Senate Bill 80

By: Senators McKoon of the 29th, Bethel of the 54th, Cowsert of the 46th, Gooch of the 51st, Albers of the 56th and others

AS PASSED SENATE

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 a short title; to provide

5   for related matters; to provide for a contingent effective date and applicability; to repeal

6   conflicting laws; and for other 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 24-4-60 of the Official Code of Georgia Annotated, relating to requirement for

12   DNA analysis of blood of persons convicted of certain sex offenses or convicted of a felony

13   and incarcerated in a state correctional facility, is amended by adding two new subsections

14   to read as follows:

15   "(d)(1) On and after July 1, 2011, any person who is arrested for a felony offense shall

16   have a sample of his or her blood, an oral swab, or a sample obtained from a noninvasive

17   procedure taken for DNA (deoxyribonucleic acid) analysis to determine identification

18   characteristics specific to the person.

19   (2) After a determination by a magistrate or a grand jury that probable cause exists for

20   the arrest, the arresting law enforcement agency shall be responsible for collecting such

21   sample in accordance with rules and regulations established by the Division of Forensic

22   Sciences of the Georgia Bureau of Investigation.

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 shall have such profile 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.