

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009**

**SESSION LAW 2010-94
HOUSE BILL 1403**

AN ACT TO REQUIRE THAT A DNA SAMPLE BE TAKEN FROM ANY PERSON
ARRESTED FOR COMMITTING CERTAIN OFFENSES, AND TO AMEND THE
STATUTES THAT PROVIDE FOR A DNA SAMPLE UPON CONVICTION.

The General Assembly of North Carolina enacts:

SECTION 1. This act shall be known and may be cited as "The DNA Database Act of 2010."

SECTION 2. G.S. 15A-266.2 reads as rewritten:

"§ 15A-266.2. Definitions.

As used in this Article, unless another meaning is specified or the context clearly requires otherwise, the following terms have the meanings specified:

- (1) "CODIS" means the FBI's national DNA identification index system that allows the storage and exchange of DNA records submitted by federal, State and local forensic DNA laboratories. The term "CODIS" is derived from Combined DNA Index System, System (NDIS) administered and operated by the Federal Bureau of Investigation.
- (1a) "Custodial Agency" means the governmental entity in possession of evidence collected as part of a criminal investigation or prosecution. ~~This term includes a central evidence storage facility operated by a State agency.~~
- (2) "DNA" means deoxyribonucleic acid. DNA is located in the ~~nucleus of cells~~ and provides an individual's personal genetic blueprint. DNA encodes genetic information that is the basis of human heredity and forensic identification.
- (3) "DNA Record" means DNA identification information stored in the State DNA Database or CODIS for the purpose of generating investigative leads or supporting statistical interpretation of DNA test results. The DNA record is the result obtained from the ~~DNA typing tests, analysis~~. The DNA record is comprised of the characteristics of a DNA sample which are of value in establishing the identity of individuals. The results of all DNA identification ~~tests, analyses~~ on an individual's DNA sample are also collectively referred to as the DNA profile of an individual.
- (4) "DNA Sample" ~~in this Article means a blood, buccal, cheek swabs, or any other biological sample containing cells provided by any person with respect to convicted of offenses covered by this Article or submitted to the SBI Laboratory State Bureau of Investigation pursuant to this Article for analysis pursuant to a criminal investigation, investigation or storage or both.~~
- (5) "FBI" means the Federal Bureau of Investigation.
- (5a) "NDIS" means the National DNA Index System that is the national DNA database system of DNA profile records which that meet federal quality assurance and privacy standards.



- (6) "SBI" means the State Bureau of Investigation. The SBI is responsible for the ~~policy management~~ policy, management, and administration of the State DNA identification record system to support law enforcement, and for liaison with the FBI regarding the State's participation in CODIS. enforcement and other criminal justice agencies.
- (7) "State DNA Database" means the SBI's DNA identification record system to support law enforcement. It is administered by the SBI and provides DNA records to the FBI for storage and maintenance in CODIS. The SBI's DNA Database system is the collective capability provided by computer software and procedures administered by the SBI to store and maintain DNA records related to ~~forensic casework, to convicted offenders required to provide a DNA sample under this Article, and to anonymous DNA records used for research or quality control.~~ forensic casework; convicted offenders and arrestees required to provide a DNA sample under this Article; persons required to register as sex offenders under G.S. 14-208.7; unidentified persons or body parts; missing persons; relatives of missing persons; and anonymous DNA profiles used for forensic validation, forensic protocol development, or quality control purposes or establishment of a population statistics database for use by criminal justice agencies.
- (8) "State DNA Databank" means the repository of DNA samples collected under the provisions of this Article.
- (9) "Criminal Justice Agency" means an agency or institution of a federal, State, or local government, other than the office of the public defender, that performs as part of its principal function, activities relating to the apprehension, investigation, prosecution, adjudication, incarceration, supervision, or rehabilitation of criminal offenders.
- (10) "Arrestee" means any person arrested for an offense in G.S. 15A-266.3A(d) or (e).
- (11) "Conviction" includes a conviction by a jury or a court, a guilty plea, a plea of nolo contendere, or a finding of not guilty by reason of insanity or mental disease or defect."

