA
8 testing and the DNA sample itself shall be stored and maintained by the State Bureau of
9 Investigation in the State DNA Databank pursuant to Article 13 of Chapter 15A of the
10 General Statutes."

11 **SECTION 2.** G.S. 15A-266.1 reads as rewritten:

12 **"§ 15A-266.1. Policy.**

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

20 **SECTION 3.** G.S. 15A-266.2 reads as rewritten:

21 **"§ 15A-266.2. Definitions.**

22 As used in this Article, unless another meaning is specified or the context clearly
23 requires otherwise, the following terms have the meanings specified:

24 (1) "CODIS" means the FBI's national DNA identification index system
25 that allows the storage and exchange of DNA records submitted by
26 State and local forensic DNA laboratories. The term "CODIS" is
27 derived from Combined DNA Index System.

28 (2) "DNA" means deoxyribonucleic acid. DNA is located in the nucleus of
29 cells and provides an individual's personal genetic blueprint. DNA
30 encodes genetic information that is the basis of human heredity and
31 forensic identification.

32 ~~(4)~~(2a) "DNA Blood Sample" in this Article means a blood sample provided
33 by any person convicted of offenses covered by this Article or
34 submitted to the SBI Laboratory for analysis pursuant to a criminal
35 investigation.

36 (2b) "DNA Fluid or Tissue Sample" in this Article means a sample of
37 saliva, hair, body tissue, or bodily fluid other than blood that is
38 provided by a person arrested for certain felonies and submitted for
39 DNA analysis as required by G.S. 15A-502A.

40 (3) "DNA Record" means DNA identification information stored in the
41 State DNA Database or CODIS for the purpose of generating
42 investigative leads or supporting statistical interpretation of DNA test
43 results. The DNA record is the result obtained from the DNA typing
44 tests. The DNA record is comprised of the characteristics of a DNA

1 sample which are of value in establishing the identity of individuals.
 2 The results of all DNA identification tests on an individual's DNA
 3 sample are also collectively referred to as the DNA profile of an
 4 individual.

5 (4) "DNA Sample" in this Article means a sample of body tissue, blood,
 6 or other bodily fluid that is appropriate for DNA testing or analysis by
 7 the SBI Laboratory pursuant to this Article. The term includes both
 8 DNA blood samples and DNA fluid or tissue samples.

9 (5) "FBI" means the Federal Bureau of Investigation.

10 (6) "SBI" means the State Bureau of Investigation. The SBI is responsible
 11 for the policy management and administration of the State DNA
 12 identification record system to support law enforcement, and for
 13 liaison with the FBI regarding the State's participation in CODIS.

14 (7) "State DNA Database" means the SBI's DNA identification record
 15 system to support law enforcement. It is administered by the SBI and
 16 provides DNA records to the FBI for storage and maintenance in
 17 CODIS. The SBI's DNA Database system is the collective capability
 18 provided by computer software and procedures administered by the
 19 SBI to store and maintain DNA records related to forensic casework,
 20 to convicted offenders required to provide a DNA sample under this
 21 Article, and to anonymous DNA records used for research or quality
 22 control.

23 (8) "State DNA Databank" means the repository of DNA samples
 24 collected under the provisions of this Article."

25 **SECTION 4.** G.S. 15A-266.4 reads as rewritten:

26 **"§ 15A-266.4. Blood sample required for DNA analysis upon conviction.**

27 (a) On or after ~~1 July 1994,~~December 1, 2003, a person who is convicted of any
 28 of the crimes listed in subsection (b) of this section shall have a DNA sample drawn
 29 upon intake to a jail or prison. In addition, every person convicted on or after ~~1 July~~
 30 ~~1994,~~December 1, 2003, of any of these crimes, but who is not sentenced to a term of
 31 confinement, shall provide a DNA sample as a condition of the sentence. A person who
 32 has been convicted and incarcerated as a result of a conviction of one or more of these
 33 crimes prior to ~~1 July 1994~~December 1, 2003, shall have a DNA sample drawn before
 34 parole or release from the penal system.

35 (b) Crimes covered by this Article ~~include:~~include all of the following:

36 (1) All felonies.

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

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

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

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

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

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

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

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

- 1 ~~G.S. 14-30.1~~ — ~~Malicious throwing of corrosive acid or alkali.~~
2 ~~G.S. 14-31~~ — ~~Malicious assault in secret manner.~~
3 ~~G.S. 14-32~~ — ~~Felonious assault with deadly weapon with intent~~
4 ~~to kill.~~
5 (2) ~~G.S. 14-32.1~~ — ~~Assaults on handicapped persons.~~
6 ~~G.S. 14-34.1~~ — ~~Discharging barreled weapon or firearm into~~
7 ~~occupied property.~~
8 ~~G.S. 14-34.2~~ — ~~Assault with firearm or other deadly weapon upon~~
9 ~~law enforcement officer, fireman, or EMS~~
10 ~~personnel.~~
11 ~~G.S. 14-39(a)(3)~~ — ~~Kidnapping for the purpose of doing serious~~
12 ~~bodily harm to the person.~~
13 ~~G.S. 14-49~~ — ~~Malicious use of explosive or incendiary.~~
14 ~~G.S. 14-58.2~~ — ~~Burning of mobile home, manufactured type~~
15 ~~house, or recreational trailer home.~~
16 ~~G.S. 14-202.1~~ — ~~Taking indecent liberties with children.~~
17 ~~G.S. 14-87~~ — ~~Robbery with a dangerous weapon.~~
18 (3) ~~G.S. 14-277.3~~ — ~~Stalking.~~
19 ~~G.S. 14-87.1~~ — ~~Common law robbery.~~
20 ~~G.S. 14-58~~ — ~~First degree arson."~~

