

Connecticut Division of Public Defenders
DNA Project
Compilation of Connecticut statutes related to DNA
Updated May 2018

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Conn. Gen. Stat. § 54-86k. Admissibility of results of DNA analysis

(a) In any criminal proceeding, DNA (deoxyribonucleic acid) testing shall be deemed to be a reliable scientific technique and the evidence of a DNA profile comparison may be admitted to prove or disprove the identity of any person. This section shall not otherwise limit the introduction of any relevant evidence bearing upon any question at issue before the court. The court shall, regardless of the results of the DNA analysis, if any, consider such other relevant evidence of the identity of the accused as shall be admissible in evidence.

(b) If the results of the DNA analysis tend to exculpate the accused, the prosecuting authority shall disclose such exculpatory information or material to the accused in accordance with section 54-86c.

(c) At least twenty-one days prior to commencement of the proceeding in which the results of a DNA analysis will be offered as evidence, the party intending to offer the evidence shall notify the opposing party, in writing, of the intent to offer the analysis and shall provide or make available copies of the profiles and the report or statement to be introduced. In the event that such notice is not given, and the person proffers such evidence, then the court may in its discretion either allow the opposing party a continuance or, under the appropriate circumstances, bar the person from presenting such evidence. The period of any such continuance shall not be counted for speedy trial purposes under section 54-82c. If the opposing party intends to object to the admissibility of such evidence he shall give written notice of that fact and the basis for his objections at least ten days prior to commencement of the proceedings.

(d) No blood sample submitted to the Division of Scientific Services within the Department of Emergency Services and Public Protection for analysis and use as provided in this section and no results of the analysis performed shall be included in the DNA data bank established by the division pursuant to section 54-102j or otherwise used in any way with identifying information on the person whose sample was submitted.

Conn. Gen. Stat. § 54-102g. Blood or other biological sample required from certain arrested or convicted persons for DNA analysis

(a) Whenever any person is arrested on or after October 1, 2011, for the commission of a serious felony and, prior to such arrest, has been convicted of a felony but has not submitted to the taking of a blood or other biological sample for DNA (deoxyribonucleic acid) analysis pursuant to this section, the law enforcement agency that arrested such person shall, as available resources allow, require such person to submit to the taking of a blood or other biological sample for DNA (deoxyribonucleic acid) analysis to determine identification characteristics specific to the person. If the law enforcement agency requires such person to submit to the taking of such blood or other biological sample, such person shall submit to the taking of such sample prior to release from custody and at such time and place as the agency may specify. For purposes of this subsection, “serious felony” means a violation of section 53a-54a, 53a-54b, 53a-54c, 53a-54d, 53a-55, 53a-55a, 53a-56, 53a-56a, 53a-56b, 53a-57, 53a-59, 53a-59a, 53a-60, 53a-60a, 53a-60b, 53a-60c, 53a-70, 53a-70a, 53a-70b, 53a-72b, 53a-92, 53a-92a, 53a-94, 53a-94a, 53a-95, 53a-100aa, 53a-101, 53a-102, 53a-102a, 53a-103a, 53a-111, 53a-112, 53a-134, 53a-135, 53a-136, 53a-167c, 53a-179b, 53a-179c or 53a-181c.

(b) Any person who has been convicted of a criminal offense against a victim who is a minor, a nonviolent sexual offense or a sexually violent offense, as those terms are defined in section 54-250, or a felony, and has been sentenced on that conviction to the custody of the Commissioner of Correction, and who has not submitted to the taking of a blood or other biological sample pursuant to subsection (a) of this section with respect to such offense, shall, prior to release from custody and at such time as the commissioner may specify, submit to the taking of a blood or other biological sample of sufficient quality for DNA (deoxyribonucleic acid) analysis to determine identification characteristics specific to the person. If any person required to submit to the taking of a blood or other biological sample pursuant to this subsection refuses to do so, the Commissioner of Correction or the commissioner's designee shall notify the Department of Emergency Services and Public Protection within thirty days of such refusal for the initiation of criminal proceedings against such person.

