

House Bill 1033

By: Representatives Teilhet of the 40th, Wix of the 33rd, Neal of the 1st, Ramsey of the 72nd,
Gordon of the 162nd, and others

A BILL TO BE ENTITLED
AN ACT

1 To provide for a short title; to amend Code Section 24-4-60 of the Official Code of Georgia
2 Annotated, relating to requirement for DNA analysis of blood of persons convicted of certain
3 sex offenses or convicted of a felony and incarcerated in a state correctional facility, so as
4 to provide for DNA analysis of persons arrested for felony offenses; to provide for related
5 matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 This Act shall be known and may be cited as the "Johnia Berry DNA Saves Act of 2010."

9 **SECTION 2.**

10 Code Section 24-4-60 of the Official Code of Georgia Annotated, relating to requirement for
11 DNA analysis of blood of persons convicted of certain sex offenses or convicted of a felony
12 and incarcerated in a state correctional facility, is amended by adding two new subsections
13 to read as follows:

14 "(d)(1) On and after July 1, 2010, any person who is arrested for a felony offense, shall
15 have a sample of his or her blood, an oral swab, or a sample obtained from a noninvasive
16 procedure taken for DNA (deoxyribonucleic acid) analysis to determine identification
17 characteristics specific to the person.

18 (2) After a determination by a magistrate or a grand jury that probable cause exists for
19 the arrest, but prior to the person's release from custody, the arresting law enforcement
20 agency shall be responsible for collecting such sample in accordance with rules and
21 regulations established by the Division of Forensic Sciences of the Georgia Bureau of
22 Investigation. The court or magistrate shall make the provision of a specimen a condition
23 of the person's release on bond or recognizance if bond or recognizance is granted.

24 (3) The analysis shall be performed by the Division of Forensic Sciences of the Georgia
25 Bureau of Investigation. The Division of Forensic Sciences of the Georgia Bureau of

26 Investigation shall be authorized to contract with individuals or organizations for services
27 to perform such analysis. The identification characteristics of the profile resulting from
28 the DNA analysis shall be stored and maintained by the Georgia Bureau of Investigation
29 in a DNA data bank and shall be made available only as provided in Code Section
30 24-4-63.

31 (4) A person whose DNA profile has been included in the data bank pursuant to
32 paragraph (1) of this subsection may request that it be expunged on the grounds that the
33 charges for which the sample was taken were dead docketed, dismissed, reduced to a
34 misdemeanor, or if the person was acquitted. The Georgia Bureau of Investigation shall
35 purge all records and identifiable information in the data bank pertaining to such person
36 and destroy all samples from such person upon receipt of a written request that such data
37 be expunged, pursuant to this paragraph, and a certified copy of the (A) court order dead
38 docketing or dismissing the charges, (B) sentencing order showing the charges were
39 reduced to a misdemeanor, or (C) court order reversing and dismissing the conviction;
40 provided, however, that the Georgia Bureau of Investigation shall verify that there is no
41 other pending qualifying warrant for arrest or conviction that would otherwise require
42 that the sample remain in the data bank.

43 (e) A person whose DNA profile has been included in the data bank pursuant to subsection
44 (d) of this Code section shall not be required to have his or her DNA collected pursuant to
45 subsection (b) or (c) of this Code section."

46 **SECTION 3.**

47 This Act shall become effective on July 1, 2010.

48 **SECTION 4.**

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