

House Bill 288

By: Representatives Pak of the 102nd, Ramsey of the 72nd, Sheldon of the 105th, Martin of the 47th, Neal of the 1st, and others

A BILL TO BE ENTITLED
AN ACT

1 To provide for a short title; to amend Code Section 17-6-1 of the Official Code of Georgia
2 Annotated, relating to where offenses are bailable, so as to require as a condition of bail for
3 certain offenses that DNA collection be performed on the person seeking bond; to provide
4 for procedure; to provide for a reasonable fee; to provide for expungement under certain
5 circumstances; to provide for related matters; to repeal conflicting laws; and for other
6 purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 This Act shall be known and may be cited as the "Johnia Berry Act."

10 **SECTION 2.**

11 Code Section 17-6-1 of the Official Code of Georgia Annotated, relating to where offenses
12 are bailable, is amended by adding a new subsection to read as follows:

13 "(k)(1) A person charged with any offense which is bailable only before a judge of a
14 superior court as provided in subsection (a) of this Code section shall be required, as a
15 condition of bond, to have 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. Prior to the person's release from custody on bond
18 or recognizance, the law enforcement entity responsible for releasing such person on
19 bond or recognizance shall be responsible for collecting a DNA sample in accordance
20 with rules and regulations established by the Division of Forensic Sciences of the Georgia
21 Bureau of Investigation and notifying the person of his or her right to petition to exclude
22 his or her DNA from the data bank in accordance with paragraph (4) of this subsection.
23 (2) The Division of Forensic Sciences of the Georgia Bureau of Investigation rules and
24 regulations shall include a reasonable fee to offset the costs to the law enforcement entity
25 for the collection and transportation of DNA and costs to the Georgia Bureau of

26 Investigation for the storage and analysis of DNA collected pursuant to this subsection.
27 Such fee shall be paid by the person posting bond or being released on his or her own
28 recognizance; provided that the law enforcement entity releasing such person on bond or
29 recognizance shall retain their portion of the fee and submit the balance of the fee to the
30 Georgia Bureau of Investigation which shall be paid over into the general fund of the
31 state treasury.

32 (3) An analysis of DNA collected pursuant to this subsection shall be performed in
33 conformity with Article 4 of Chapter 4 of Title 24, as if the DNA was being collected
34 pursuant to Code Section 24-4-60. The samples shall be transported to the Division of
35 Forensic Sciences of the Georgia Bureau of Investigation not more than 15 days
36 following withdrawal and the identification characteristics of the profile resulting from
37 the DNA analysis shall be analyzed, stored, and maintained in the DNA data bank in
38 accordance with Code Section 24-4-62 and shall be disseminated only as provided in
39 Code Section 24-4-63.

40 (4) A person whose DNA profile has been included in the data bank pursuant to this
41 subsection may petition the superior court for the jurisdiction in which he or she was
42 arrested and request that his or her DNA profile be expunged on the grounds that he or
43 she was acquitted or the charges for which the sample was taken were dead docketed or
44 dismissed. Such motion shall be filed within 60 days of the court order dead docketing
45 or dismissing the charges or court order reversing and dismissing the conviction. The
46 Georgia Bureau of Investigation shall purge all records and identifiable information in
47 the data bank pertaining to such person and destroy all samples from such person upon
48 receipt of a written request that such data be expunged, pursuant to this paragraph, and
49 upon receipt of a certified copy of the court order granting expungement; provided,
50 however, that the Georgia Bureau of Investigation shall verify that there is no other
51 pending qualifying warrant for arrest or conviction that would otherwise require that the
52 sample remain in the data bank.

53 (5) A person whose DNA profile has been included in the data bank pursuant to this
54 subsection shall not be required to have his or her DNA collected pursuant to subsection
55 (b) or (c) of Code Section 24-4-60."

56 **SECTION 3.**

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