(c) Any person who is convicted of a criminal offense against a victim who is a minor, a nonviolent sexual offense or a sexually violent offense, as those terms are defined in section 54-250, or a felony and is not sentenced to a term of confinement, and who has not submitted to the taking of a blood or other biological sample pursuant to subsection (a) of this section with respect to such offense, shall, as a condition of such sentence and

at a time and place specified by the Court Support Services Division of the Judicial Department, submit to the taking of a blood or other biological sample of sufficient quality for DNA (deoxyribonucleic acid) analysis to determine identification characteristics specific to the person.

(d) Any person who has been found not guilty by reason of mental disease or defect pursuant to section 53a-13 of a criminal offense against a victim who is a minor, a nonviolent sexual offense or a sexually violent offense, as those terms are defined in section 54-250, or a felony, and is in the custody of the Commissioner of Mental Health and Addiction Services or the Commissioner of Developmental Services as a result of that finding, and who has not submitted to the taking of a blood or other biological sample pursuant to subsection (a) of this section with respect to such offense, shall, prior to a court hearing commenced in accordance with subsection (d) of section 17a-582, and at such time as the Commissioner of Mental Health and Addiction Services or the Commissioner of Developmental Services with whom such person has been placed may specify, submit to the taking of a blood or other biological sample of sufficient quality for DNA (deoxyribonucleic acid) analysis to determine identification characteristics specific to the person.

(e) Any person who has been convicted of a criminal offense against a victim who is a minor, a nonviolent sexual offense or a sexually violent offense, as those terms are defined in section 54-250, or a felony, and is serving a period of probation or parole, and who has not submitted to the taking of a blood or other biological sample pursuant to subsection (a), (b), (c) or (d) of this section, shall, prior to discharge from the custody of the Court Support Services Division or the Department of Correction and at such time as said division or department may specify, submit to the taking of a blood or other biological sample of sufficient quality for DNA (deoxyribonucleic acid) analysis to determine identification characteristics specific to the person.

(f) Any person who has been convicted or found not guilty by reason of mental disease or defect in any other state or jurisdiction of a felony or of any crime, the essential elements of which are substantially the same as a criminal offense against a victim who is a minor, a nonviolent sexual offense or a sexually violent offense, as those terms are defined in section 54-250, and is in the custody of the Commissioner of Correction, is under the supervision of the Judicial Department or the Board of Pardons and Paroles or is under the jurisdiction of the Psychiatric Security Review Board, shall, prior to discharge from such custody, supervision or jurisdiction submit to the taking of a blood

or other biological sample of sufficient quality for DNA (deoxyribonucleic acid) analysis to determine identification characteristics specific to the person.

(g) If the blood or other biological sample taken from a person pursuant to this section is not of sufficient quality for DNA (deoxyribonucleic acid) analysis to determine identification characteristics specific to the person, the person shall submit to the taking of an additional sample or samples until a sample of sufficient quality is obtained.

(h) The analysis shall be performed by the Division of Scientific Services within the Department of Emergency Services and Public Protection, except that the division shall analyze samples taken pursuant to subsection (a) of this section only as available resources allow. The identification characteristics of the profile resulting from the DNA (deoxyribonucleic acid) analysis shall be stored and maintained by the division in a DNA data bank and shall be made available only as provided in section 54-102j.

(i) Any person who refuses to submit to the taking of a blood or other biological sample pursuant to this section or wilfully fails to appear at the time and place specified pursuant to subsection (b) of this section for the taking of a blood or other biological sample shall be guilty of a class D felony. Any person required to submit to the taking of a blood or other biological sample pursuant to subsection (c) of this section who wilfully fails to appear to submit to the taking of such sample within five business days of the time specified by the Court Support Services Division may be arrested pursuant to a warrant issued under section 54-2a.

(j) If any person required to submit to the taking of a blood or other biological sample pursuant to any provision of this section is in the custody of the Commissioner of Correction and refuses to submit to the taking of such sample, the commissioner or the commissioner's designee may use reasonable force to obtain a blood or other biological sample from such person.

(k) For the purposes of this section, a motor vehicle violation for which a sentence to a term of imprisonment of more than one year may be imposed shall be deemed an unclassified felony.