SECTION 3. G.S. 15A-266.3 reads as rewritten:

"§ 15A-266.3. Procedural compatibility with the FBI. Establishment of State DNA database and databank.

The DNA identification system as established by the SBI shall be compatible with the procedures specified by the FBI, including use of comparable test procedures, laboratory equipment, supplies, and computer software. There is established under the administration of the SBI, the State DNA Database and State DNA Databank. The SBI shall provide DNA records to the FBI for the searching of DNA records nationwide and storage and maintenance by CODIS. The State DNA Databank shall serve as the repository for DNA samples obtained pursuant to this Article. The State DNA Database shall be compatible with the procedures specified by the FBI, including use of comparable test procedures, laboratory and computer equipment, supplies and computer platform and software. The State DNA Database shall have the capability provided by computer software and procedures administered by the SBI to store and maintain DNA records related to all of the following:

- (1) Crime scene evidence and forensic casework.
- (2) Arrestees, offenders, and persons found not guilty by reason of insanity, who are required to provide a DNA sample under this Article.
- (3) Persons required to register as sex offenders under G.S. 14-208.7.
- (4) Unidentified persons or body parts.
- (5) Missing persons.

- (6) Relatives of missing persons.
- (7) Anonymous DNA profiles used for forensic validation, forensic protocol development, or quality control purposes or establishment of a population statistics database, for use by criminal justice agencies."

SECTION 4. Article 13 of Chapter 15A of the General Statutes is amended by adding a new section to read:

"§ 15A-266.3A. DNA sample required for DNA analysis upon arrest for certain offenses.

(a) Unless a DNA sample has previously been obtained by lawful process and the DNA record stored in the State DNA Database, and that record and sample has not been expunged pursuant to any provision of law, a DNA sample for DNA analysis and testing shall be obtained from any person who is arrested for committing an offense described in subsection (d) or (e) of this section.

(b) The arresting law enforcement officer shall obtain, or cause to be obtained, a DNA sample from an arrested person at the time of arrest, or when fingerprinted. However, if the person is arrested without a warrant, then the DNA sample shall not be taken until a probable cause determination has been made pursuant to G.S. 15A-511(c)(1). The DNA sample shall be by cheek swab unless a court order authorizes that a DNA blood sample be obtained. If a DNA blood sample is taken, it shall comply with the requirements of G.S. 15A-266.6(b). The arresting law enforcement officer shall forward, or cause to be forwarded, the DNA sample to the appropriate laboratory for DNA analysis and testing.

(b1) At the time a DNA sample is taken pursuant to this section, the person obtaining the DNA sample shall record, on a form promulgated by the SBI, the date and time the sample was taken, the name of the person taking the DNA sample, the name and address of the person from whom the sample was taken, and the offense or offenses for which the person was arrested. This record shall be maintained in the case file and shall be available to the prosecuting district attorney for the purpose of completing the requirements of subsection (g1) of this section.

(b2) After taking a DNA sample from an arrested person required to provide a DNA sample pursuant to this section, the person taking the DNA sample shall provide the arrested person with a written notice of the procedures for seeking an expunction of the DNA sample pursuant to subsections (f), (g), (g1), (g2), and (g3) of this section. The Department of Justice shall provide the written notice required by this subsection.

(c) The DNA record of identification characteristics resulting from the DNA testing and the DNA sample itself shall be stored and maintained by the SBI in the State DNA Databank pursuant to this Article.

