

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.
16
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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:
23

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.

18
 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.

11
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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