

1 TO THE HONORABLE SENATE:

2 The Senate Committee on Judiciary to which was referred Senate Bill No. 10
3 entitled “An act relating to the State DNA Database” respectfully reports that it
4 has considered the same and recommends that the bill be amended by striking
5 out all after the enacting clause and inserting in lieu thereof the following:

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

7 § 1932. DEFINITIONS

8 As used in this subchapter:

9 * * *

10 (5) “DNA sample” means a forensic unknown tissue sample or a tissue
11 sample provided by any person convicted of a designated crime ~~or for whom~~
12 ~~the court has determined at arraignment there is probable cause that the person~~
13 ~~has committed a felony.~~ The DNA sample may be blood or other tissue type
14 specified by the ~~department~~ Department.

15 * * *

16 (12) “Designated crime” means any of the following offenses:

17 (A) a felony;

18 (B) 13 V.S.A. § 1042 (domestic assault);

19 (C) any crime for which a person is required to register as a sex

20 offender pursuant to 13 V.S.A. chapter 167, subchapter 3 ~~of chapter 167 of~~

21 ~~Title 13~~;

1 (D) a misdemeanor for which a person is sentenced to and serves a
2 period of incarceration of at least 30 days;

3 (E) an attempt to commit any offense listed in this subdivision; or

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

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

9 § 1933. DNA SAMPLE REQUIRED

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

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

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

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

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

20 (B) on parole for a designated crime;

1 (C) serving a supervised community sentence for a designated
2 crime; or

3 (D) on probation for a designated crime.

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

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

11 ~~(d)~~(c) A person serving a sentence for a designated crime not confined to a
12 correctional facility shall have his or her DNA samples collected or taken at a
13 place and time designated by the ~~commissioner of corrections~~ Commissioner
14 of Corrections, the ~~commissioner of public safety~~ Commissioner of Public
15 Safety, or a court if the person has not previously submitted a DNA sample in
16 connection with the designated crime for which he or she is serving the
17 sentence.

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

2 § 1940. EXPUNGEMENT OF RECORDS AND DESTRUCTION OF
3 SAMPLES

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

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

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

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

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

20 ~~(5) If the sample was taken post-arraignment, the charges which~~
21 ~~required the taking of the DNA sample are dismissed by either the court or the~~

1 ~~state after arraignment unless the attorney for the state can show good cause~~
2 ~~why the sample should not be destroyed.~~

3 * * *

4 Sec. 4. EFFECTIVE DATE

5 This act shall take effect on passage.

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7

8 (Committee vote: _____)

9

10

Senator _____

11

FOR THE COMMITTEE