

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

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HOUSE BILL 674
Committee Substitute Favorable 5/4/21
Senate Judiciary Committee Substitute Adopted 6/21/22

Short Title: Require DNA for Various Convictions.

(Public)

Sponsors:

Referred to:

April 27, 2021

1 A BILL TO BE ENTITLED
2 AN ACT TO REQUIRE THAT A DNA SAMPLE BE OBTAINED FROM ANY PERSON
3 WHO IS CONVICTED OR FOUND NOT GUILTY BY REASON OF INSANITY FOR
4 COMMITTING VARIOUS ASSAULT AND DOMESTIC VIOLENCE OFFENSES AND
5 TO REVISE THE LAW GOVERNING THE ASSISTANCE PROGRAM FOR VICTIMS
6 OF RAPE AND SEX OFFENSES.

7 The General Assembly of North Carolina enacts:

8 **SECTION 1.(a)** G.S. 15A-266.4 reads as rewritten:

9 **"§ 15A-266.4. DNA sample required for DNA analysis upon conviction or finding of not**
10 **guilty by reason of insanity.**

11 (a) Unless a DNA sample has previously been obtained by lawful process and a record
12 stored in the State DNA Database, and that record and sample have not been expunged pursuant
13 to any provision of law, a person:law:

14 (1) ~~Who~~ A person who is convicted of any of the crimes listed in subsection (b)
15 of this section or who is found not guilty of any of these crimes by reason of
16 insanity and committed to a mental health facility in accordance with
17 G.S. 15A-1321, shall provide a DNA sample upon intake to jail, prison, or the
18 mental health facility. In addition, every person convicted of any of these
19 crimes, but who is not sentenced to a term of confinement, shall provide a
20 DNA sample as a condition of the sentence.

21 (2) ~~Who~~ A person who has been convicted and incarcerated as a result of a
22 conviction of one or more of the crimes listed in subsection (b) of this section,
23 or who was found not guilty of any of these crimes by reason of insanity and
24 committed to a mental health facility in accordance with G.S. 15A-1321, shall
25 provide a DNA sample before parole or release from the penal system or
26 before release from the mental health facility.

27 (b) Crimes covered by this Article include all of the following:

28 (1) All felonies.

29 (2) G.S. 14-32.1 – Assaults on individuals with a disability.

30 (3) Former G.S. 14-277.3 – Stalking.

31 (4) Repealed by Session Laws 2010-94, s. 5, effective February 1, 2011.

32 (5) All offenses described in G.S. 15A-266.3A.

33 (6) G.S. 14-33(c)(2) – Assault on a female by a male person at least 18 years of
34 age.

35 (7) G.S. 14-33(c)(3) – Assault on a child under the age of 12 years.



1 (8) All offenses described in G.S. 50B-4.1."

2 **SECTION 1.(b)** This section becomes effective December 1, 2022, and applies to
3 convictions or findings of not guilty by reason of insanity on or after that date.

4 **SECTION 2.(a)** G.S. 143B-1200 reads as rewritten:

5 **"§ 143B-1200. Assistance Program for Victims of Rape and Sex Offenses.**

6 ...
7 (c) **No Billing of Victim.** – A medical facility or medical professional that performs a
8 forensic medical examination shall not bill the victim, the victim's personal insurance, Medicaid,
9 Medicare, or any other collateral source for the examination and other eligible expenses. A
10 medical facility or medical professional that performs a forensic medical examination shall
11 accept payment made under this section as payment in full of the amount owed for the cost of
12 the examination and other eligible expenses and shall not bill victims, their personal insurance,
13 Medicaid, Medicare, or any other collateral source for the examination expenses. Furthermore,
14 a medical facility or medical professional shall not seek reimbursement from the Program after
15 one year from the date of the examination.

16 ...
17 (i) **Definitions.** – The following definitions apply in this section:

18 (1) **Forensic medical examination.** – An examination provided to a sexual assault
19 victim by medical personnel trained to gather evidence of a sexual assault in
20 a manner suitable for use in a court of law. The examination ~~should~~ shall
21 include at a minimum an examination of physical trauma, a patient interview,
22 a determination of penetration or force, ~~and~~ a collection and evaluation of
23 ~~evidence.~~ evidence, and any other act or procedure listed in the definition of
24 "forensic medical examination" set forth in 28 C.F.R. § 90.2(c) or "medical
25 forensic examination" set forth in 34 U.S.C. § 40723(a)(3). This term also
26 includes any costs associated with the items listed in this subdivision, such as
27 equipment, supplies, and facility fees. This definition shall be interpreted
28 consistently with ~~28 C.F.R. § 90.2(b)~~ 28 C.F.R. § 90.2(c) and 34 U.S.C. §
29 40723(a)(3), and other relevant federal law.