Conn. Gen. Stat. § 54-102h. Procedure for collection of blood or other biological sample for DNA analysis

(a) (1) The collection of a blood or other biological sample from persons required to submit to the taking of such sample pursuant to subsection (a) of section 54-102g shall be the responsibility of the law enforcement agency that arrested such person and shall be taken at a time and place specified by that agency prior to such person's release from custody.

(2) The collection of a blood or other biological sample from persons required to submit to the taking of such sample pursuant to subsection (b) of section 54-102g shall be the responsibility of the Department of Correction and shall be taken at a time and place specified by the Department of Correction.

(3) The collection of a blood or other biological sample from persons required to submit to the taking of such sample pursuant to subsection (c) of section 54-102g shall be the responsibility of the Judicial Department and shall be taken at a time and place specified by the Court Support Services Division.

(4) The collection of a blood or other biological sample from persons required to submit to the taking of such sample pursuant to subsection (d) of section 54-102g shall be the responsibility of the Commissioner of Mental Health and Addiction Services or the Commissioner of Developmental Services, as the case may be, and shall be taken at a time and place specified by said commissioner.

(5) The collection of a blood or other biological sample from persons required to submit to the taking of such sample pursuant to subsection (e) of section 54-102g shall be the responsibility of the Judicial Department if such person is serving a period of probation and of the Department of Correction if such person is serving a period of parole and shall be taken at a time and place specified by the Court Support Services Division or the Department of Correction, as the case may be.

(6) The collection of a blood or other biological sample from persons required to submit to the taking of such sample pursuant to subsection (f) of section 54-102g shall be the responsibility of the agency in whose custody or under whose supervision such person has been placed, and shall be taken at a time and place specified by such agency.

(b) Only a person licensed to practice medicine and surgery in this state, a qualified laboratory technician, a registered nurse or a phlebotomist shall take any blood sample to be submitted to analysis.

(c) No civil liability shall attach to any person authorized to take a blood or other biological sample as provided in this section as a result of the act of taking such sample

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from any person submitting thereto, if the blood or other biological sample was taken according to recognized medical procedures, provided no person shall be relieved from liability for negligence in the taking of any such sample.

(d) (1) Chemically clean sterile disposable needles and vacuum draw tubes shall be used for all blood samples. The tube or container for a blood or other biological sample shall be sealed and labeled with the subject's name, Social Security number, date of birth, race and gender, the name of the person collecting the sample, and the date and place of collection. The tube or container shall be secured to prevent tampering with the contents.

(2) Only collection kits approved by the Division of Scientific Services within the Department of Emergency Services and Public Protection may be used for the collection of biological samples by buccal swabs.

(e) The steps set forth in this section relating to the taking, handling, identification and disposition of blood or other biological samples are procedural and not substantive. Substantial compliance therewith shall be deemed to be sufficient.

The samples shall be transported to the Division of Scientific Services within the Department of Emergency Services and Public Protection not more than fifteen days following their collection and shall be analyzed and stored in the DNA data bank in accordance with sections 54-102i and 54-102j.

Conn. Gen. Stat. § 54-102i. Procedure for conducting DNA analysis of blood or other biological sample

(a) Whether or not the results of an analysis are to be included in the data bank, the Division of Scientific Services within the Department of Emergency Services and Public Protection shall conduct the DNA analysis in accordance with procedures adopted by the division to determine identification characteristics specific to the individual whose blood or other biological sample is being analyzed. Such procedures shall conform to nationally recognized and accepted standards for DNA analysis. The Commissioner of Emergency Services and Public Protection or the commissioner's designee shall complete and maintain on file a form indicating the name of the person whose sample is to be analyzed, the date and by whom the sample was received and examined, and a statement that the seal on the tube or container had not been broken or otherwise tampered with. The remainder of a sample submitted for analysis and inclusion in the data bank pursuant to section 54-102g may be divided, labeled as provided for the original sample, and securely stored by the division in accordance with specific procedures set forth in regulations adopted by the Department of Emergency Services and Public Protection in accordance with the provisions of chapter 54¹ to ensure the integrity and confidentiality of the samples. All or part of the remainder of that sample may be used only (1) to create a statistical data base provided no identifying information on the individual whose sample is being analyzed is included, or (2) for retesting by the division to validate or update the original analysis.

