

1 State of Arkansas  
2 94th General Assembly  
3 Regular Session, 2023  
4

# A Bill

SENATE BILL 401

5 By: Senators G. Leding, G. Stubblefield, S. Flowers, Hill  
6 By: Representatives Wing, Hudson, M. Berry, Watson  
7

## For An Act To Be Entitled

9 AN ACT TO CREATE THE LIZA FLETCHER ACT; TO AMEND THE  
10 LAW CONCERNING DNA SAMPLES; TO AUTHORIZE THE USE OF  
11 RAPID DNA TECHNOLOGY IN CERTAIN CIRCUMSTANCES; TO  
12 ALLOW DNA SAMPLES TO BE REQUIRED AS PART OF CERTAIN  
13 NEGOTIATED PLEA AGREEMENTS; TO PROVIDE AN ENFORCEMENT  
14 MECHANISM FOR FAILURE TO PROVIDE A DNA SAMPLE UPON  
15 ARREST; AND FOR OTHER PURPOSES.  
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## Subtitle

18 THE LIZA FLETCHER ACT.  
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22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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24 SECTION 1. DO NOT CODIFY. Title.

25 This act shall be known and may be cited as "The Liza Fletcher Act".  
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27 SECTION 2. Arkansas Code § 12-12-1001, concerning definitions used in  
28 relation to criminal history information and reporting standards, is amended  
29 to add an additional subdivision to read as follows:

30 (20) "Rapid DNA technology" means the fully automated, hands-  
31 free process of developing a DNA profile from a reference sample mouth swab  
32 in one (1) to two (2) hours without the need for a DNA laboratory or human  
33 interpretation.  
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35 SECTION 3. Arkansas Code § 12-12-1006(a)(2), concerning  
36 fingerprinting, DNA sample collection, and photographing upon arrest, is



1 amended to read as follows:

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

6 (B) The receiving criminal detention facility shall  
7 either:

8 (i) Submit the DNA sample taken under subdivision  
9 (a)(2)(A) of this section to the State Crime Laboratory for analysis; or

10 (ii)(a) If the receiving criminal detention facility  
11 is authorized by the State Crime Laboratory to use rapid DNA technology,  
12 analyze the DNA sample taken under subdivision (a)(2)(A) of this section at  
13 arrest using rapid DNA technology.

14 (b) However, if the analysis of a DNA sample  
15 fails using the rapid DNA technology, the receiving criminal detention  
16 facility shall collect another DNA sample and submit that DNA sample to the  
17 State Crime Laboratory for analysis.

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19 SECTION 4. Arkansas Code § 12-12-1006(g), concerning fingerprinting,  
20 DNA sample collection, and photographing upon arrest, is amended to read as  
21 follows:

22 (g)(1) A Except as provided in subdivision (a)(2) of this section, a  
23 DNA sample provided under this section shall be delivered to the State Crime  
24 Laboratory by a law enforcement officer at the law enforcement agency that  
25 took the sample in accordance with rules promulgated by the State Crime  
26 Laboratory.

27 (2) A Except for a DNA sample analyzed using rapid DNA  
28 technology, a DNA sample taken under this section shall be retained in the  
29 State DNA Data Bank established under § 12-12-1106.

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31 SECTION 5. Arkansas Code § 12-12-1006, concerning fingerprinting, DNA  
32 sample collection, and photographing upon arrest, is amended to add an  
33 additional subsection to read as follows:

34 (m)(1) Notice that a DNA sample is required to be provided under this  
35 section is not required.

36 (2) A person subject to this section who has not provided a DNA

1 sample for any reason, including without limitation an oversight, shall give  
2 a DNA sample for inclusion in the State DNA Data Base after being notified by  
3 the appropriate receiving criminal detention facility, law enforcement  
4 official, law enforcement agency, or correctional agency or the State Crime  
5 Laboratory.

6 (3) If a person’s DNA sample is not adequate for any reason, the  
7 person shall provide another DNA sample for analysis.

8 (4) The State Crime Laboratory or any other aggrieved entity may  
9 institute an action in a court of competent jurisdiction against any person  
10 to compel the person to comply with this section.

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12 SECTION 6. Arkansas Code § 12-12-1109(a), concerning DNA samples  
13 required upon adjudication of guilt, is amended to read as follows:

14 (a)(1) A person who is adjudicated guilty for a qualifying offense on  
15 or after August 1, 1997, shall have a DNA sample drawn as follows:

16 ~~(1)(A)(A)(i)~~ A person who is adjudicated guilty for a  
17 qualifying offense and sentenced to a term of confinement for that qualifying  
18 offense shall have a DNA sample drawn upon intake to a prison, jail, or any  
19 other detention facility or institution.

20 ~~(B)(ii)~~ If the person is already confined at the  
21 time of sentencing, the person shall have a DNA sample drawn immediately  
22 after the sentencing;

23 ~~(2)(A)(B)(i)~~ A person who is adjudicated guilty for a  
24 qualifying offense shall have a DNA sample drawn as a condition of any  
25 sentence in which disposition will not involve an intake into a prison, jail,  
26 or any other detention facility or institution.

27 ~~(B)(ii)~~ Unless otherwise ordered by the court, the  
28 agency supervising the convicted offender shall determine the time and  
29 collection of the DNA sample;

30 ~~(3)(C)~~ A person who is acquitted on the grounds of mental  
31 disease or defect of the commission of a qualifying offense and committed to  
32 an institution or other facility shall have a DNA sample drawn upon intake to  
33 that institution or other facility; and

34 ~~(4)(D)~~ Under no circumstance shall a person who is  
35 adjudicated guilty for a qualifying offense be released in any manner after  
36 this disposition unless a DNA sample has been drawn.

1                   (2) A negotiated plea agreement may require a person to provide  
2 a DNA sample if the person enters a negotiated plea to a charge that has been  
3 reduced from a qualifying offense to an offense that is not a qualifying  
4 offense.

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