

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 775 Session of 2011

INTRODUCED BY PILEGGI, GREENLEAF, RAFFERTY, ERICKSON, YAW, PIPPY, LEACH, VANCE, SOLOBAY, WARD AND BROWNE, MARCH 15, 2011

AS REPORTED FROM COMMITTEE ON JUDICIARY, HOUSE OF REPRESENTATIVES, AS AMENDED, SEPTEMBER 25, 2012

AN ACT

~~Amending Title 44 (Law and Justice) of the Pennsylvania Consolidated Statutes, in DNA data and testing, further providing for policy, for definitions, for State DNA Data Base, for procedural compatibility with FBI and for DNA sample required upon conviction, delinquency adjudication and certain ARD cases; providing for collection from persons accepted from other jurisdictions; further providing for procedures for withdrawal, collection and transmission of DNA samples, for procedures for conduct, disposition and use of DNA analysis; providing for request for modified DNA search; further providing for DNA data base exchange and for expungement; and providing for severability.~~



AMENDING TITLE 44 (LAW AND JUSTICE) OF THE PENNSYLVANIA CONSOLIDATED STATUTES, IN DNA DATA AND TESTING, FURTHER PROVIDING FOR POLICY, FOR DEFINITIONS, FOR POWERS AND DUTIES OF STATE POLICE, FOR STATE DNA DATA BASE, FOR STATE DNA DATA BANK, FOR STATE POLICE RECOMMENDATION OF ADDITIONAL OFFENSES, FOR PROCEDURAL COMPATIBILITY WITH FBI AND FOR DNA SAMPLE REQUIRED UPON CONVICTION, DELINQUENCY ADJUDICATION AND CERTAIN ARD CASES; PROVIDING FOR COLLECTION FROM PERSONS ACCEPTED FROM OTHER JURISDICTIONS; FURTHER PROVIDING FOR PROCEDURES FOR WITHDRAWAL, COLLECTION AND TRANSMISSION OF DNA SAMPLES, FOR PROCEDURES FOR CONDUCT, DISPOSITION AND USE OF DNA ANALYSIS; PROVIDING FOR REQUEST FOR MODIFIED DNA SEARCH; AND FURTHER PROVIDING FOR DNA DATA BASE EXCHANGE, FOR EXPUNGEMENT AND FOR MANDATORY COST.



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

~~Section 1. Sections 2302, 2303, 2312 and 2315 of Title 44 of~~



1 ~~the Pennsylvania Consolidated Statutes are amended to read:~~

2 ~~§ 2302. Policy.~~

3 ~~The General Assembly finds and declares that:~~

4 ~~(1) DNA data banks are an important tool in criminal~~  
5 ~~investigations, in [the exclusion of] excluding innocent~~  
6 ~~individuals who are the subject of criminal investigations or~~  
7 ~~prosecutions and in [detering and detecting recidivist acts]~~  
8 ~~detecting and deterring repeated crimes by the same~~  
9 ~~individual.~~

10 ~~(2) Several states have enacted laws requiring persons~~  
11 ~~arrested, charged or convicted of certain crimes, especially~~  
12 ~~sex offenses, to provide genetic samples for DNA profiling.~~

13 ~~(2.1) Several states have authorized the use of DNA~~  
14 ~~analysis to identify crime scene DNA profiles by establishing~~  
15 ~~that the source of a crime scene DNA profile is likely to be~~  
16 ~~a close relative of a specific individual whose DNA record is~~  
17 ~~on file.~~

18 ~~(3) Moreover, it is the policy of the Commonwealth to~~  
19 ~~assist Federal, State and local criminal justice and law~~  
20 ~~enforcement agencies in the identification and detection of~~  
21 ~~individuals in criminal investigations.~~

22 ~~(4) It is therefore in the best interest of the~~  
23 ~~Commonwealth to establish a DNA data base and a DNA data bank~~  
24 ~~containing DNA samples submitted by individuals arrested for,~~  
25 ~~charged with, convicted of, adjudicated delinquent for or~~  
26 ~~accepted into ARD for felony sex offenses and other specified~~  
27 ~~offenses.~~

28 ~~(5) It is in the best interest of the Commonwealth to~~  
29 ~~authorize the State Police to use DNA analysis and to~~  
30 ~~identify these individuals to a criminal justice agency in~~

