

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

S

1

SENATE BILL 226

Short Title: DNA Sample/Felony Convictions & Insane Defense. (Public)

Sponsors: Senator Shaw of Guilford.

Referred to: Judiciary I.

February 22, 2001

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT A DNA SAMPLE SHALL BE TAKEN FROM ANY PERSON WHO IS CONVICTED OF A FELONY OR WHO IS FOUND NOT GUILTY OF A FELONY BY REASON OF INSANITY AND TO MAKE CONFORMING STATUTORY CHANGES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 15A-266.1 reads as rewritten:

"§ 15A-266.1. Policy.

It is the policy of the State to assist federal, State, and local criminal justice and law enforcement agencies in the identification, detection, or exclusion of individuals who are subjects of the investigation or prosecution of ~~violent crimes against the person-felonies~~. Identification, detection, and exclusion is facilitated by the analysis of biological evidence that is often left by the perpetrator or is recovered from the crime scene. The analysis of biological evidence can also be used to identify missing persons and victims of mass disasters."

SECTION 2. G.S. 15A-266.4 reads as rewritten:

"§ 15A-266.4. Blood sample required for DNA analysis upon conviction.

(a) On or after ~~1 July 1994, December 1, 2001,~~ a person who is convicted of ~~any of the crimes listed in subsection (b) of this section~~ a felony or who is found not guilty of a felony by reason of insanity shall have a DNA sample drawn upon intake to a jail or prison. In addition, every person convicted on or after ~~1 July 1994, of any of these crimes,~~ December 1, 2001, of a felony or who is found not guilty of a felony by reason of insanity, but who is not sentenced to a term of confinement, shall provide a DNA sample as a condition of the sentence. A person who has been convicted and incarcerated as a result of a conviction of ~~one or more of these crimes prior to 1 July 1994~~ a felony before December 1, 2001, or who was found not guilty of a felony by reason of insanity and committed to a Forensic Unit in accordance with G.S. 15A-1321 shall have a DNA sample drawn before parole or release from the penal system.

(b) Crimes covered by this Article include:

- ~~G.S. 14-17 - Murder in the first and second degree.~~
- ~~G.S. 14-27.2 - First degree rape.~~
- ~~G.S. 14-27.3 - Second degree rape.~~
- ~~G.S. 14-27.4 - First degree sexual offense.~~
- ~~G.S. 14-27.5 - Second degree sexual offense.~~
- ~~G.S. 14-28 - Malicious castration.~~
- ~~G.S. 14-29 - Castration or other maiming.~~
- ~~G.S. 14-30 - Malicious maiming.~~
- ~~G.S. 14-30.1 - Malicious throwing of corrosive acid or alkali.~~
- ~~G.S. 14-31 - Malicious assault in secret manner.~~
- ~~G.S. 14-32 - Felonious assault with deadly weapon with intent to kill.~~
- ~~G.S. 14-32.1 - Assaults on handicapped persons.~~
- ~~G.S. 14-34.1 - Discharging barreled weapon or firearm into occupied property.~~
- ~~G.S. 14-34.2 - Assault with firearm or other deadly weapon upon law enforcement officer, fireman, or EMS personnel.~~
- ~~G.S. 14-39(a)(3) - Kidnapping for the purpose of doing serious bodily harm to the person.~~
- ~~G.S. 14-49 - Malicious use of explosive or incendiary.~~
- ~~G.S. 14-58.2 - Burning of mobile home, manufactured type house, or recreational trailer home.~~
- ~~G.S. 14-202.1 - Taking indecent liberties with children.~~
- ~~G.S. 14-87 - Robbery with a dangerous weapon.~~
- ~~G.S. 14-277.3 - Stalking.~~
- ~~Common law robbery.~~
- ~~First degree arson."~~

SECTION 3. G.S. 15A-266.10(a) reads as rewritten:

"(a) Any person whose DNA record or profile has been included in the State Database and whose DNA sample is stored in the State Databank may apply for expungement on the grounds that the felony conviction that resulted in the inclusion of the person's DNA record or profile in the State Database or the inclusion of the person's DNA sample in the State Databank has been reversed and the case dismissed. Any person found not guilty of a felony by reason of insanity whose DNA record or profile has been included in the State Database and whose DNA sample is stored in the State Databank may apply for expungement on the grounds that the court has ordered the person discharged and released from the mental health facility in accordance with Part 7 of Article 5 of Chapter 122C of the General Statutes. The person, either individually or through an attorney, may apply to the court for expungement of the record as provided in G.S. 15A-146. A copy of the application for expungement shall be served on the district attorney for the judicial district in which the felony conviction was obtained not less than 20 days prior to the date of the hearing on the application. A certified copy of

1 the order reversing and dismissing the conviction shall be attached to an order of
2 expungement."

3 **SECTION 4.** This act becomes effective December 1, 2001.