

Senate Bill 116

By: Senators Bearden of the 30th, Robertson of the 29th, Payne of the 54th, Anavitarte of the 31st, Albers of the 56th and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 3 of Title 35 of the Official Code of Georgia Annotated, relating to DNA
2 sampling, collection, and analysis, so as to require the collection of DNA samples from any
3 individual in a detention facility charged with a misdemeanor or felony who is subject to an
4 immigration detainer notice; to provide for related matters; to repeal conflicting laws; and
5 for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Chapter 3 of Title 35 of the Official Code of Georgia Annotated, relating to DNA sampling,
9 collection, and analysis, is amended by revising Code Section 35-3-160, relating to DNA
10 analysis in felony convictions and certain felony charges and performance of tests, as
11 follows:

12 "35-3-160.

13 (a) As used in this article, the term:

14 (1) 'Department' means the Department of Corrections.

15 (2) 'Detention facility' means a penal institution under the jurisdiction of the department,
16 including penal institutions operated by a private company on behalf of the department,

17 inmate work camps, inmate boot camps, probation detention centers, parole revocation
18 centers, ~~and county jails, and municipal detention~~ correctional facilities.

19 (3) 'Division' means the Division of Forensic Sciences of the Georgia Bureau of
20 Investigation.

21 (b)(1) A sample of deoxyribonucleic acid (DNA) shall be collected by oral swab or other
22 noninvasive procedure from any individual:

23 (A) Who has been convicted of a felony and is currently incarcerated in a detention
24 facility, serving a probation sentence, or serving under the jurisdiction of the State
25 Board of Pardons and Paroles for such felony;

26 (B) Who has been charged with a felony, and sentence for such offense has been
27 imposed pursuant to Article 3 of Chapter 8 of Title 42 or pursuant to subsection (a)
28 or (c) of Code Section 16-13-2; or

29 (C) Who has been ~~convicted of~~ charged with a misdemeanor or felony and is subject
30 to an immigration detainer notice as such term is defined in Code Section 42-1-11.5.

31 (2) Unless a DNA sample has already been collected by the department or another
32 agency or entity, each DNA sample required by paragraph (1) of this subsection shall be
33 collected by the detention facility which is detaining or the entity which is supervising
34 such individual, and the sample shall be forwarded to the division.

35 ~~(3) Paragraph (1) of this subsection shall not apply to any individual for a conviction for~~
36 ~~a misdemeanor, to any individual who is charged with a misdemeanor and the sentence~~
37 ~~for such misdemeanor is imposed pursuant to Article 3 of Chapter 8 of Title 42 regarding~~
38 ~~first offenders, or because he or she has been charged with a misdemeanor.~~

39 (c) DNA analysis shall be performed by the division. The division shall be authorized to
40 contract with individuals or organizations for services to perform such analysis. The
41 identifying characteristics of the profile resulting from the DNA analysis shall be stored
42 and maintained by the bureau in a DNA data bank in accordance with Code

43 Sections 35-3-162 and 35-3-163 and shall be made available only as provided in Code
44 Section 35-3-163."

45 **SECTION 2.**

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