

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

**AS PASSED SENATE**

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 require the collection of DNA  
3 samples from certain individuals in a detention facility charged with a misdemeanor or  
4 felony who are subject to an immigration detainer notice; to provide for related matters; to  
5 repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **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 Code Section 35-3-160,  
10 relating to DNA analysis in felony convictions and certain felony charges and performance  
11 of tests, as 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,

S. B. 116

- 1 -

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 bureau.

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

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

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

28 (C) Who has been ~~convicted of~~ charged with a misdemeanor or felony and is subject  
29 to an immigration detainer notice as such term is defined in Code Section 42-1-11.5,  
30 provided that such individual is not taken into custody by the United States Immigration  
31 and Customs Enforcement Division of the Department of Homeland Security within 48  
32 hours of detention, excluding weekends and holidays, as required by 8 C.F.R. Section  
33 287.76(d).

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

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

42 (c) DNA analysis shall be performed by the division. The division shall be authorized to  
43 contract with individuals or organizations for services to perform such analysis. The

44 identifying characteristics of the profile resulting from the DNA analysis shall be stored  
45 and maintained by the bureau in a DNA data bank in accordance with Code  
46 Sections 35-3-162 and 35-3-163 and shall be made available only as provided in Code  
47 Section 35-3-163."

48 **SECTION 2.**

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