WEST VIRGINIA LEGISLATURE

ENROLLED
Committee Substitute for
SENATE BILL NO. 524

(By Senator Kessler et al)

PASSED March 9, 2002

In Effect July 1, 2002
AN ACT to amend and reenact section six, article two-b, chapter fifteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to requiring DNA samples for DNA analysis from persons convicted of certain felonies in this state.

Be it enacted by the Legislature of West Virginia:

That section six, article two-b, chapter fifteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 2B. DNA DATA.

§15-2B-6. DNA sample required for DNA analysis upon conviction; DNA sample required for certain prisoners.
(a) Any person convicted of an offense described in section one, two, three, four, seven, nine, nine-a (when that offense constitutes a felony), ten, ten-a, ten-b, twelve, fourteen or fourteen-a, article two, chapter sixty-one of this code or section twelve, article eight of said chapter, when that offense constitutes a felony, shall provide a DNA sample to be used for DNA analysis as described in this article. Further, any person convicted of any offense described in article eight-b or eight-d of said chapter shall provide a DNA sample to be used for DNA analysis as described in this article.

(b) All persons incarcerated in a state correctional facility or any county or regional jail in this state who are incarcerated due to the conviction of any offense listed in subsection (a) of this section who are incarcerated on the first day of July, one thousand nine hundred ninety-five, or who are convicted of any such offense on or after the first day of July, one thousand nine hundred ninety-five, shall have a DNA sample drawn for purposes of analysis and storage of the DNA.

(c) Any person convicted after the first day of July, two thousand, of a violation of section five or thirteen, article two, chapter sixty-one of this code, section one, two, three, four, five, seven, eleven, twelve (when that offense constitutes a felony) or subsection (a), section thirteen, article three of said chapter, section three, four, five or ten, article three-e of said chapter or section three, article four of said chapter, shall provide a DNA sample to be used for DNA analysis as described in this article.

(d) Any person convicted after the first day of July, two thousand two, of an offense which constitutes a felony violation of the provisions of article four, chapter sixty-a of this code; or of an attempt to commit a violation of section one or section fourteen-a, article two, chapter sixty-one of this code; or an attempt to commit a violation of article eight-b of said chapter shall provide a DNA
sample to be used for DNA analysis as described in this article.

(e) For the purposes of this section, the term “DNA sample” means a tissue, fluid or other bodily sample of an individual on which a DNA analysis can be done. The method of taking the “DNA sample” is subject to the testing methods utilized by the West Virginia state police crime lab.

(f) When a person who is required to provide a DNA sample as required by this section refuses to comply with any DNA testing, the state shall apply to a circuit court for an order requiring the person to provide a DNA sample to be withdrawn for the purpose of DNA typing and testing. The circuit court shall order the person to submit to DNA testing in conformity with the provisions of this article.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

To take effect July 1, 2002.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within is approved this the 3rd Day of April, 2002.

Governor