(b) A report of the results of a DNA analysis conducted by the division as authorized, including the profile and identifying information, shall be made and maintained at the division. A certificate and the results of the analysis shall be admissible in any court as evidence of the facts therein stated. Except as specifically provided in this section and section 54-102j, the results of the analysis shall be securely stored and shall remain confidential.

Conn. Gen. Stat. § 54-102j. Dissemination of information in DNA data bank

(a) It shall be the duty of the Division of Scientific Services within the Department of Emergency Services and Public Protection to receive blood or other biological samples and to analyze, classify and file the results of DNA identification characteristics profiles of blood or other biological samples submitted pursuant to section 54-102g and to make such information available as provided in this section, except that the division shall analyze samples taken pursuant to subsection (a) of section 54-102g only as available resources allow. The results of an analysis and comparison of the identification characteristics from two or more blood or other biological samples shall be made available directly to federal, state and local law enforcement officers upon request made in furtherance of an official investigation of any criminal offense. Only when a sample or DNA profile supplied by the person making the request satisfactorily matches a profile in the data bank shall the existence of data in the data bank be confirmed or identifying information from the data bank be disseminated, except that if the results of an analysis and comparison do not reveal a match between the sample or samples supplied and a DNA profile contained in the data bank, the division may, upon request of the law enforcement officer, indicate whether the DNA profile of a named individual is contained in the data bank provided the law enforcement officer has a reasonable and articulable suspicion that such individual has committed the criminal offense being investigated. A request pursuant to this subsection may be made by personal contact, mail or electronic means. The name of the person making the request and the purpose for which the information is requested shall be maintained on file with the division.

(b) Upon the request of a person from whom a blood or other biological sample has been taken pursuant to sections 54-102g and 54-102h, a copy of such person's DNA profile shall be furnished to such person.

(c) Upon the request of any person identified and charged with an offense as the result of a search of information in the data bank, a copy of the request for a search shall be furnished to such person so identified and charged.

(d) The Department of Emergency Services and Public Protection shall adopt regulations, in accordance with the provisions of chapter 54,¹ governing (1) the methods of obtaining information from the data bank in accordance with this section, and (2) procedures for verification of the identity and authority of the person making the request. The department shall specify the positions in that agency which require regular access to the data bank and samples submitted as a necessary function of the job.

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(e) The Division of Scientific Services shall create a separate statistical data base comprised of DNA profiles of blood or other biological samples of persons whose identity is unknown. Nothing in this section or section 54-102k shall prohibit the Division of Scientific Services from sharing or otherwise disseminating the information in the statistical data base with law enforcement or criminal justice agencies within or without the state.

(f) The Division of Scientific Services may charge a reasonable fee to search and provide a comparative analysis of DNA profiles in the data bank to any authorized law enforcement agency outside of the state.

Conn. Gen. Stat. § 54-102l Expungement of DNA data bank records and destruction of samples

(a) A DNA profile that has been included in the data bank pursuant to sections 54-102g to 54-102k, inclusive, shall be expunged in the event that (1) the criminal conviction or the finding of not guilty by reason of mental disease or defect on which the authority for including the person's DNA profile was based has been reversed and the case dismissed, or (2) if the DNA profile of a person has been included in the data bank on account of the person being arrested as provided in subsection (a) of section 54-102g, the charge has been dismissed or nolleed or the person has been acquitted of the charge.

(b) The Division of Scientific Services within the Department of Emergency Services and Public Protection shall purge all records and identifiable information in the data bank pertaining to the person and destroy all samples from the person upon receipt of a certified copy of (1) the court order reversing and dismissing the conviction or the finding of not guilty by reason of mental disease or defect, or (2) the court order dismissing or nolling the charge or acquitting the person of the charge.

Conn. Gen. Stat. § 54-102m. DNA Data Bank Oversight Panel

(a) There is established a DNA Data Bank Oversight Panel composed of the Chief State's Attorney, the Attorney General, the Commissioner of Emergency Services and Public Protection, the Commissioner of Correction, the executive director of the Court Support Services Division of the Judicial Department and the Chief Public Defender, or their designees. The Chief State's Attorney shall serve as chairperson of the panel and shall coordinate the agencies responsible for the implementation and maintenance of the DNA data bank established pursuant to section 54-102j.

