

The House Committee on Judiciary Non-civil offers the following substitute to HB 314:

A BILL TO BE ENTITLED
AN ACT

To amend Code Section 24-4-60 of the Official Code of Georgia Annotated, relating to requirement for DNA analysis of blood of persons convicted of certain sex offenses or convicted of a felony and incarcerated in a state correctional facility, so as to provide for DNA analysis of persons convicted of certain felonies and sexual offenses who are placed on probation; to provide for an effective date; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Code Section 24-4-60 of the Official Code of Georgia Annotated, relating to requirement for DNA analysis of blood of persons convicted of certain sex offenses or convicted of a felony and incarcerated in a state correctional facility, is revised as follows:

"24-4-60.

(a) As used in subsection (b) of this Code section, the term 'state correctional facility' means a penal institution under the jurisdiction of the Department of Corrections, including inmate work camps and inmate boot camps; provided, however, that such term shall not include a probation detention center, probation diversion center, or probation boot camp under the jurisdiction of the Department of Corrections.

(b) Any person convicted of a criminal offense defined in Code Section 16-6-1, relating to the offense of rape; Code Section 16-6-2, relating to the offense of sodomy or aggravated sodomy; Code Section 16-6-3, relating to the offense of statutory rape; Code Section 16-6-4, relating to the offense of child molestation or aggravated child molestation; Code Section 16-6-5, relating to the offense of enticing a child for indecent purposes; Code Section 16-6-5.1, relating to the offense of sexual assault against persons in custody, sexual assault against a person detained or a patient in a hospital or other institution, or sexual assault by a practitioner of psychotherapy against a patient; Code Section 16-6-6, relating to the offense of bestiality; Code Section 16-6-7, relating to the offense of necrophilia; or

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Code Section 16-6-22, relating to the offense of incest, shall have a sample of his or her blood, an oral swab, or a sample obtained from a noninvasive procedure taken for DNA (deoxyribonucleic acid) analysis to determine identification characteristics specific to the person. In addition, on and after July 1, 2000, any person convicted of a felony and incarcerated in a state correctional facility shall at the time of entering the prison system have a sample of his or her blood, an oral swab, or a sample obtained from a noninvasive procedure taken for DNA (deoxyribonucleic acid) analysis to determine identification characteristics specific to the person. The provisions and requirements of this Code section shall also apply to any person who has been convicted of a felony prior to July 1, 2000, and who currently is incarcerated in a state correctional facility in this state for such offense. The provisions and requirements of this Code section shall also apply to any person who has been convicted of a felony in this state on or after July 1, 2000, and who is incarcerated in a private correctional facility in this state for such offense pursuant to a contract with the Department of Corrections upon entering the facility, and for any person convicted of a felony prior to July 1, 2000, and who is incarcerated in a private correctional facility in this state pursuant to contract with the Department of Corrections. The analysis shall be performed by the Division of Forensic Sciences of the Georgia Bureau of Investigation. The division shall be authorized to contract with individuals or organizations for services to perform such analysis. The identification characteristics of the profile resulting from the DNA analysis shall be stored and maintained by the bureau in a DNA data bank and shall be made available only as provided in Code Section 24-4-63.

(c)(1) On and after July 1, 2007, any person who is placed on probation shall have a sample of his or her blood, an oral swab, or a sample obtained from a noninvasive procedure taken for DNA (deoxyribonucleic acid) analysis to determine identification characteristics specific to the person if such person is convicted of a felony violation of any of the following:

(A) Chapter 5 of Title 16, relating to crimes against persons;

(B) Code Section 16-6-1, relating to the offense of rape;

(C) Code Section 16-6-2, relating to the offense of sodomy or aggravated sodomy;

(D) Code Section 16-6-3, relating to the offense of statutory rape;

(E) Code Section 16-6-4, relating to the offense of child molestation or aggravated child molestation;

(F) Code Section 16-6-5, relating to the offense of enticing a child for indecent purposes;

(G) Code Section 16-6-5.1, relating to the offense of sexual assault against persons in custody, sexual assault against a person detained or a patient in a hospital or other institution, or sexual assault by a practitioner of psychotherapy against a patient;

1 (H) Code Section 16-6-6, relating to the offense of bestiality;

2 (I) Code Section 16-6-7, relating to the offense of necrophilia;

3 (J) Code Section 16-6-22, relating to the offense of incest;

4 (K) Code Section 16-7-1, relating to the offense of burglary;

5 (L) Code Section 16-8-40, relating to the offense of robbery;

6 (M) Code Section 16-8-41, relating to the offense of armed robbery;

7 (N) Code Section 16-10-23, relating to the offense of impersonating an officer;

8 (O) Code Section 16-10-24, relating to the offense of obstruction of an officer;

9 (P) Article 4 of Chapter 11 of Title 16, relating to dangerous instrumentalities and
10 practices; and

11 (Q) Chapter 13 of Title 16, relating to controlled substances.

12 (2) The analysis shall be performed by the Division of Forensic Sciences of the Georgia
13 Bureau of Investigation. The division shall be authorized to contract with individuals or
14 organizations for services to perform such analysis. The identification characteristics of
15 the profile resulting from the DNA analysis shall be stored and maintained by the bureau
16 in a DNA data bank and shall be made available only as provided in Code Section
17 24-4-63. The Department of Corrections shall be responsible for collecting such sample."

18 **SECTION 2.**

19 This Act shall become effective on July 1, 2007.

20 **SECTION 3.**

21 All laws and parts of laws in conflict with this Act are repealed.