

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

## HOUSE BILL

No. 2429 Session of  
2004

INTRODUCED BY TIGUE, O'BRIEN, BELFANTI, CLYMER, CORRIGAN,  
CREIGHTON, CURRY, DeLUCA, DENLINGER, GEIST, GODSHALL, KELLER,  
LEH, MARKOSEK, MILLARD, MYERS, REICHLEY, SOLOBAY, THOMAS,  
WILT, GRUCELA, BASTIAN, BLAUM, PRESTON AND YOUNGBLOOD,  
MARCH 15, 2004

AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,  
APRIL 13, 2004

## AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the  
2 Pennsylvania Consolidated Statutes, further providing FOR THE <—  
3 CONSTABLES' EDUCATION AND TRAINING ACCOUNT, for DNA sample  
4 required upon conviction, for delinquency adjudication, for  
5 certain ARD cases and for expungement; and providing for good  
6 faith in collection of DNA sample.

7 The General Assembly of the Commonwealth of Pennsylvania  
8 hereby enacts as follows:

9 ~~Section 1. Section 4716 of Title 42 of the Pennsylvania~~ <—  
10 ~~Consolidated Statutes is amended by adding a subsection to read:~~

11 SECTION 1. SECTION 2949 OF TITLE 42 OF THE PENNSYLVANIA <—  
12 CONSOLIDATED STATUTES IS AMENDED TO READ:

13 § 2949. RESTRICTED ACCOUNT.

14 (A) ACCOUNT ESTABLISHED.--THERE IS HEREBY ESTABLISHED A  
15 SPECIAL RESTRICTED ACCOUNT WITHIN THE GENERAL FUND, WHICH SHALL  
16 BE KNOWN AS THE CONSTABLES' EDUCATION AND TRAINING ACCOUNT, FOR  
17 THE PURPOSES OF FINANCING TRAINING PROGRAM EXPENSES, THE COSTS  
18 OF ADMINISTERING THE PROGRAM AND ALL OTHER COSTS ASSOCIATED WITH

1 THE ACTIVITIES OF THE BOARD AND THE IMPLEMENTATION OF THIS  
2 SUBCHAPTER AND AS PROVIDED UNDER SUBSECTION (F).

3 (B) SURCHARGE.--THERE IS HEREBY ASSESSED AS A COST IN EACH  
4 CASE BEFORE A DISTRICT JUSTICE A SURCHARGE OF \$5 PER DOCKET  
5 NUMBER IN EACH CRIMINAL CASE AND \$5 PER NAMED DEFENDANT IN EACH  
6 CIVIL CASE IN WHICH A CONSTABLE OR DEPUTY CONSTABLE PERFORMS A  
7 SERVICE PROVIDED IN THIS SUBCHAPTER, EXCEPT THAT NO COUNTY SHALL  
8 BE REQUIRED TO PAY THIS SURCHARGE ON BEHALF OF ANY INDIGENT OR  
9 OTHER DEFENDANT IN A CRIMINAL CASE.

10 (C) DISPOSITION OF FUNDS.--THE SURCHARGES COLLECTED UNDER  
11 SUBSECTION (B), IF COLLECTED BY A CONSTABLE OR DEPUTY CONSTABLE  
12 SHALL BE TURNED OVER WITHIN ONE WEEK TO THE ISSUING AUTHORITY.  
13 THE ISSUING AUTHORITY SHALL REMIT THE SAME TO THE DEPARTMENT OF  
14 REVENUE FOR DEPOSIT INTO THE ACCOUNT.

15 (D) DISBURSEMENTS.--DISBURSEMENTS FROM THE ACCOUNT SHALL BE  
16 MADE BY THE COMMISSION.

17 (E) AUDIT.--THE AUDITOR GENERAL SHALL CONDUCT AN AUDIT OF  
18 THE ACCOUNT AS HE MAY DEEM NECESSARY OR ADVISABLE FROM TIME TO  
19 TIME, BUT NOT LESS THAN ONCE EVERY THREE YEARS.