30 (2) **SANE nurse.** – A Sexual Assault Nurse Examiner that is a licensed registered
31 nurse trained pursuant to G.S. 90-171.38(b) who obtains preliminary histories,
32 conducts in-depth interviews, and conducts forensic medical examinations of
33 rape victims or victims of related sexual offenses. This definition shall be
34 interpreted consistently with 34 U.S.C. § 40723(a)(12).

35 (3) **Sexual assault.** – Any of the following crimes:

- 36 a. First-degree forcible rape as defined in G.S. 14-27.21.
37 b. Second-degree forcible rape as defined in G.S. 14-27.22.
38 c. First-degree statutory rape as defined in G.S. 14-27.24.
39 d. Statutory rape of a person who is 15 years of age or younger as defined
40 in G.S. 14-27.25.
41 e. First-degree forcible sexual offense as defined in G.S. 14-27.26.
42 f. Second-degree forcible sexual offense as defined in G.S. 14-27.27.
43 g. First-degree statutory sexual offense as defined in G.S. 14-27.29.
44 h. Statutory sexual offense with a person who is 15 years of age or
45 younger as defined in G.S. 14-27.30.
46 i. Statutory rape of a child by an adult as defined in G.S. 14-27.23.
47 j. Statutory sexual offense with a child by an adult as defined in
48 G.S. 14-27.28.
49 k. Sexual activity by a substitute parent or custodian as defined in
50 G.S. 14-27.31.
51 l. Sexual activity with a student as defined in G.S. 14-27.32.

1 m. Sexual battery as defined in G.S. 14-27.33.

2 n. Sexual contact or penetration under pretext of medical treatment as
3 defined in G.S. 14-27.33A.

4 o. Any other act defined to be sexual assault by 34 U.S.C. § 40723(a)(9).

5 (4) Sexual Assault Evidence Collection Kit. – The kit assembled and paid for by
6 the Program and used to conduct forensic medical examinations in this State."

7 **SECTION 2.(b)** G.S. 131E-91(d) reads as rewritten:

8 "(d) Hospitals and ambulatory surgical facilities shall abide by the following reasonable
9 collections practices:

10 (1) A hospital or ambulatory surgical facility shall not refer a patient's unpaid bill
11 to a collections agency, entity, or other assignee during the pendency of a
12 patient's application for charity care or financial assistance under the hospital's
13 or ambulatory surgical facility's charity care or financial assistance policies.

14 (2) A hospital or ambulatory surgical facility shall provide a patient with a written
15 notice that the patient's bill will be subject to collections activity at least 30
16 days prior to the referral being made.

17 (3) A hospital or ambulatory surgical facility that contracts with a collections
18 agency, entity, or other assignee shall require the collections agency, entity,
19 or other assignee to inform the patient of the hospital's or ambulatory surgical
20 facility's charity care and financial assistance policies when engaging in
21 collections activity.

22 (4) A hospital or ambulatory surgical facility shall require a collections agency,
23 entity, or other assignee to obtain the written consent of the hospital or
24 ambulatory surgical facility prior to the collections agency, entity, or other
25 assignee filing a lawsuit to collect the debt.

26 (5) For debts arising from the provision of care by a hospital or ambulatory
27 surgical center, the doctrine of necessities as it existed at common law shall
28 apply equally to both spouses, except where they are permanently living
29 separate and apart, but shall in no event create any liability between the
30 spouses as to each other. No lien arising out of a judgment for a debt owed a
31 hospital or ambulatory surgical facility under this section shall attach to the
32 judgment debtors' principal residence, or, if the land upon which the principal
33 residence is located is greater than five acres, then no lien shall attach to the
34 judgment debtors' principal residence and the surrounding five acres, held by
35 them as tenants by the entireties or that was held by them as tenants by the
36 entireties prior to the death of either spouse where the tenancy terminated as
37 a result of the death of either spouse.

38 (6) For debts arising from the provision of care by a hospital or ambulatory
39 surgical center to a minor, there shall be no execution on or otherwise forced
40 sale of the principal residence of the custodial parent or parents for a judgment
41 obtained for the outstanding debt until such time as the minor is either no
42 longer residing with the custodial parent or parents or until the minor reaches
43 the age of majority, whichever occurs first.

44 (7) A hospital or ambulatory surgical facility shall have policies to prevent
45 collections of debts related to expenses that cannot be charged to a patient
46 pursuant to G.S. 143B-1200."

47 **SECTION 2.(c)** This section becomes effective October 1, 2022, and applies to
48 forensic medical examinations completed on or after that date.

49 **SECTION 3.** Except as otherwise provided, this act is effective when it becomes
50 law.