

1 State of Arkansas
2 90th General Assembly
3 Regular Session, 2015
4

A Bill

HOUSE BILL 1573

5 By: Representatives Bennett, Wright, K. Ferguson, Broadaway, E. Armstrong
6 By: Senators K. Ingram, J. Hutchinson, Burnett, J. Woods, B. Pierce
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For An Act To Be Entitled

9 AN ACT CONCERNING THE COLLECTION OF A DNA SAMPLE FROM
10 A PERSON ARRESTED FOR A FELONY OFFENSE; CONCERNING
11 REMOVAL AND DESTRUCTION OF A DNA RECORD AND DNA
12 SAMPLE; AND FOR OTHER PURPOSES.
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Subtitle

15 CONCERNING THE COLLECTION OF A DNA SAMPLE
16 FROM A PERSON ARRESTED FOR A FELONY
17 OFFENSE; AND CONCERNING REMOVAL AND
18 DESTRUCTION OF A DNA RECORD AND DNA
19 SAMPLE.
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23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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25 SECTION 1. Arkansas Code § 12-12-1006(a), concerning the collection of
26 a DNA sample from a person arrested for a criminal offense, is amended to
27 read as follows:

28 (a)(1) Immediately following an arrest for an offense, a law
29 enforcement official at the receiving criminal detention facility shall take,
30 or cause to be taken, the fingerprints and a photograph of the arrested
31 person if the offense is a felony or a Class A misdemeanor.

32 (2) In addition to the requirements of subdivision (a)(1) of
33 this section, a law enforcement official at the receiving criminal detention
34 facility shall take, or cause to be taken, a DNA sample of a person arrested
35 for+ any felony offense.

36 ~~(A) Capital murder, § 5-10-101;~~



- ~~(B) Murder in the first degree, § 5-10-102;~~
- ~~(C) Kidnapping, § 5-11-102;~~
- ~~(D) Rape, § 5-14-103;~~
- ~~(E) Sexual assault in the first degree, § 5-14-124; or~~
- ~~(F) Sexual assault in the second degree, § 5-14-125.~~

SECTION 2. Arkansas Code § 12-12-1019 is amended to read as follows:
 12-12-1019. Removal and destruction of the DNA record and DNA sample.

(a) Any person whose DNA record is included in the State DNA Data Base and whose DNA sample is stored in the State DNA Data Bank as authorized by this subchapter may apply to the State Crime Laboratory for removal and destruction of the DNA record and DNA sample if the arrest that led to the inclusion of the DNA record and DNA sample:

(1) Resulted in a charge that has been resolved by:

- (A) An acquittal;
- (B) A dismissal;
- (C) A nolle prosequi;
- (D) A successful completion of a preprosecution diversion

program or a conditional discharge; ~~or~~

(E) A conviction of a Class B misdemeanor or Class C

misdemeanor; or

(F) A reversal of the conviction that led to the inclusion of the DNA record and DNA sample; or

(2) Has not resulted in a charge within one (1) year of the date of the arrest.

(b) Except as provided in subsection (c) of this section, the State Crime Laboratory shall remove and destroy a person's DNA record and DNA sample by purging the DNA record and other identifiable information from the State DNA Data Base and the DNA sample stored in the State DNA Data Bank when the person provides the State Crime Laboratory with:

(1) A written request for removal and destruction of the DNA record and DNA sample;

~~(1)(2)~~ (2) A court order for removal and destruction of the DNA record and DNA sample; and

~~(2)(3)~~ (3) Either of the following:

- (A) A certified copy of:

1 (i) An order of acquittal;
 2 (ii) An order of dismissal;
 3 (iii) An order nolle prosequi;
 4 (iv) Documentation reflecting a successful
 5 completion of a preprosecution diversion program or a conditional discharge;

6 ~~or~~

7 (v) A judgment of conviction of a Class B
 8 misdemeanor or Class C misdemeanor; or

9 (vi) A court order that reverses the conviction that
 10 led to the inclusion of the DNA record and DNA sample; or

11 (B) A court order stating that a charge arising out of the
 12 person's arrest has not been filed within one (1) year of the date of the
 13 arrest.

14 (c) The State Crime Laboratory shall not remove or destroy a person's
 15 DNA record or DNA sample under subsection (b) of this section if the person
 16 had a prior felony or Class A misdemeanor conviction or a pending charge for
 17 which collection of a DNA sample is authorized under Arkansas law.

18 (d) When the State Crime Laboratory removes and destroys a person's
 19 DNA record and DNA sample under subsection (b) of this section, the State
 20 Crime Laboratory shall request that the person's DNA record be purged from
 21 the National DNA Index System.

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25 **APPROVED: 03/18/2015**