(b) The panel shall take such action as necessary to assure the integrity of the data bank including the destruction of inappropriately obtained samples and the purging of all records and identifiable information pertaining to the persons from whom such inappropriately obtained samples were collected.

(c) The panel shall meet on a quarterly basis and shall maintain records of its meetings. Such records shall be retained by the chairperson. The meetings and records of the panel shall be subject to the provisions of the Freedom of Information Act, as defined in section 1-200, except that discussions and records of personally identifiable DNA information contained in the data bank shall be confidential and not subject to disclosure pursuant to the Freedom of Information Act. The Chief Public Defender, or the Chief Public Defender's designee, shall not participate in discussions concerning, or have access to records of, personally identifiable DNA information contained in the data bank.

Conn. Gen. Stat. § 54-102kk. DNA testing of biological evidence

(a) Notwithstanding any other provision of law governing postconviction relief, any person who was convicted of a crime and sentenced to incarceration may, at any time during the term of such incarceration, file a petition with the sentencing court requesting the DNA testing of any evidence that is in the possession or control of the Division of Criminal Justice, any law enforcement agency, any laboratory or the Superior Court. The petitioner shall state under penalties of perjury that the requested testing is related to the investigation or prosecution that resulted in the petitioner's conviction and that the evidence sought to be tested contains biological evidence.

(b) After notice to the prosecutorial official and a hearing, the court shall order DNA testing if it finds that:

- (1) A reasonable probability exists that the petitioner would not have been prosecuted or convicted if exculpatory results had been obtained through DNA testing;
- (2) The evidence is still in existence and is capable of being subjected to DNA testing;
- (3) The evidence, or a specific portion of the evidence identified by the petitioner, was never previously subjected to DNA testing, or the testing requested by the petitioner may resolve an issue that was never previously resolved by previous testing; and
- (4) The petition before the Superior Court was filed in order to demonstrate the petitioner's innocence and not to delay the administration of justice.

(c) After notice to the prosecutorial official and a hearing, the court may order DNA testing if it finds that:

- (1) A reasonable probability exists that the requested testing will produce DNA results which would have altered the verdict or reduced the petitioner's sentence if the results had been available at the prior proceedings leading to the judgment of conviction;
- (2) The evidence is still in existence and is capable of being subjected to DNA testing;
- (3) The evidence, or a specific portion of the evidence identified by the petitioner, was never previously subjected to DNA testing, or the testing requested by the petitioner may resolve an issue that was never previously resolved by previous testing; and
- (4) The petition before the Superior Court was filed in order to demonstrate the petitioner's innocence and not to delay the administration of justice.

(d) The costs of DNA testing ordered pursuant to this section shall be borne by the state or the petitioner, as the court may order in the interests of justice, except that DNA testing shall not be denied because of the inability of the petitioner to pay the costs of such testing.

(e) In a proceeding under this section, the petitioner shall have the right to be represented by counsel and, if the petitioner is indigent, the court shall appoint counsel for the petitioner in accordance with section 51-296.

Conn. Gen. Stat. § 54-193b. Limitation of prosecution for sexual assault offenses when DNA evidence available

Notwithstanding the provisions of sections 54-193 and 54-193a, there shall be no limitation of time within which a person may be prosecuted for a violation of section 53a-70, 53a-70a, 53a-70b, 53a-71, 53a-72a or 53a-72b, provided (1) the victim notified any police officer or state's attorney acting in such police officer's or state's attorney's official capacity of the commission of the offense not later than five years after the commission of the offense, and (2) the identity of the person who allegedly committed the offense has been established through a DNA (deoxyribonucleic acid) profile comparison using evidence collected at the time of the commission of the offense.

Conn. Practice Book § 40-32. Obtaining Nontestimonial Evidence from Defendant

Upon motion of the prosecuting authority, the judicial authority by order may direct a defendant to participate in a reasonably conducted procedure to obtain nontestimonial evidence, if the judicial authority finds probable cause to believe that:

- (1) The evidence sought may be of material aid in determining whether the defendant committed the offense charged; and
- (2) The evidence sought cannot practicably be obtained from other sources.

