

1 S.10

2 Introduced by Senators Sears and Campbell

3 Referred to Committee on

4 Date:

5 Subject: Public safety; DNA database

6 Statement of purpose of bill as introduced: This bill proposes to require a
7 DNA sample from a person convicted of any misdemeanor that carries a
8 potential penalty of imprisonment.

9 An act relating to the State DNA database

10 It is hereby enacted by the General Assembly of the State of Vermont:

11 Sec. 1. 20 V.S.A. § 1932 is amended to read:

12 § 1932. DEFINITIONS

13 As used in this subchapter:

14 * * *

15 (5) "DNA sample" means a forensic unknown tissue sample or a tissue
16 sample provided by any person convicted of a designated crime ~~or for whom~~
17 ~~the court has determined at arraignment there is probable cause that the person~~
18 ~~has committed a felony~~. The DNA sample may be blood or other tissue type
19 specified by the ~~department~~ Department.

20 * * *

1 (12) "Designated crime" means any of the following offenses:

2 (A) a felony;

3 (B) ~~13 V.S.A. § 1042 (domestic assault)~~ a misdemeanor for which
4 the maximum penalty includes any period of imprisonment;

5 (C) any crime for which a person is required to register as a sex
6 offender pursuant to 13 V.S.A. chapter 167, subchapter 3 ~~of chapter 167 of~~
7 ~~Title 13;~~

8 (D) an attempt to commit any offense listed in this subdivision; or

9 (E) any other offense, if, as part of a plea agreement in an action in
10 which the original charge was a crime listed in this subdivision and probable
11 cause was found by the court, there is a requirement that the defendant submit
12 a DNA sample to the DNA data bank.

13 Sec. 2. 20 V.S.A. § 1933 is amended to read:

14 § 1933. DNA SAMPLE REQUIRED

15 (a) The following persons shall submit a DNA sample:

16 (1) ~~A~~ a person convicted in a court in this ~~state~~ State of a designated
17 crime on or after April 29, 1998;

18 (2) ~~A person for whom the court has determined at arraignment there is~~
19 ~~probable cause that the person has committed a felony in this state on or after~~
20 ~~July 1, 2011.~~

1 ~~(3)~~ ~~A~~ a person who was convicted in a court in this ~~state~~ State of a
2 designated crime prior to April 29, 1998 and, after such date, is:

3 (A) in the custody of the ~~commissioner of corrections~~ Commissioner
4 of Corrections pursuant to 28 V.S.A. § 701;

5 (B) on parole for a designated crime;

6 (C) serving a supervised community sentence for a designated
7 crime; or

8 (D) on probation for a designated crime.

9 ~~(b) At the time of arraignment, the court shall set a date and time for the~~
10 ~~person to submit a DNA sample.~~

11 ~~(e)~~ A person required to submit a DNA sample who is serving a sentence in
12 a correctional facility shall have his or her DNA samples collected or taken at
13 the receiving correctional facility, or at a place and time designated by the
14 ~~commissioner of corrections~~ Commissioner of Corrections or by a court, if the
15 person has not previously submitted a DNA sample.

16 ~~(d)~~(c) A person serving a sentence for a designated crime not confined to a
17 correctional facility shall have his or her DNA samples collected or taken at a
18 place and time designated by the ~~commissioner of corrections~~ Commissioner
19 of Corrections, the ~~commissioner of public safety~~ Commissioner of Public
20 Safety, or a court if the person has not previously submitted a DNA sample in

1 connection with the designated crime for which he or she is serving the
2 sentence.

3 Sec. 3. 20 V.S.A. § 1940 is amended to read:

4 § 1940. EXPUNGEMENT OF RECORDS AND DESTRUCTION OF
5 SAMPLES

6 (a) In accordance with procedures set forth in subsection (b) of this section,
7 the ~~department~~ Department shall destroy the DNA sample and any records of a
8 person related to the sample that were taken in connection with a particular
9 alleged designated crime in ~~any~~ either of the following circumstances:

10 (1) A person's conviction related to an incident that caused the DNA
11 sample to be taken is reversed, and the case is dismissed.

12 (2) The person is granted a full pardon related to an incident that caused
13 the DNA sample to be taken.

14 ~~(3) If the sample was taken post-arraignment, the felony charge which~~
15 ~~required the DNA sample is downgraded to a misdemeanor by the prosecuting~~
16 ~~attorney upon a plea agreement or the person is convicted of a lesser offense~~
17 ~~that is a misdemeanor other than domestic assault pursuant to 13 V.S.A.~~
18 ~~§ 1042 or a sex offense for which registration is required pursuant to 13 V.S.A.~~
19 ~~§ 5401 et seq.~~

20 ~~(4) If the sample was taken post-arraignment, the person is acquitted~~
21 ~~after a trial of the charges which required the taking of the DNA sample.~~

1 ~~(5) If the sample was taken post-arraignment, the charges which~~
2 ~~required the taking of the DNA sample are dismissed by either the court or the~~
3 ~~state after arraignment unless the attorney for the state can show good cause~~
4 ~~why the sample should not be destroyed.~~

5 * * *

6 Sec. 4. EFFECTIVE DATE

7 This act shall take effect on passage.