21 **SECTION 5.** G.S. 15A-266.5 reads as rewritten:

22 "**§ 15A-266.5. Tests to be performed on blood, other bodily fluid, or**
23 **tissue samples.**

24 (a) The tests to be performed on each ~~blood~~blood, other bodily fluid, or tissue
25 sample are:

- 26 (1) To analyze and type the genetic markers contained in or derived from
27 the DNA.
28 (2) For law enforcement identification purposes.
29 (3) For research and administrative purposes, including:
30 a. Development of a population database when personal
31 identifying information is removed.
32 b. To support identification research and protocol development of
33 forensic DNA analysis methods.
34 c. For quality control purposes.
35 d. To assist in the recovery or identification of human remains
36 from mass disasters or for other humanitarian purposes,
37 including identification of missing persons.

38 (b) The DNA record of identification characteristics resulting from the DNA
39 testing shall be stored and maintained by the SBI in the State DNA Database. The DNA
40 sample itself will be stored and maintained by the SBI in the State DNA Databank."

41 **SECTION 6.** The catch line of G.S. 15A-266.7 reads as rewritten:

42 "**§ 15A-266.7. Procedures for conducting DNA analysis of blood, other bodily fluid, or**
43 **tissue samples.**"

44 **SECTION 7.** G.S. 15A-266.8 reads as rewritten:

1 **"§ 15A-266.8. DNA database exchange.**

2 (a) It shall be the duty of the SBI to receive DNA samples, to store, to analyze or
3 to contract out the DNA typing analysis to a qualified DNA laboratory that meets the
4 guidelines as established by the SBI, classify, and file the DNA record of identification
5 characteristic profiles of DNA samples submitted pursuant to G.S. 15A-266.7 and G.S.
6 15A-502A and to make such information available as provided in this section. The SBI
7 may contract out DNA typing analysis to a qualified DNA laboratory that meets
8 guidelines as established by the SBI. The results of the DNA profile of individuals in
9 the State Database shall be made available to local, State, or federal law enforcement
10 agencies, approved crime laboratories which serve these agencies, or the district
11 attorney's office upon written or electronic request and in furtherance of an official
12 investigation of a criminal offense. These records shall also be available upon receipt of
13 a valid court order directing the SBI to release these results to appropriate parties not
14 listed above, when the court order is signed by a superior court judge after a hearing.
15 The SBI shall maintain a file of such court orders.

16 (b) The SBI shall adopt rules governing the methods of obtaining information
17 from the State Database and CODIS and procedures for verification of the identity and
18 authority of the requester.

19 (c) The SBI shall create a separate population database comprised of ~~blood~~
20 blood, other bodily fluid, and tissue samples obtained under this Article, after all
21 personal identification is removed. Nothing shall prohibit the SBI from sharing or
22 disseminating population databases with other law enforcement agencies, crime
23 laboratories that serve them, or other third parties the SBI deems necessary to assist the
24 SBI with statistical analysis of the SBI's population databases. The population database
25 may be made available to and searched by other agencies participating in the CODIS
26 system."

27 **SECTION 8.** G.S. 15A-1382 reads as rewritten:

28 **"§ 15A-1382. Reports of disposition; ~~fingerprints~~fingerprints and DNA samples.**

29 (a) When the defendant is fingerprinted pursuant to G.S. 15A-502 prior to the
30 disposition of the case, a report of the disposition of the charges shall be made to the
31 State Bureau of Investigation on a form supplied by the State Bureau of Investigation
32 within 60 days following disposition. When a DNA sample is taken from the defendant
33 pursuant to G.S. 15A-502A prior to the disposition of the case, a report of the
34 disposition of the charges shall be made to the State Bureau of Investigation on a form
35 supplied by the State Bureau of Investigation within 60 days following disposition.

36 (b) When a defendant is found guilty of any felony, regardless of the class of
37 felony, a report of the disposition of the charges shall be made to the State Bureau of
38 Investigation on a form supplied by the State Bureau of Investigation within 60 days
39 following disposition. If a convicted felon was not fingerprinted pursuant to G.S.
40 15A-502 prior to the disposition of the case, his fingerprints shall be taken and
41 submitted to the State Bureau of Investigation along with the report of the disposition of
42 the charges on forms supplied by the State Bureau of Investigation.

43 (c) If a convicted felon did not have a DNA sample taken pursuant to G.S.
44 15A-502A prior to the disposition of the case, then a DNA sample shall be taken from

1 the felon in accordance with Article 13 of this Chapter and submitted to the State
2 Bureau of Investigation along with the report of the disposition of the charges on forms
3 supplied by the State Bureau of Investigation as provided by Article 13 of this Chapter."

4 **SECTION 9.** G.S. 7B-2201 reads as rewritten:

5 "**§ 7B-2201. Fingerprinting and DNA sample from juvenile transferred to superior**
6 **court.**

7 (a) When jurisdiction over a juvenile is transferred to the superior court, the
8 juvenile shall be fingerprinted and the juvenile's fingerprints shall be sent to the State
9 Bureau of Investigation.

10 (b) When jurisdiction over a juvenile is transferred to the superior court, a DNA
11 sample shall be taken from the juvenile pursuant to G.S. 15A-502A."

12 **SECTION 10.** This act becomes effective December 1, 2003. Section 1 of
13 this act applies to arrests made on or after December 1, 2003.