1 ~~ertain cases.~~

2 ~~§ 2303. Definitions.~~

3 ~~The following words and phrases when used in this chapter~~  
4 ~~shall have the meanings given to them in this section unless the~~  
5 ~~context clearly indicates otherwise:~~

6 ~~"Accredited forensic DNA laboratory." A forensic DNA~~  
7 ~~laboratory that has received accreditation by an accrediting~~  
8 ~~body nationally recognized within the forensic science community~~  
9 ~~in accordance with the FBI Quality Assurance Standards to~~  
10 ~~perform forensic DNA testing and is in compliance with FBI~~  
11 ~~quality assurance standards.~~

12 ~~"ARD." Accelerated Rehabilitative Disposition.~~

13 ~~"CODIS." The [term is derived from] Combined DNA Index~~  
14 ~~System, the Federal Bureau of Investigation's national DNA~~  
15 ~~identification index system that allows the storage and exchange~~  
16 ~~of DNA records submitted by state and local forensic DNA~~  
17 ~~laboratories.~~

18 ~~"Commissioner." The Commissioner of the Pennsylvania State~~  
19 ~~Police.~~

20 ~~"Crime scene DNA profile." A DNA profile that characterizes~~  
21 ~~the sample of DNA found on a victim or originating from and~~  
22 ~~associated with the scene of a crime.~~

23 ~~"Criminal justice agency." A criminal justice agency as~~  
24 ~~defined in 18 Pa.C.S. § 9102 (relating to definitions).~~

25 ~~"DNA." Deoxyribonucleic acid. DNA is located in the cells~~  
26 ~~and provides an individual's personal genetic blueprint. DNA~~  
27 ~~encodes genetic information that is the basis of human heredity~~  
28 ~~and forensic identification.~~

29 ~~"DNA record." DNA identification information stored in the~~  
30 ~~State DNA Data Base or the Combined DNA Index System for the~~

1 ~~purpose of generating investigative leads or supporting~~  
2 ~~statistical interpretation of DNA test results. The term~~  
3 ~~includes nuclear and mitochondrial typing. The DNA record is the~~  
4 ~~result obtained from the DNA typing tests. The DNA record is~~  
5 ~~comprised of the characteristics of a DNA sample which are of~~  
6 ~~value in establishing the identity of individuals or the source~~  
7 ~~of a crime scene DNA profile. The results of all DNA~~  
8 ~~identification tests on an individual's DNA sample are also~~  
9 ~~collectively referred to as the DNA profile of an individual.~~

10 ~~"DNA sample." A [blood or tissue] bodily sample:~~

11 ~~(1) provided by any person with respect to offenses~~  
12 ~~covered by this chapter or submitted to the Pennsylvania~~  
13 ~~State Police laboratory pursuant to the former act of May 28,~~  
14 ~~1995 (1st Sp.Sess., P.L.1009, No.14), known as the DNA~~  
15 ~~Detection of Sexual and Violent Offenders Act, to the former~~  
16 ~~42 Pa.C.S. Ch. 47 (relating to DNA data and testing) or to~~  
17 ~~this chapter for analysis or storage, or both[.]; or~~

18 ~~(2) found at a crime scene that might have come from a~~  
19 ~~possible offender.~~

20 ~~"FBI." The Federal Bureau of Investigation.~~

21 ~~"Felony sex offense." A felony offense or an attempt,~~  
22 ~~conspiracy or solicitation to commit a felony offense under any~~  
23 ~~of the following:~~

24 ~~18 Pa.C.S. Ch. 31 (relating to sexual offenses).~~

25 ~~18 Pa.C.S. § 4302 (relating to incest).~~

26 ~~18 Pa.C.S. § 5902(c)(1)(iii) and (iv) (relating to~~  
27 ~~prostitution and related offenses).~~

28 ~~18 Pa.C.S. § 5903(a) (relating to obscene and other~~  
29 ~~sexual materials and performances) where the offense~~  
30 ~~constitutes a felony.~~

1 ~~18 Pa.C.S. § 6312 (relating to sexual abuse of children).~~

2 ~~18 Pa.C.S. § 6318 (relating to unlawful contact with~~  
3 ~~minor) where the most serious underlying offense for which~~  
4 ~~the defendant contacted the minor is graded as a felony.~~

