

The Senate Judiciary Committee offered the following substitute to SB 449:

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 6A of Chapter 3 of Title 35 of the Official Code of Georgia Annotated,
2 relating to DNA sampling, collection, and analysis, so as to provide for DNA analysis of
3 persons arrested for felony offenses; to change provisions relating to time and procedure for
4 withdrawal of blood samples; to change provisions relating to expungement of profiles in the
5 data bank; to provide for related matters; to provide for a contingent effective date; to repeal
6 conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

8 Article 6A of Chapter 3 of Title 35 of the Official Code of Georgia Annotated, relating to
9 DNA sampling, collection, and analysis, is amended by revising subsection (b) of Code
10 Section 35-3-160, relating to DNA analysis upon conviction of certain sex offenses, as
11 follows:
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13 "~~(b) Any person convicted of arrested for~~ a felony offense ~~who is held in a detention~~
14 ~~facility or placed on probation shall at the time of entering the detention facility or being~~
15 ~~placed on probation have~~ shall have a sample of his or her blood, an oral swab, or a sample
16 obtained from a noninvasive procedure taken by the law enforcement agency detaining the
17 arrestee after a magistrate or grand jury has determined that probable cause exists for the
18 arrest for DNA (deoxyribonucleic acid) analysis to determine identification characteristics
19 specific to the person. The provisions and requirements of this Code section shall also
20 apply to any person who has been convicted of a felony ~~prior to July 1, 2011, and who~~
21 ~~currently is~~ and is currently incarcerated in a detention facility, serving a probation
22 sentence, or serving under the jurisdiction of the Board of Pardons and Paroles for such
23 offense. It shall be the responsibility of the law enforcement agency detaining a person for
24 a felony offense or the detention facility detaining or entity supervising a convicted felon
25 to collect the samples required by this Code section and forward the sample to the division
26 unless such sample has already been collected by the department or another agency or
27 entity."

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SECTION 2.

Said article is further amended by revising subsection (a) of Code Section 35-3-161, relating to time and procedure for withdrawal of blood samples, as follows:

"(a) Each sample required pursuant to Code Section 35-3-160 from persons who have been arrested, and probable cause for the arrest has been established, shall be withdrawn within 30 days of the finding of probable cause. Each sample required pursuant to Code Section 35-3-160 from persons who are to be incarcerated shall be withdrawn within the first 30 days of incarceration at the receiving unit of the detention facility or at such other place as is designated by the department. Each sample required pursuant to Code Section 35-3-160 from persons who are to be released from a detention facility shall be withdrawn within the 12 months preceding such person's release at a place designated by the department. The required samples from persons who are not sentenced to a term of confinement shall be withdrawn as a condition of probation. The division shall publish in its quality manuals the procedures for the collection and transfer of samples to such division pursuant to Code Section 35-3-154. Personnel at a detention facility shall implement the provisions of this Code section as part of the regular processing of offenders."

SECTION 3.

Said article is further amended by revising Code Section 35-3-165, relating to expungement of profile in data bank upon reversal and dismissal of conviction, as follows:

"35-3-165.

(a) A person whose DNA profile has been included in the data bank pursuant to this article may request that it be expunged on the grounds that:

- (1) The ~~the~~ conviction on which the authority for including his or her DNA profile was based has been reversed and the case dismissed;
- (2) The person was acquitted of the felony charges;
- (3) The felony charges against the person were reduced to misdemeanor charges;
- (4) The felony charges are placed on the dead docket; or
- (5) The prosecuting attorney otherwise dismisses the felony charges.

(b) The bureau shall purge all records and identifiable information in the data bank pertaining to the person described in subsection (a) of this Code section and destroy all samples from the person upon receipt of a written request that such data be expunged, pursuant to this Code section, and a certified copy of:

- (1) The ~~the~~ court order reversing and dismissing the conviction;
- (2) The judgment of acquittal;
- (3) The sentencing order showing that the charges were reduced to a misdemeanor;
- (4) The court order dead docketing the felony charges; or

