

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

SESSION LAW 2003-376
HOUSE BILL 79

AN ACT TO REQUIRE THAT A DNA SAMPLE BE TAKEN FROM ANY PERSON CONVICTED OF ANY FELONY OR CERTAIN OTHER CRIMINAL OFFENSES OR WHO IS FOUND NOT GUILTY BY REASON OF INSANITY OF ANY FELONY OR CERTAIN OTHER CRIMINAL OFFENSES, TO CLARIFY WHEN THAT SAMPLE IS TAKEN, AND TO CLARIFY CONFIDENTIALITY.

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 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~~ conviction or finding of not guilty by reason of insanity.

(a) Unless a DNA sample has previously been obtained by lawful process and stored in the State DNA database, and that sample has not been expunged pursuant to G.S. 15A-148, on or after 1 July 1994, December 1, 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 and committed to a mental health facility in accordance with G.S. 15A-1321 shall have a DNA sample drawn upon intake to a jail or prison, jail, prison, or the mental health facility. In addition, every person convicted on or after 1 July 1994, December 1, 2003, of any of these crimes, 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, December 1, 2003, or who was found not guilty of any of these crimes by reason of insanity and committed to a mental health facility in accordance with G.S. 15A-1321 before December 1, 2003, shall have a DNA sample drawn before parole or release from the penal system, system or before release from the mental health facility.

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

(1) All felonies.

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| G.S. 14-17 | — Murder in the first and second degree. |
| G.S. 14-27.2 | — First degree rape. |
| G.S. 14-27.3 | — Second degree rape. |
| G.S. 14-27.4 | — First degree sexual offense. |
| G.S. 14-27.5 | — Second degree sexual offense. |
| G.S. 14-28 | — Malicious castration. |
| G.S. 14-29 | — Castration or other maiming. |
| G.S. 14-30 | — Malicious maiming. |
| G.S. 14-30.1 | — Malicious throwing of corrosive acid or alkali. |

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

SECTION 3. G.S. 15A-266.6 reads as rewritten:

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

(a) Each DNA sample required to be drawn pursuant to G.S. 15A-266.4 from persons who are incarcerated shall be drawn at the place of incarceration. DNA samples from persons who are not sentenced to a term of confinement shall be drawn ~~at a prison or jail unit to be specified by the sentencing court immediately following sentencing.~~ The sentencing court shall order any person not sentenced to a term of confinement to report immediately following sentencing to the location designated by the sheriff. If the sample cannot be taken immediately, the sheriff shall inform the court of the date, time, and location at which the sample shall be taken, and the court shall enter that date, time, and location into its order. A copy of the court order indicating the date, time, and location the person is to appear to have a sample taken shall be given to the sheriff. If a person not sentenced to a term of confinement fails to appear immediately following sentencing or at the date, time, and location designated in the court order, the sheriff shall inform the court of the failure to appear and the court may issue an order to show cause pursuant to G.S. 5A-15 and may issue an order for arrest pursuant to G.S. 5A-16.

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

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

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

"§ 15A-266.12. Confidentiality of records.

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

(b) Only DNA records and samples that directly relate to the identification of individuals shall be collected and stored. These records and samples shall solely be used as a part of the criminal justice system not be used for any purpose other than to facilitate for the purpose of facilitating the personal identification of an offender; the

perpetrator of a criminal offense; provided that in appropriate circumstances such records may be used to identify potential victims of mass disasters or missing persons."

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

In the General Assembly read three times and ratified this the 18th day of July, 2003.

s/ Beverly E. Perdue
President of the Senate

s/ Richard T. Morgan
Speaker of the House of Representatives

s/ Michael F. Easley
Governor

Approved 11:16 a.m. this 1st day of August, 2003