5 ~~18 Pa.C.S. § 6320 (relating to sexual exploitation of~~  
6 ~~children).~~

7 ~~"Forensic DNA laboratory." A laboratory that performs~~  
8 ~~forensic DNA testing for the purposes of identification.~~

9 ~~"Forensic DNA testing." A test that applies techniques from~~  
10 ~~molecular biology to deoxyribonucleic acid (DNA) to help resolve~~  
11 ~~issues of identification.~~

12 ~~"Former DNA Act." The former act of May 28, 1995 (1st~~  
13 ~~Sp.Sess., P.L.1009, No.14), known as the DNA Detection of Sexual~~  
14 ~~and Violent Offenders Act.~~

15 ~~"Fund." The DNA Detection Fund reestablished in section 2335~~  
16 ~~(relating to DNA Detection Fund).~~

17 ~~"Human behavioral genetic research." The study of the~~  
18 ~~possible genetic underpinnings of behaviors, including, but not~~  
19 ~~limited to, aggression, substance abuse, social attitudes,~~  
20 ~~mental abilities, sexual activity and eating habits.~~

21 ~~"Judicial determination." A determination by a court of~~  
22 ~~competent jurisdiction, including a settlement approved by such~~  
23 ~~court.~~

24 ~~"Law enforcement identification purposes." Assisting in the~~  
25 ~~determination of the identity of an individual whose DNA is~~  
26 ~~contained in a biological sample.~~

27 ~~"Mitochondrial DNA analysis." A method that applies~~  
28 ~~techniques from molecular biology to analyze DNA found in the~~  
29 ~~mitochondria of cells.~~

30 ~~"Modified DNA search." A search of a crime scene DNA profile~~

1 ~~against the State DNA Data Base by the State Police that is~~  
2 ~~conducted using the procedure and methods set forth in the~~  
3 ~~regulations published under section 2318.1(d)(3) (relating to~~  
4 ~~request for modified DNA search).~~

5 ~~"Other specified offense." [A felony offense or an offense~~  
6 ~~under 18 Pa.C.S. § 2910 (relating to luring a child into a motor~~  
7 ~~vehicle) or 3126 (relating to indecent assault) or an attempt to~~  
8 ~~commit such an offense.] Any of the following:~~

9 ~~A felony offense.~~

10 ~~18 Pa.C.S. § 2701(b)(2) (relating to simple assault).~~

11 ~~18 Pa.C.S. § 2902(a) (relating to unlawful restraint).~~

12 ~~18 Pa.C.S. § 2910 (relating to luring a child into a~~  
13 ~~motor vehicle or structure.~~

14 ~~18 Pa.C.S. § 3126 (relating to indecent assault).~~

15 ~~18 Pa.C.S. § 3503(b)(1)(v) (relating to criminal~~  
16 ~~trespass).~~

17 ~~18 Pa.C.S. § 4303 (relating to concealing death of~~  
18 ~~child).~~

19 ~~18 Pa.C.S. § 4304 (relating to endangering welfare of~~  
20 ~~children).~~

21 ~~18 Pa.C.S. § 4305 (relating to dealing in infant~~  
22 ~~children).~~

23 ~~An attempt, conspiracy or solicitation to commit a felony~~  
24 ~~offense or other offense specified in this definition.~~

25 ~~"State Police." The Pennsylvania State Police.~~

26 ~~"Y chromosome analysis." A method that applies techniques~~  
27 ~~from molecular biology to examine DNA found on the Y chromosome.~~

28 ~~§ 2312. State DNA Data Base.~~

29 ~~{The State DNA Data Base is reestablished. It shall be~~  
30 ~~administered by the State Police and provide DNA records to the~~

1 ~~FBI for storage and maintenance by CODIS.] A Statewide DNA Data~~  
2 ~~Base is established within the State Police to provide DNA~~  
3 ~~records to CODIS. The State DNA Data Base shall have the~~  
4 ~~capability provided by computer software and procedures~~  
5 ~~administered by the State Police to store and maintain DNA~~  
6 ~~records related to:~~

7       ~~(1) forensic casework;~~

8       ~~(2) arrested, charged and convicted offenders required~~  
9 ~~to provide a DNA sample under this chapter; and~~

10       ~~(3) anonymous DNA records used for statistical research~~  
11 ~~[or] on the frequency of DNA genotypes, quality control or~~  
12 ~~the development of new DNA identification methods.~~

