

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2003**

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**SENATE BILL 7**

Short Title: DNA Registry.

(Public)

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Sponsors: Senators Rand; Apodaca, Bingham, Brock, Carrington, Dalton, Dannelly, Dorsett, Garrou, Gulley, Holloman, Hoyle, Jenkins, Kerr, Malone, Metcalf, Moore, Pittenger, Purcell, Queen, Reeves, Shubert, Sloan, Smith, Swindell, Thomas, and Weinstein.

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Referred to: Judiciary I.

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February 10, 2003

A BILL TO BE ENTITLED

1 AN ACT TO REQUIRE THAT A DNA SAMPLE BE TAKEN FROM ANY PERSON  
2 ARRESTED OF A VIOLENT FELONY OR CERTAIN OTHER CRIMINAL  
3 OFFENSES AND TO REQUIRE THAT A DNA SAMPLE BE TAKEN FROM  
4 ANY PERSON CONVICTED OF ANY FELONY OR CERTAIN OTHER  
5 CRIMINAL OFFENSES.  
6

7 The General Assembly of North Carolina enacts:

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

10 **"§ 15A-502A. DNA sample.**

11 (a) The following definitions apply in this section:

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

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

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

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

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

23 (1) Any Class A through E felony unless the offense is a violation of  
24 Chapter 90 or Chapter 143 of the General Statutes or is a larceny or  
25 embezzlement offense. For purposes of this subdivision, the term  
26 'larceny or embezzlement offense' is a violation of G.S. 14-74, 14-100,

1                    53-129, 58-2-162, or 105-236(9a)a., or Article 18 of Chapter 14 of the  
2                    General Statutes.

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

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

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

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

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

15                    "**§ 15A-266.1. Policy.**

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

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

24                    "**§ 15A-266.2. Definitions.**

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

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

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

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

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

43                    (3)    "DNA Record" means DNA identification information stored in the  
44                    State DNA Database or CODIS for the purpose of generating

1           investigative leads or supporting statistical interpretation of DNA test  
2 results. The DNA record is the result obtained from the DNA typing  
3 tests. The DNA record is comprised of the characteristics of a DNA  
4 sample which are of value in establishing the identity of individuals.  
5 The results of all DNA identification tests on an individual's DNA  
6 sample are also collectively referred to as the DNA profile of an  
7 individual.

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

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

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

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

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

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

29 **"§ 15A-266.4. Blood sample required for DNA analysis upon conviction.**

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

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

39           (1) All felonies.

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

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

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

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

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

1	<del>G.S. 14-28</del>	— Malicious castration.
2	<del>G.S. 14-29</del>	— Castration or other maiming.
3	<del>G.S. 14-30</del>	— Malicious maiming.
4	<del>G.S. 14-30.1</del>	— Malicious throwing of corrosive acid or alkali.
5	<del>G.S. 14-31</del>	— Malicious assault in secret manner.
6	<del>G.S. 14-32</del>	— Felonious assault with deadly weapon with intent
7		to kill.
8	(2) <del>G.S. 14-32.1</del>	— Assaults on handicapped persons.
9	<del>G.S. 14-34.1</del>	— <del>Discharging barreled weapon or firearm into</del>
10		<del>occupied property.</del>
11	<del>G.S. 14-34.2</del>	— <del>Assault with firearm or other deadly weapon upon</del>
12		<del>law enforcement officer, fireman, or EMS</del>
13		<del>personnel.</del>
14	<del>G.S. 14-39(a)(3)</del>	— <del>Kidnapping for the purpose of doing serious</del>
15		<del>bodily harm to the person.</del>
16	<del>G.S. 14-49</del>	— <del>Malicious use of explosive or incendiary.</del>
17	<del>G.S. 14-58.2</del>	— <del>Burning of mobile home, manufactured type</del>
18		<del>house, or recreational trailer home.</del>
19	<del>G.S. 14-202.1</del>	— <del>Taking indecent liberties with children.</del>
20	<del>G.S. 14-87</del>	— <del>Robbery with a dangerous weapon.</del>
21	(3) <del>G.S. 14-277.3</del>	— <del>Stalking.</del>
22	<del>G.S. 14-87.1</del>	— <del>Common law robbery.</del>
23	<del>G.S. 14-58</del>	— <del>First degree arson."</del>

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

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

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

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

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

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

1 **"§ 15A-266.7. Procedures for conducting DNA analysis of ~~blood sample~~blood,**  
2 **other bodily fluid, or tissue samples."**

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

4 **"§ 15A-266.8. DNA database exchange.**

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

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

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

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

31 **"§ 15A-1382. Reports of disposition; ~~fingerprints~~fingerprints and DNA samples.**

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

39 (b) When a defendant is found guilty of any felony, regardless of the class of  
40 felony, a report of the disposition of the charges shall be made to the State Bureau of  
41 Investigation on a form supplied by the State Bureau of Investigation within 60 days  
42 following disposition. If a convicted felon was not fingerprinted pursuant to G.S.  
43 15A-502 prior to the disposition of the case, his fingerprints shall be taken and

1 submitted to the State Bureau of Investigation along with the report of the disposition of  
2 the charges on forms supplied by the State Bureau of Investigation.

3 (c) If a convicted felon did not have a DNA sample taken pursuant to G.S.  
4 15A-502A prior to the disposition of the case, then a DNA sample shall be taken from  
5 the felon in accordance with Article 13 of this Chapter and submitted to the State  
6 Bureau of Investigation along with the report of the disposition of the charges on forms  
7 supplied by the State Bureau of Investigation as provided by Article 13 of this Chapter."

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

9 "**§ 7B-2201. Fingerprinting and DNA sample from juvenile transferred to superior**  
10 **court.**

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

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

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