

2022 -- S 2791

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2022

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A N A C T

RELATING TO CRIMINAL PROCEDURE -- DNA DETECTION OF SEXUAL AND
VIOLENT OFFENDERS

Introduced By: Senator Cynthia Armour Coyne

Date Introduced: March 24, 2022

Referred To: Senate Judiciary

(Judiciary)

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 12-1.5-8 of the General Laws in Chapter 12-1.5 entitled "DNA
2 Detection of Sexual and Violent Offenders" is hereby amended to read as follows:

3 **12-1.5-8. DNA sample required upon arrest or conviction for any crime of violence.**

4 (a) Every person arrested for a crime of violence as defined in § 12-1.5-2, who pleads guilty
5 or nolo contendere, or is convicted of any felony shall have a DNA sample taken for analysis as
6 follows:

7 (1) Every person who is sentenced to a term of confinement to prison, for any crime of
8 violence as defined in § 12-1.5-2, or any felony shall not be released prior to the expiration of his
9 or her maximum term of confinement unless and until a DNA sample has been taken;

10 (2) Every person convicted of any crime of violence as defined in § 12-1.5-2, or any felony,
11 or who is sentenced thereon to any term of probation, ~~or whose case is referred to a diversion~~
12 ~~program,~~ or upon whose case sentencing is deferred shall have a DNA sample taken for analysis
13 by the department of the health as a condition of any sentence which disposition will not involve
14 an intake into prison.

15 (b) Every person arrested for any crime of violence as defined in § 12-1.5-2 shall, at the
16 time of booking, have a DNA sample taken for analysis and included in the Rhode Island DNA
17 database and DNA databank respectively as required by this chapter and every such person shall
18 be notified of his or her expungement rights under § 12-1.5-13 at or near the time the DNA sample

1 is taken.

2 (1) The DNA sample shall be submitted by the arresting authority to the department of
3 health. The department of health shall not test or place the sample in the statewide DNA database
4 prior to arraignment unless one of the following conditions has been met:

5 (i) The arrestee appeared before any judicial officer for an arraignment and the judicial
6 officer made a finding that there was probable cause for the arrest; or

7 (ii) The defendant was released and then failed to appear for the initial hearing, or escaped
8 custody prior to appearing before a judicial officer.

9 (2) If all qualifying criminal charges are determined to be unsupported by probable cause:

10 (i) The DNA sample shall be immediately destroyed; and

11 (ii) Notice shall be sent by the prosecuting authority to the defendant and counsel of record
12 for the defendant that the sample was destroyed.

13 (3) The arrestee requests or consents to having their DNA sample processed prior to
14 arraignment for the sole purpose of having the sample checked against a sample that has been
15 processed from the crime scene or the hospital, and is related to the charges against the person.

16 (4) A second DNA sample shall be taken if needed to obtain sufficient DNA for the
17 statewide DNA database system or if ordered by the court for good cause shown.

18 (c) All DNA samples taken pursuant to this section shall be taken in accordance with
19 regulations promulgated by the department of health.

20 (d) The director of the department of health shall promulgate rules and regulations
21 governing the periodic review of the DNA identification database to determine whether or not the
22 database contains DNA profiles that should not be in the database, including the steps necessary to
23 expunge any profiles that the department determines should not be in the database.

24 (e) The requirements of this chapter are mandatory. In the event that an arrestee's DNA
25 sample is not adequate for any reason, the arrestee shall provide another DNA sample for analysis.

26 (f) A sample does not need to be collected if the person has previously provided a sample
27 sufficient for DNA testing pursuant to the provisions of this section.

28 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

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- 1 This act would remove diversion programs from the list of criminal convictions subject to
- 2 mandatory DNA collection.
- 3 This act would take effect upon passage.

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