20 (F) FUND SURPLUS.--IF ACCOUNT MONEYS ARE SUFFICIENT TO MEET  
21 THE EXPENSES AND COSTS UNDER SUBSECTION (A), THE COMMISSION MAY  
22 ALLOCATE ANY SURPLUS FUNDS IN THE ACCOUNT TO ASSIST CONSTABLES  
23 AND DEPUTY CONSTABLES WITH COSTS ASSOCIATED WITH ATTENDANCE AT  
24 CONTINUING EDUCATION PROGRAMS UNDER SECTION 2946 (RELATING TO  
25 CONTINUING EDUCATION).

26 SECTION 2. SECTION 4716 OF TITLE 42 IS AMENDED BY ADDING A  
27 SUBSECTION TO READ:

28 § 4716. DNA sample required upon conviction, delinquency  
29 adjudication and certain ARD cases.

30 \* \* \*

1     (d.1) Mandatory submission.--The requirements of this  
2 chapter are mandatory and apply regardless of whether a court  
3 advises a person that a DNA sample must be provided to the State  
4 DNA Data Base and State DNA Data Bank as a result of a  
5 conviction or adjudication of delinquency. A person who has been  
6 sentenced to death or life imprisonment without the possibility  
7 of parole, or to any life or indeterminate term of  
8 incarceration, is not exempt from the requirements of this  
9 chapter. Any person subject to this chapter, who has not  
10 provided a DNA sample for any reason, including because of an  
11 oversight or error, shall provide a DNA sample for inclusion in  
12 the State DNA Data Base and State DNA Data Bank after being  
13 notified by duly authorized law enforcement or corrections  
14 personnel. In the event that a person provides a DNA sample that  
15 is not adequate for any reason, the person shall provide another  
16 DNA sample for inclusion in the State DNA Data Base and State  
17 DNA Data Bank after being notified by duly authorized law  
18 enforcement or corrections personnel.

19     \* \* \*

20     Section ~~2~~ 3. Section 4721 of Title 42 is amended to read:  
21 § 4721. Expungement.

22     (a) General rule.--A person whose DNA sample, record or  
23 profile has been included in the [data bank] State DNA Data Bank  
24 or State DNA Data Base pursuant to the former DNA Act or this  
25 chapter may request expungement on the grounds that the  
26 conviction or delinquency adjudication on which the authority  
27 for including that person's DNA sample, record or profile was  
28 based has been reversed and the case dismissed or that the DNA  
29 sample, record or profile was included in the State DNA Data  
30 Bank or State DNA Data Base by mistake.

1 (b) Duty of State Police.--The State Police shall purge all  
2 records and identifiable information in the [data base] State  
3 DNA Data Base and State DNA Data Bank pertaining to the person  
4 and destroy all samples from the person upon receipt of a  
5 written request for expungement pursuant to this section and a  
6 certified copy of the final court order reversing and dismissing  
7 the conviction.

8 (c) Limitation.--[An incarcerated or previously  
9 incarcerated] A person may not seek expungement of a DNA sample,  
10 record or profile on the grounds that that person was convicted  
11 or adjudicated delinquent for a felony sex offense prior to the  
12 effective date of the former DNA Act or prior to the effective  
13 date of this chapter.

14 (d) Effect of expungement.--The expungement of a DNA sample,  
15 record or profile pursuant to this section shall have no effect  
16 on any data bank or data base match occurring prior to the  
17 expungement of the sample, record or profile.

18 Section 3 4. Title 42 is amended by adding a section to <—  
19 read:

20 § 4723. Good faith.

21 (a) Use of samples.--A DNA sample obtained in good faith  
22 pursuant to this subchapter shall be deemed to have been  
23 obtained in accordance with the requirements of this subchapter  
24 and its use in accordance with this chapter is hereby authorized  
25 until an expungement is obtained pursuant to section 4721  
26 (relating to expungement).

27 (b) Effect of mistake.--The detention, arrest, search or  
28 conviction of a person based upon good faith reliance on any  
29 data bank or data base match is not invalidated if it is  
30 subsequently determined that the sample was obtained or placed

1 in a data bank or data base by mistake.

2 Section 4 5. This act shall take effect in 60 days.

<—