

17 "35-3-160.

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

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

20 (2) 'Detention facility' means a:

21 (A) A penal institution under the jurisdiction of the department, including penal
 22 institutions operated by a private company on behalf of the department, inmate work
 23 camp, inmate boot camp, probation detention center, and parole revocation center;
 24 and; or

25 (B) A jail or county correctional facilities facility.

26 (3) 'Division' means the Division of Forensic Sciences of the Georgia Bureau of
 27 Investigation.

28 (4) 'Jail' shall have the same meaning as set forth in Code Section 42-4-13.

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

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

34 (B) Who has been charged with a felony, ~~and sentence for such offense has been~~
 35 ~~imposed pursuant to Article 3 of Chapter 8 of Title 42 or pursuant to subsection (a) or~~
 36 ~~(c) of Code Section 16-13-2 after arrest on a warrant or upon a finding of probable~~
 37 ~~cause at a commitment hearing under Article 2 of Chapter 7 of Title 17, for the offense~~
 38 ~~of:~~

39 (i) Murder or felony murder, as defined in Code Section 16-5-1;

40 (ii) Trafficking of persons for labor or sexual servitude, as defined in 16-5-46; or

41 (iii) Any felony listed under Chapter 6 of Title 16; or

42 (C) Who has been convicted of a forcible misdemeanor or a misdemeanor offense of:

43 (i) Stalking in violation of Code Section 16-5-90;

- 44 (ii) Violating a family violence order in violation of Code Section 16-5-95;
 45 (iii) Public indecency in violation of Code Section 16-6-8;
 46 (iv) Keeping a place of prostitution in violation of Code Section 16-6-10;
 47 (v) Pimping in violation of Code Section 16-6-11;
 48 (vi) Pandering in violation of Code Section 16-6-12;
 49 (vii) Being a 'peeping Tom' in violation of Code Section 16-11-61; or
 50 (viii) Invasion of privacy in violation of Part 3 of Article 3 of Chapter 11 of Title 16.
- 51 (2) Unless a DNA sample has already been collected by the department or another
 52 agency or entity, each DNA sample required by paragraph (1) of this subsection shall be
 53 collected by the detention facility which is detaining or the entity which is supervising
 54 such individual, and the sample shall be forwarded to the division.
- 55 (3) Paragraph (1) of this subsection shall not apply to ~~any individual for a conviction for~~
 56 ~~a misdemeanor, to any individual who is charged with a misdemeanor and the sentence~~
 57 ~~for such misdemeanor is imposed pursuant to Article 3 of Chapter 8 of Title 42 regarding~~
 58 ~~first offenders, or because he or she has been charged with a misdemeanor.~~
- 59 (c) DNA analysis shall be performed by the division. The division shall be authorized to
 60 contract with individuals or organizations for services to perform such analysis. The
 61 identifying characteristics of the profile resulting from the DNA analysis shall be stored
 62 and maintained by the bureau in a DNA data bank in accordance with Code
 63 Sections 35-3-162 and 35-3-163 and shall be made available only as provided in Code
 64 Section 35-3-163."

65 SECTION 2.

66 Said article is further amended in Code Section 35-3-161, relating to time and procedure for
 67 withdrawal of blood samples, by revising subsection (a) as follows:

68 "(a) Each sample required pursuant to Code Section 35-3-160 from persons who are to be
 69 incarcerated shall be ~~withdrawn~~ collected by oral swab or other noninvasive procedure

70 within the first 30 days of incarceration at the receiving unit of the detention facility or at
71 such other place as is designated by the department. Each sample required pursuant to
72 Code Section 35-3-160 from persons who are to be released from a detention facility shall
73 be ~~withdrawn~~ collected by oral swab or other noninvasive procedure within the 12 months
74 preceding such person's release at a place designated by the department. The required
75 samples from persons who are not sentenced to a term of confinement shall be ~~withdrawn~~
76 collected by oral swab or other noninvasive procedure as a condition of probation or
77 within 15 days of the finding of probable cause for such person's arrest. The ~~division shall~~
78 ~~publish in its quality manuals the~~ department and each detention facility shall establish
79 procedures for the collection and transfer of samples to ~~such~~ the division pursuant to Code
80 Section 35-3-154. Personnel at a the department and each detention facility shall
81 implement the provisions of this Code section as part of the regular processing of
82 offenders."

83

SECTION 3.

84 Said article is further amended by revising Code Section 35-3-165, relating to expungement
85 of DNA profile in data bank and requirements, as follows:

86 "35-3-165.

87 (a) The bureau shall purge all records and identifiable information in the data bank
88 pertaining to the DNA profile of the individual and shall destroy all such DNA samples
89 collected from such individual within 30 days of the receipt of a certified copy of the
90 applicable:

91 (1) Court order reversing the conviction together with a court order or documentation
92 from the prosecuting attorney stating that the charges were dismissed;

93 (2) Judgment of acquittal; or

94 (3) Sentencing order showing that all of the felony charges were reduced to
95 misdemeanors; or not otherwise requiring collection of DNA pursuant to Code Section
96 35-3-160.

97 ~~(4) Court order showing the successful completion of the sentence that was imposed~~
98 ~~pursuant to Article 3 of Chapter 8 of Title 42 or pursuant to subsection (a) or (c) of Code~~
99 ~~Section 16-13-2.~~

100 (b) A DNA sample obtained in good faith shall be deemed to have been obtained in
101 accordance with the requirements of this article and its use in accordance with this article
102 shall be authorized until it is expunged as set forth in subsection (a) of this Code section."

103 **SECTION 4.**

104 Code Section 17-6-1 of the Official Code of Georgia Annotated, relating to when offenses
105 are bailable, procedure, schedule of bails, and appeal bonds, is amended by adding a new
106 subsection to read as follows:

107 "(k) If a DNA sample is required to be collected in accordance with Code Section
108 35-3-160, the court shall add as a condition of bail that the accused shall ensure that his or
109 her DNA sample is collected by oral swab or other noninvasive procedure within 15 days
110 of bail being set. Upon failure of an individual to comply with this subsection, the
111 prosecuting attorney may proceed to forfeit the bond or recognizance; provided, however,
112 that such forfeiture shall be purged upon such individual's compliance with such
113 requirement."

114 **SECTION 5.**

115 This Act shall become effective on January 1, 2023, and shall apply to arrests or offenses
116 committed on or after that date.

117

SECTION 6.

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