(d) This section shall apply to a person arrested for violating any one of the following offenses in Chapter 14 of the General Statutes:

- (1) G.S. 14-17, First and Second Degree Murder.
- (2) G.S. 14-18, Manslaughter.
- (3) Any offense in Article 7A, Rape and Other Sex Offenses.
- (4) G.S. 14-32, Felonious assault with deadly weapon with intent to kill or inflicting serious injury; G.S. 14-32.4(a), Assault inflicting serious bodily injury; G.S. 14-34.2, Assault with a firearm or other deadly weapon upon governmental officers or employees, company police officers, or campus police officers; G.S. 14-34.5, Assault with a firearm on a law enforcement, probation, or parole officer or on a person employed at a State or local detention facility; G.S. 14-34.6, Assault or affray on a firefighter, an emergency medical technician, medical responder, emergency department nurse, or emergency department physician; and G.S. 14-34.7, Assault inflicting serious injury on a law enforcement, probation, or parole officer or on a person employed at a State or local detention facility.

- (5) Any offense in Article 10, Kidnapping and Abduction, or Article 10A, Human Trafficking.
- (6) G.S. 14-51, First and second degree burglary; G.S. 14-53, Breaking out of dwelling house burglary; G.S. 14-54.1, Breaking or entering a place of religious worship; and G.S. 14-57, Burglary with explosives.
- (7) Any offense in Article 15, Arson.
- (8) G.S. 14-87, Armed robbery.
- (9) Any offense which would require the person to register under the provisions of Article 27A of Chapter 14 of the General Statutes, Sex Offender and Public Protection Registration Programs.
- (10) G.S. 14-196.3, Cyberstalking.
- (11) G.S. 14-277.3A, Stalking.

(e) This section shall also apply to a person arrested for attempting, solicitation of another to commit, conspiracy to commit, or aiding and abetting another to commit, any of the violations included in subsection (d) of this section.

(f) The State Bureau of Investigation shall remove a person's DNA record, and destroy any DNA biological samples that may have been retained, from the State DNA Database and DNA Databank if both of the following are determined pursuant to subsection (g) of this section:

- (1) As to the charge, or all charges, resulting from the arrest upon which a DNA sample is required under this section, a court or the district attorney has taken action resulting in any one of the following:
 - a. The charge has been dismissed.
 - b. The person has been acquitted of the charge.
 - c. The defendant is convicted of a lesser-included misdemeanor offense that is not an offense included in subsection (d) or (e) of this section.
 - d. No charge was filed within the statute of limitations, if any.
 - e. No conviction has occurred, at least three years has passed since the date of arrest, and no active prosecution is occurring.
- (2) The person's DNA record is not required to be in the State DNA Database under some other provision of law, or is not required to be in the State DNA Database based upon an offense from a different transaction or occurrence from the one which was the basis for the person's arrest.

(g) Prior to June 1, 2012, upon the occurrence of one of the events in sub-subdivision d. or e. of subdivision (1) of subsection (f) of this section, the defendant or the defendant's counsel shall provide the prosecuting district attorney with a signed request form, promulgated by the Administrative Office of the Courts, requesting that the defendant's DNA record be expunged from the DNA Database and that any biological samples in the DNA Databank be destroyed. On or after June 1, 2012, upon the occurrence of one of the events in sub-subdivision d. or e. of subdivision (1) of subsection (f) of this section, no request form shall be required and the prosecuting district attorney shall initiate the procedure provided in subsection (g1) of this section.

(g1) Prior to June 1, 2012, within 30 days of the receipt of the form required by subsection (g) of this section or the occurrence of one of the events in sub-subdivision a., b., or c. of subdivision (1) of subsection (f) of this section; and on or after June 1, 2012, within 30 days of the occurrence of one of the events in subdivision (1) of subsection (f) of this section, the prosecuting district attorney shall determine if a DNA sample was taken pursuant to this section, and if so, shall:

- (1) Verify and indicate the facts of the qualifying event on a verification form promulgated by the Administrative Office of the Courts.

