

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

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HOUSE BILL 79*
Committee Substitute Favorable 4/8/03

Short Title: DNA Registry.

(Public)

Sponsors:

Referred to:

February 25, 2003

A BILL TO BE ENTITLED

1 AN ACT TO REQUIRE THAT A DNA SAMPLE BE TAKEN FROM ANY PERSON
2 CONVICTED OF ANY FELONY OR CERTAIN OTHER CRIMINAL OFFENSES
3 OR WHO IS FOUND NOT GUILTY BY REASON OF INSANITY OF ANY
4 FELONY OR CERTAIN OTHER CRIMINAL OFFENSES, TO CLARIFY WHEN
5 THAT SAMPLE IS TAKEN, AND TO RESTRICT THE RELEASE OF
6 INFORMATION FROM THE DNA DATABASE.
7

8 The General Assembly of North Carolina enacts:

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

10 **"§ 15A-266.1. Policy.**

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

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

19 **"§ 15A-266.4. Blood sample required for DNA analysis upon conviction.**

20 (a) On or after ~~1 July 1994,~~December 1, 2003, a person who is convicted of any
21 of the crimes listed in subsection (b) of this section or who is found not guilty of any of
22 these crimes by reason of insanity shall have a DNA sample drawn upon intake to a jail
23 or prison. In addition, every person convicted on or after ~~1 July 1994,~~December 1, 2003,
24 of any of these crimes, or who is found not guilty of any of these crimes by reason of
25 insanity, but who is not sentenced to a term of confinement, shall provide a DNA
26 sample as a condition of the sentence. A person who has been convicted and
27 incarcerated as a result of a conviction of one or more of these crimes prior to ~~1 July~~
28 ~~1994~~December 1, 2003, or who was found not guilty of any of these crimes by reason
29 of insanity and committed to a mental health facility in accordance with G.S. 15A-1321

1 before December 1, 2003, shall have a DNA sample drawn before parole or release
2 from the penal system.

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

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 intent
16 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 upon
21 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-266.6 reads as rewritten:

34 **"§ 15A-266.6. Procedures for withdrawal of blood sample for DNA analysis.**

35 (a) Each DNA sample required to be drawn pursuant to G.S. 15A-266.4 from
36 persons who are incarcerated shall be drawn at the place of incarceration. DNA samples
37 from persons who are not sentenced to a term of confinement shall be drawn ~~at a prison
38 or jail unit to be specified by the sentencing court.~~immediately following sentencing.
39 The sentencing court shall order any person not sentenced to a term of confinement to
40 report immediately following sentencing to the location designated by the sheriff. If the
41 sample cannot be taken immediately, the sheriff shall inform the court of the date, time
42 and location at which the sample shall be taken, and the court shall enter that date, time
43 and location into its order. A copy of the court order indicating the date, time and
44 location the person is to appear to have a sample taken shall be given to the sheriff. If a

1 person not sentenced to a term of confinement fails to appear immediately following
2 sentencing or at the date, time and location designated in the court order, the sheriff
3 shall inform the court of the failure to appear and the court may issue an order to show
4 cause pursuant to G.S. 5A-15 and may issue an order for arrest pursuant to G.S. 5A-16.

5 (b) Only a correctional health nurse technician, physician, registered professional
6 nurse, licensed practical nurse, laboratory technician, phlebotomist, or other health care
7 worker with phlebotomy training shall draw any DNA sample to be submitted for
8 analysis. No civil liability shall attach to any person authorized to draw blood by this
9 section as a result of drawing blood from any person if the blood was drawn according
10 to recognized medical procedures. No person shall be relieved from liability for
11 negligence in the drawing of any DNA sample.

12 (c) The SBI shall provide to the sheriff the materials and supplies necessary to
13 draw a DNA sample from a person not sentenced to a term of confinement. Any DNA
14 sample drawn from a person not sentenced to a term of confinement shall be taken using
15 the materials and supplies provided by the SBI."

16 **SECTION 4.** G.S. 15A-266.12 reads as rewritten:

17 "**§ 15A-266.12. Confidentiality of ~~records~~ records and samples.**

18 (a) All DNA profiles and samples submitted to the SBI pursuant to this Article
19 shall be treated as confidential except as provided in G.S. 15A-266.8.

20 (b) Only DNA records that directly relate to the identification of individuals shall
21 be collected and stored. These records shall not be used for any purpose other than to
22 facilitate personal identification of an offender; provided that in appropriate
23 circumstances such records may be used to identify potential victims of mass disasters
24 or missing persons. Except as provided in G.S. 15A-266.8, records or samples shall not
25 be released, without the consent of the subject of the DNA record or sample, to
26 insurance companies, employers or potential employers, health providers, employment
27 screening or personnel companies, agencies, or services, private investigation services,
28 and may not be disclosed to any agency, authority, division, office, corporation,
29 partnership, or any other private or public entity or person. Nothing in this section shall
30 prohibit disclosure in response to a subpoena issued on behalf of the subject of the DNA
31 record or sample."

32 **SECTION 5.** This act becomes effective December 1, 2003.