

State of Arkansas
94th General Assembly
Regular Session, 2023

A Bill

SENATE BILL 401

By: Senators G. Leding, G. Stubblefield, S. Flowers, Hill

By: Representatives Wing, Hudson, M. Berry, Watson

For An Act To Be Entitled

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

Subtitle

THE LIZA FLETCHER ACT.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. DO NOT CODIFY. Title.

This act shall be known and may be cited as "The Liza Fletcher Act".

SECTION 2. Arkansas Code § 12-12-1001, concerning definitions used in relation to criminal history information and reporting standards, is amended to add an additional subdivision to read as follows:

(20) "Rapid DNA technology" means the fully automated, hands-free process of developing a DNA profile from a reference sample mouth swab in one (1) to two (2) hours without the need for a DNA laboratory or human interpretation.

SECTION 3. Arkansas Code § 12-12-1006(a)(2), concerning fingerprinting, DNA sample collection, and photographing upon arrest, is



amended to read as follows:

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

(B) The receiving criminal detention facility shall either:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

APPROVED: 3/30/23