- (2) Include the last known address of the defendant, as reflected in the court files, on the verification form.
- (3) Sign the verification form or, if the defendant was acquitted or the charges were dismissed by the court, obtain the signature of a judge.
- (4) Transmit the verification form to the SBI.
- (g2) Within 30 days of receipt of the verification form, the SBI shall:
 - (1) Determine whether the requirement of subdivision (2) of subsection (f) of this section has been met.
 - (2) If the requirement has been met, remove the defendant's DNA record and samples as required by subsection (f) of this section.
 - (3) Mail to the defendant, at the address specified in the verification form, a notice either:
 - a. Documenting expunction of the DNA record and destruction of the DNA sample, or
 - b. Notifying the defendant that the DNA record and sample do not qualify for expunction pursuant to subsection (f) of this section.

(g3) The defendant may file a motion with the court to review the denial of the defendant's request or the failure of either the district attorney or the SBI to act within the prescribed time period.

(h) Any identification, warrant, probable cause to arrest, or arrest based upon a database match of the defendant's DNA sample which occurs after the expiration of the statutory periods prescribed for expunction of the defendant's DNA sample, shall be invalid and inadmissible in the prosecution of the defendant for any criminal offense.

(i) Notwithstanding subsection (f) of this section, the SBI is not required to destroy or remove an item of physical evidence obtained from a sample if evidence relating to another person would thereby be destroyed.

(j) The SBI shall adopt procedures to comply with this section."

SECTION 5. G.S. 15A-266.4 reads as rewritten:

"§ 15A-266.4. ~~Blood sample~~DNA sample required for DNA analysis upon conviction or finding of not guilty by reason of insanity.

(a) Unless a DNA sample has previously been obtained by lawful process and a record stored in the State DNA ~~database,~~Database, and that ~~sample has record~~ and sample have not been expunged pursuant to ~~G.S. 15A-148, on or after December 1, 2003,~~ a personany provision of law, a person:

(1) ~~who~~Who is convicted of any of the crimes listed in subsection (b) of this section or who is found not guilty of any of these crimes by reason of insanity and committed to a mental health facility in accordance with ~~G.S. 15A-1321~~G.S. 15A-1321, shall ~~have provide~~ a DNA sample ~~drawn~~ upon intake to jail, prison, or the mental health facility. In addition, every person convicted ~~on or after December 1, 2003,~~ of any of these crimes, but who is not sentenced to a term of confinement, shall provide a DNA sample as a condition of the sentence.

(2) ~~A person who~~Who has been convicted and incarcerated as a result of a conviction of one or more of ~~these crimes prior to December 1, 2003,~~the crimes listed in subsection (b) of this section, or who was found not guilty of any of these crimes by reason of insanity and committed to a mental health facility in accordance with ~~G.S. 15A-1321 before December 1, 2003,~~G.S. 15A-1321, shall ~~have provide~~ a DNA sample ~~drawn~~ before parole or release from the penal system or before release from the mental health facility.

(b) Crimes covered by this Article include all of the following:

- (1) All felonies.
- (2) G.S. 14-32.1 – Assaults on handicapped persons.
- (3) ~~G.S. 14-277.3A or former~~ Former G.S. 14-277.3 – Stalking.
- (4) ~~G.S. 14-27.5A – Sexual battery.~~
- (5) All offenses described in G.S. 15A-266.3A."

SECTION 6. G.S. 15A-266.5 reads as rewritten:

"§ 15A-266.5. Tests to be performed on ~~blood sample~~ DNA sample.

- (a) The tests to be performed on each ~~blood~~ DNA sample are:
 - (1) To analyze and type only the genetic markers that are used for identification purposes contained in or derived from the DNA.
 - (2) For law enforcement identification purposes.
 - (3) For research and administrative purposes, including:
 - a. Development of a population database when personal identifying information is removed.
 - b. To support identification research and protocol development of forensic DNA analysis methods.
 - c. For quality control purposes.
 - d. To assist in the recovery or identification of human remains from mass disasters or for other humanitarian purposes, including identification of missing persons.

