

The Senate State Institutions and Property Committee offered the following substitute to SB 80:

A BILL TO BE ENTITLED
AN ACT

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

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

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

13 "(d)(1) On and after July 1, 2011, any person who is arrested for a felony offense shall
14 have a sample of his or her blood, an oral swab, or a sample obtained from a noninvasive
15 procedure taken for DNA (deoxyribonucleic acid) analysis to determine identification
16 characteristics specific to the person.

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

23 (3) The analysis shall be performed by the Division of Forensic Sciences of the Georgia
24 Bureau of Investigation. The Division of Forensic Sciences of the Georgia Bureau of
25 Investigation shall be authorized to contract with individuals or organizations for services

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

30 (4) A person whose DNA profile has been included in the data bank pursuant to
31 paragraph (3) of this subsection may request that it be expunged on the grounds that the
32 person was acquitted or the charges for which the sample was taken were dead docketed,
33 dismissed, or reduced to a misdemeanor. The Georgia Bureau of Investigation shall
34 destroy all samples from such person upon receipt of a written request that such data be
35 expunged, pursuant to this paragraph, and a certified copy of the (A) court order dead
36 docketing or dismissing the charges, (B) sentencing order showing the charges were
37 reduced to a misdemeanor, or (C) court order reversing and dismissing the conviction.

38 (5) A DNA sample obtained pursuant to this subsection in good faith shall be deemed
39 to have been obtained in accordance with the requirements of this chapter, and use of
40 such DNA in accordance with this chapter shall be authorized until the offender submits
41 a request for expungement pursuant to paragraph (4) of this subsection.

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

45 **SECTION 3.**

46 This Act shall become effective only if funds are specifically appropriated for purposes of
47 this Act in an appropriations Act making specific reference to this Act and shall become
48 effective when funds so appropriated become available for expenditure.

49 **SECTION 4.**

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