

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

H

2

HOUSE BILL 1738
Corrected Copy 6/18/02

Short Title: DNA Bank/DNA Analysis Fee.

(Public)

Sponsors: Representatives Baddour; and Hunter.

Referred to: Judiciary II.

June 17, 2002

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT A PERSON ARRESTED OR COMMITTED TO A
DETENTION FACILITY FOR CERTAIN FELONIES MUST SUBMIT A DNA
SAMPLE FOR ANALYSIS, TO ASSESS A FEE FOR THE WITHDRAWAL OF
THE SAMPLE, AND TO PROVIDE THAT THE SAMPLE AND ALL RECORDS
OF THE SAMPLE AND DNA ANALYSIS MUST BE DESTROYED IF THE
CHARGE AGAINST THE DEFENDANT IS DISMISSED OR THE DEFENDANT
IS ACQUITTED.

The General Assembly of North Carolina enacts:

SECTION 1. Article 13 of Chapter 15A of the General Statutes is amended
by adding the following new sections to read:

"§ 15A-266.4A. DNA sample obtained after arrest or detainment for certain felonies.

(a) A person who is arrested or committed to a detention facility for the commission of any crime listed in G.S. 15A-266.4(b) shall provide a DNA sample for DNA (deoxyribonucleic acid) analysis as provided by this section. The tests to be performed on the sample are to analyze and type the genetic markers contained in or derived from the DNA and for law enforcement identification purposes.

(b) After a determination by a magistrate that probable cause exists for the arrest or detention, a DNA sample shall be taken prior to the person's release from custody.

(c) The clerk of the court shall notify the SBI of final disposition of the criminal proceedings. If the charge for which the sample was taken is dismissed or the defendant is acquitted at trial, the SBI shall destroy the sample and all records thereof.

"§ 15A-266.6A. Procedures for taking DNA sample required for DNA analysis after arrest for certain felonies.

(a) Each sample required pursuant to G.S. 15A-266.4A from a person arrested shall be taken before the person is released from custody at a place designated by the

1 magistrate. Each sample shall be taken in accordance with procedures adopted by the
2 SBI. The sample shall be sealed and labeled with the subject's name, social security
3 number, date of birth, race and gender; the name of the person collecting the sample; the
4 date and place of collection; information identifying the arresting or accompanying
5 officer; and the offense for which the person was arrested. The sample shall be secured
6 to prevent tampering with the contents and be accompanied by a copy of the arrest
7 warrant. The steps set out in this section relating to the taking, handling, identification,
8 and disposition of DNA samples are procedural and not substantive. The sample shall
9 be transported to the SBI not more than 15 days following withdrawal and shall be
10 analyzed and stored in the State DNA Database in accordance with G.S. 15A-266.7.

11 (b) Substantial compliance with this section is deemed to be sufficient. If a
12 sample has been previously taken from the individual as indicated by the State DNA
13 Database, no additional sample shall be taken.

14 No civil liability shall attach to any person authorized to take a DNA sample by this
15 section as a result of the act of taking the sample from any person submitting thereto,
16 provided the sample was taken according to recognized medical procedures. No person
17 shall be relieved from liability for negligence in the taking of any DNA sample."

18 **SECTION 2.** G.S. 15A-266.2(4) reads as rewritten:

19 "(4) "DNA Sample" in this Article ~~means a~~ includes all of the following:

- 20 a. A blood sample provided by any person convicted of offenses
21 covered by this ~~Article or Article.~~
22 b. A blood sample submitted to the SBI Laboratory for analysis
23 pursuant to a criminal ~~investigation.~~ investigation.
24 c. A blood, saliva, or tissue sample provided by any person who is
25 arrested or committed to a detention facility for the commission
26 of an offense covered by this Article."

27 **SECTION 3.** G.S. 15A-266.8(b) reads as rewritten:

28 "(b) The SBI shall adopt rules governing the methods of obtaining information
29 from the State Database and CODIS and procedures for verification of the identity and
30 authority of the requester. The SBI shall also adopt rules governing the destruction of
31 the DNA sample and resulting records of any person who submitted a DNA sample in
32 compliance with G.S. 15A-266.4A, if the charge for which the sample was taken is
33 dismissed or the defendant is acquitted at trial."

34 **SECTION 4.** Article 23 of Chapter 15A of the General Statutes is amended
35 by adding a new section to read:

36 "**§ 15A-502.1. DNA samples; fee for withdrawal of sample.**

37 (a) A person who is arrested or committed to a detention facility for the
38 commission of any crime listed under G.S. 15A-266.4(b) shall submit a DNA sample as
39 provided in Article 13 of this Chapter.

40 (b) A fee of twenty-five dollars (\$25.00) shall be charged for the withdrawal of
41 this sample. The fee shall be assessed as part of the costs of the criminal case resulting
42 in the felony conviction and one-half of the fee shall be paid into the general fund of the
43 locality where the sample was taken and one-half of the fee shall be paid into the

1 General Fund of the State. This assessment shall be in addition to any other fees
2 prescribed by law."

3 **SECTION 5.** G.S. 7A-304(a) is amended by adding a new subdivision to
4 read:

5 "(7) For the withdrawal and analysis of a DNA sample provided pursuant
6 to G.S. 15A-266.4A the district or superior court judge shall, upon
7 conviction, impose a fee of twenty-five dollars (\$25.00). From the fee
8 collected under this subdivision, the sum of fourteen dollars and fifty
9 cents (\$14.50) shall be remitted to the local government where the
10 sample was taken and the sum of fourteen dollars and fifty cents
11 (\$14.50) shall be remitted to the State Treasurer for the State's General
12 Fund."

13 **SECTION 6.** This act becomes effective December 1, 2002, and applies to
14 offenses committed on or after that date.