(b) The DNA record of identification characteristics resulting from the DNA testing shall be stored and maintained by the SBI in the State DNA Database. The DNA sample itself will be stored and maintained by the SBI in the State DNA Databank.

(c) The SBI shall report annually to the Joint Legislative Commission on Governmental Operations and to the Joint Legislative Corrections, Crime Control and Juvenile Justice Oversight Committee, on or before February 1, with information for the previous calendar year, which shall include: a summary of the operations and expenditures relating to the DNA Database and DNA Databank; the number of DNA records from arrestees entered; the number of DNA records from arrestees that have been expunged; and the number of DNA arrestee matches or hits that occurred with an unknown sample, and how many of those have led to an arrest and conviction; and how many letters notifying defendants that a record and sample have been expunged, along with the number of days it took to complete the expunction and notification process, from the date of the receipt of the verification form from the State.

(d) The Department of Justice, in consultation with the Administrative Office of the Courts and the Conference of District Attorneys, shall study, develop, and recommend an automated procedure to facilitate the process of expunging DNA samples and records taken pursuant to G.S. 15A-266.3A, and shall report to the Joint Legislative Commission on Governmental Operations, the Joint Legislative Corrections, Crime Control and Juvenile Justice Oversight Committee, and the Courts Commission, on or before February 1, 2011."

SECTION 7. G.S. 15A-266.6 reads as rewritten:

"§ 15A-266.6. Procedures for ~~withdrawal of blood sample for~~ obtaining DNA analysis ~~sample for analysis; refusal to provide sample~~.

(a) Each DNA sample ~~required to be drawn~~ provided pursuant to G.S. 15A-266.4 from persons who are incarcerated shall be ~~drawn~~ obtained at the place of incarceration. DNA samples from persons who are not sentenced to a term of confinement shall be ~~drawn~~ obtained immediately following sentencing. The sentencing court shall order any person not sentenced to a term of ~~confinement~~ confinement, who has not previously provided a DNA sample pursuant to any provision of law requiring a sample and whose DNA record and sample have not been expunged pursuant to law, to report immediately following sentencing to the location designated by the sheriff. If the sample cannot be taken immediately, the sheriff shall inform the court of the date, time, and location at which the sample shall be taken, and the court shall

enter that date, time, and location into its order. A copy of the court order indicating the date, time, and location the person is to appear to have a sample taken shall be given to the sheriff. If a person not sentenced to a term of confinement fails to appear immediately following sentencing or at the date, time, and location designated in the court order, the sheriff shall inform the court of the failure to appear and the court may issue an order to show cause pursuant to G.S. 5A-15 and may issue an order for arrest pursuant to G.S. 5A-16. The defendant shall continue to be subject to the court's order to provide a DNA sample until such time as his or her DNA sample is analyzed and a record is successfully entered into the State DNA Database.

(b) If, for any reason, the defendant provides a DNA blood sample instead of a cheek swab, Only only a correctional health nurse technician, physician, registered professional nurse, licensed practical nurse, laboratory technician, phlebotomist, or other health care worker with phlebotomy training shall draw any the DNA blood sample to be submitted for analysis. No civil liability shall attach to any person authorized to draw blood by this section as a result of drawing blood from any person if the blood was drawn according to recognized medical procedures. No person shall be relieved from liability for negligence in the drawing of any obtaining a DNA sample-sample by any method.

(c) The SBI shall provide to the sheriff the materials and supplies the materials, supplies, and postage prepaid envelopes necessary to draw obtain a DNA sample from a person not sentenced to a term of confinement.required to provide a DNA sample pursuant to this Article and to forward the DNA sample to the appropriate laboratory for DNA analysis and testing. Any DNA sample drawn from a person not sentenced to a term of confinementobtained pursuant to this Article, other than a DNA sample obtained from a person who is incarcerated, shall be taken using the materials and supplies provided by the SBI."

SECTION 8. G.S. 15A-266.7 reads as rewritten:

"§ 15A-266.7. Procedures for conducting DNA analysis of blood-DNA sample.