Conn. Practice Book § 40-34. Scope of Order for Nontestimonial Evidence

An order under Sections 40-32 through 40-39 may direct the defendant to participate in one or more of the following procedures:

- (1) Appearing, moving, or speaking for identification in a lineup, but if a lineup is not practicable, then in some other reasonable procedure;
- (2) Wearing clothing or other articles of personal use or adornment;
- (3) Providing handwriting and voice exemplars;
- (4) Submitting to the taking of photographs;
- (5) Submitting to the taking of fingerprints, palm prints, footprints, and other body impressions;
- (6) Submitting to the taking of specimens of saliva, breath, hair, and nails;
- (7) Submitting to body measurements or other reasonable body surface examinations;
- (8) Submitting to the removal of foreign substances or objects from the surface of the body, if the removal does not involve an unreasonable intrusion of the body or an unreasonable affront to the dignity of the individual;
- (9) Submitting to the taking of specimens of blood and urine, if the taking does not involve an unreasonable intrusion of the body or an unreasonable affront to the dignity of the individual;
- (10) Submitting to physical examinations, including X-rays under medical supervision;
or
- (11) Submitting to chemical or physical tests of the surface of the body which do not involve an unreasonable intrusion of the body or an unreasonable affront to the dignity of the individual or a significant risk of injury.

Conn. Practice Book § 40-35. Contents of Order

An order under Sections 40-32 through 40-39 shall specify with particularity the authorized procedure, the scope of the defendant's participation, the time, duration, place, and other conditions of the procedure, and the person or persons who may conduct it. It shall inform the defendant that he or she may not be subjected to investigative interrogation while participating in or being present for the procedure, and that he or she may be held in contempt of court by failing to appear and participate in the procedure as directed. It may also direct the defendant not to alter substantially any identifying physical characteristics to be examined or to destroy any evidence sought.

Conn. Practice Book § 40-36. Service of Order

An order under Sections 40-32 through 40-39 shall be served by delivering a copy of the order to the defendant personally and to his or her counsel, if represented by counsel.

Conn. Practice Book § 40-37. Implementation of Order

An order directing the defendant to participate shall be implemented in the following manner:

- (1) While participating in or being present for an authorized procedure, the defendant may be accompanied by counsel and by an observer of choice. The presence of other persons at the procedure may be limited as the judicial authority deems appropriate under the circumstances.
- (2) The procedure shall be conducted with dispatch. If the taking of a specimen or the removal of a foreign substance involves an intrusion of the body, medical or other qualified supervision is required. Upon timely request of the defendant and approval by the judicial authority, the defendant may have a qualified physician designated by the defendant in attendance.
- (3) The defendant may not be subjected to investigative interrogation while participating in or being present for the procedure.
- (4) Any evidence obtained from the defendant may be used only with respect to the offense charged or any related offense.
- (5) The defendant shall be furnished with a report of the results of the procedure within fifteen days of its completion.

Conn. Practice Book § 40-38. Obtaining Nontestimonial Evidence from Defendant Upon Motion of Defendant

Upon motion of a defendant who has been arrested, summoned, or charged in a complaint or information, the judicial authority by order may direct the prosecuting authority to arrange for the defendant's participation in one or more of the procedures specified in Sections 40-32 through 40-39, if the judicial authority finds that the evidence sought could contribute to an adequate defense. The order shall specify with particularity the authorized procedure, the scope of the defendant's permitted participation, the designation of representatives of the prosecution who may be present, the time, duration, place and other conditions of the procedure, and the person or persons who may conduct the procedure. Sections 40-32 through 40-37 apply to procedures ordered under this section.

Conn. Practice Book § 40-39. Comparing Nontestimonial Evidence

Upon motion of the defendant, the judicial authority by order may direct a prosecuting authority to have a scientific comparison made between a specified sample or specimen of nontestimonial evidence in the prosecuting authority's possession or control and other nontestimonial evidence of a similar character in the prosecuting authority's possession or control, if the judicial authority finds that the results of the comparison could contribute to an adequate defense. The order shall specify the comparison authorized, the person or persons who may make it, and the appropriate conditions under which it is to be made.