~~The SBI shall adopt rules governing the procedures to be used in the submission, identification, analysis, and storage of DNA samples and typing results of DNA samples submitted under this Article. The DNA sample shall be securely stored in the State Databank. The typing results shall be securely stored in the State Database. These procedures shall also include quality assurance guidelines to insure that DNA identification records meet standards and audit standards for laboratories which submit DNA records to the State Database. Records of testing shall be retained on file at the SBI.~~

(a) The SBI shall:

(1) Adopt procedures to be used in the collection, security, submission, identification, analysis, and storage of DNA samples and typing results of DNA samples submitted under this Article. These procedures shall also include quality assurance guidelines to insure that DNA identification records meet audit standards for laboratories which submit DNA records to the State DNA Database.

(2) Adopt Quality Assurance Guidelines for DNA Testing Laboratories and DNA Databasing Laboratories that meet or exceed the quality assurance guidelines established for such laboratories by the CODIS unit of the Federal Bureau of Investigation.

(b) DNA samples shall be securely stored in the State DNA Databank. The typing results shall be securely stored in the State DNA Database.

(c) Records of testing shall be retained on file at the SBI."

SECTION 9. G.S. 15A-266.8 reads as rewritten:

"§ 15A-266.8. DNA database exchange.

(a) It shall be the duty of the SBI to receive DNA samples, to store, to analyze or to contract out the DNA typing analysis to a qualified DNA laboratory that meets the guidelines

as established by the SBI, classify, and file the DNA record of identification characteristic profiles of DNA samples submitted pursuant to ~~G.S. 15A-266.7~~ this Article and to make such information available as provided in this section. The SBI may contract out DNA typing analysis to a qualified DNA laboratory that meets guidelines as established by the SBI. The results of the DNA profile of individuals in the State Database shall be made available to local, State, or federal law enforcement agencies, approved crime laboratories which serve these agencies, or the district attorney's office upon written or electronic request and in furtherance of an official investigation of a criminal offense. These records shall also be available upon receipt of a valid court order directing the SBI to release these results to appropriate parties not listed above, when the court order is signed by a superior court judge after a hearing. The SBI shall maintain a file of such court orders.

(b) The SBI shall adopt rules governing the methods of obtaining information from the State Database and CODIS and procedures for verification of the identity and authority of the requester.

(c) The SBI shall create a separate population database comprised of ~~blood-DNA~~ samples obtained under this Article, after all personal identification is removed. Nothing shall prohibit the SBI from sharing or disseminating population databases with other law enforcement agencies, crime laboratories that serve them, or other third parties the SBI deems necessary to assist the SBI with statistical analysis of the SBI's population databases. The population database may be made available to and searched by other agencies participating in the CODIS system."

SECTION 10. G.S. 15A-266.11 reads as rewritten:

"§ 15A-266.11. Unauthorized uses of DNA Databank; penalties.

(a) Any person ~~who, by virtue of employment, or official position,~~ who has possession of, or access to, individually identifiable DNA information contained in the State DNA Database or Databank and who willfully discloses it in any manner to any person or agency not entitled to receive it is guilty of a ~~Class 1 misdemeanor in accordance with G.S. 14-3.~~ Class H felony.

(b) Any person who, without authorization, willfully obtains individually identifiable DNA information from the State DNA Database or Databank is guilty of a ~~Class 1 misdemeanor in accordance with G.S. 14-3.~~ Class H felony."

SECTION 11. G.S. 15A-266.12 reads as rewritten:

"§ 15A-266.12. Confidentiality of records.

(a) All DNA profiles and samples submitted to the SBI pursuant to this Article shall be treated as confidential and shall not be disclosed to or shared with any person or agency except as provided in G.S. 15A-266.8.

(b) Only DNA records and samples that directly relate to the identification of individuals shall be collected and stored. These records and samples shall solely be used as a part of the criminal justice system for the purpose of facilitating the personal identification of the perpetrator of a criminal offense; provided that in appropriate circumstances such records may be used to identify potential victims of mass disasters or missing persons.

(c) DNA records and DNA samples submitted to the SBI pursuant to this Article are not a public record as defined by G.S. 132-1.

(d) In the case of a criminal proceeding, requests to access a person's DNA record shall be in accordance with the rules for criminal discovery as defined in G.S. 15A-902. The SBI shall not be required to provide the State DNA Database for criminal discovery purposes.

(e) DNA records and DNA samples submitted to the SBI may only be released for the following authorized purposes:

(1) For law enforcement identification purposes, including the identification of human remains, to federal, State, or local criminal justice agencies.

- (2) For criminal defense and appeal purposes, to a defendant who shall have access to samples and analyses performed in connection with the case in which such defendant is charged or was convicted.
- (3) If personally identifiable information is removed to local, State, or federal law enforcement agencies for forensic validation studies, forensic protocol development or quality control purposes, and for establishment or maintenance of a population statistics database.

(f) In order to maintain the computer system security of the SBI DNA database program, the computer software and database structures used by the SBI to implement this Article are confidential."

SECTION 12. Article 23 of Chapter 15A of the General Statutes is amended by adding a new section to read:

"§ 15A-502A. DNA sample upon arrest.

A DNA sample shall be obtained from any person arrested for an offense designated under G.S. 15A-266.3A, in accordance with the provisions contained in Article 13 of Chapter 15A of the General Statutes."

SECTION 12.1. G.S. 15A-534(a) reads as rewritten:

"(a) In determining conditions of pretrial release a judicial official must impose at least one of the following conditions:

- (1) Release the defendant on his written promise to appear.
- (2) Release the defendant upon his execution of an unsecured appearance bond in an amount specified by the judicial official.
- (3) Place the defendant in the custody of a designated person or organization agreeing to supervise him.
- (4) Require the execution of an appearance bond in a specified amount secured by a cash deposit of the full amount of the bond, by a mortgage pursuant to G.S. 58-74-5, or by at least one solvent surety.
- (5) House arrest with electronic monitoring.

If condition (5) is imposed, the defendant must execute a secured appearance bond under subdivision (4) of this subsection. If condition (3) is imposed, however, the defendant may elect to execute an appearance bond under subdivision (4). If the defendant is required to provide fingerprints pursuant to G.S. 15A-502(a1) or (a2), or a DNA sample pursuant to G.S. 15A-266.3A or G.S. 15A-266.4, and (i) the fingerprints or DNA sample have not yet been taken or (ii) the defendant has refused to provide the fingerprints or DNA sample, the judicial official shall make the collection of the fingerprints or DNA sample a condition of pretrial release. The judicial official may also place restrictions on the travel, associations, conduct, or place of abode of the defendant as conditions of pretrial release."

SECTION 13. G.S. 7B-2201 reads as rewritten:

"§ 7B-2201. Fingerprinting and DNA sample from juvenile transferred to superior court.

(a) When jurisdiction over a juvenile is transferred to the superior court, the juvenile shall be fingerprinted and the juvenile's fingerprints shall be sent to the State Bureau of Investigation.

(b) When jurisdiction over a juvenile is transferred to the superior court, a DNA sample shall be taken from the juvenile if any of the offenses for which the juvenile is transferred are included in the provisions of G.S. 15A-266.3A."

SECTION 14. The provisions of this act are severable. If any provision is held invalid by a court of competent jurisdiction, the invalidity does not affect other provisions of the act that can be given effect without the invalid provision.

SECTION 15. This act becomes effective February 1, 2011.
In the General Assembly read three times and ratified this the 10th day of July, 2010.

s/ Walter H. Dalton
President of the Senate

s/ Joe Hackney
Speaker of the House of Representatives

s/ Beverly E. Perdue
Governor

Approved 10:30 a.m. this 15th day of July, 2010