13 ~~§ 2315. Procedural compatibility with FBI.~~

14       ~~The DNA identification system [as] established by the State~~  
15 ~~Police shall be compatible with the procedures [specified]~~  
16 ~~established by the FBI quality assurance standards for forensic~~  
17 ~~DNA testing laboratories and DNA data basing laboratories and~~  
18 ~~CODIS policies and procedures, including use of comparable test~~  
19 ~~procedures, laboratory equipment, supplies and computer~~  
20 ~~software.~~

21       ~~Section 2. Section 2316 heading and subsections (a) and (b)~~  
22 ~~(3) of Title 44 are amended and the section is amended by adding~~  
23 ~~a subsection to read:~~

24 ~~§ 2316. DNA sample required upon arrest, criminal charge,~~  
25 ~~conviction, delinquency adjudication and certain ARD~~  
26 ~~cases.~~

27       ~~(a) [General rule] Conviction or adjudication. A person who~~  
28 ~~is convicted or adjudicated delinquent for a felony sex offense~~  
29 ~~or other specified offense or who is or remains incarcerated for~~  
30 ~~a felony sex offense or other specified offense on or after the~~

1 ~~effective date of this chapter shall have a DNA sample [drawn]~~  
2 ~~collected as follows:~~

3 ~~(1) A person who is sentenced or receives a delinquency~~  
4 ~~disposition to a term of confinement for an offense covered~~  
5 ~~by this subsection shall have a DNA sample [drawn] collected~~  
6 ~~upon intake to a prison, jail or juvenile detention facility~~  
7 ~~or any other detention facility or institution. If the person~~  
8 ~~is already confined at the time of sentencing or~~  
9 ~~adjudication, the person shall have a DNA sample [drawn]~~  
10 ~~collected immediately after the sentencing or adjudication.~~  
11 ~~If a DNA sample is not timely [drawn] collected in accordance~~  
12 ~~with this section, the DNA sample may be [drawn] collected~~  
13 ~~any time thereafter by the prison, jail, juvenile detention~~  
14 ~~facility, detention facility or institution.~~

15 ~~(2) A person who is convicted or adjudicated delinquent~~  
16 ~~for an offense covered by this subsection shall have a DNA~~  
17 ~~sample [drawn] collected as a condition for any sentence or~~  
18 ~~adjudication which disposition will not involve an intake~~  
19 ~~into a prison, jail, juvenile detention facility or any other~~  
20 ~~detention facility or institution.~~

21 ~~(3) Under no circumstances shall a person who is~~  
22 ~~convicted or adjudicated delinquent for an offense covered by~~  
23 ~~this subsection be released in any manner after such~~  
24 ~~disposition unless and until a DNA sample has been~~  
25 ~~[withdrawn] collected.~~

26 ~~(b) Condition of release, probation or parole.~~

27 ~~\* \* \*~~

28 ~~(3) This chapter shall apply to incarcerated persons and~~  
29 ~~persons on probation or parole who were convicted or~~  
30 ~~adjudicated delinquent for other specified offenses prior to~~

1 ~~the effective date of this paragraph whether or not the~~  
2 ~~offense for which the person is currently imprisoned or under~~  
3 ~~probation or parole supervision is a felony sex offense or~~  
4 ~~other specified offense.~~

5 \* \* \*

6 ~~(c.1) Criminal charge or arrest.~~

7 ~~(1) A person who is charged or arrested as an adult for~~  
8 ~~a felony sex offense or other specified offense shall have a~~  
9 ~~DNA sample collected immediately following arrest, during~~  
10 ~~booking or intake or as soon as administratively practical~~  
11 ~~after arrest but not later than prior to release on bail or~~  
12 ~~pending trial or any other physical release from confinement~~  
13 ~~or custody.~~

14 ~~(2) If for any reason a person does not provide a DNA~~  
15 ~~sample and fingerprints under this chapter, the court shall~~  
16 ~~order the person to report within five calendar days of~~  
17 ~~arrest or charge to a prison, jail unit, juvenile facility or~~  
18 ~~other facility to be specified by the court to provide DNA~~  
19 ~~samples and fingerprints in accordance with this chapter.~~

20 ~~(3) The State Police shall create a separate category~~  
21 ~~within the data base to store DNA samples and records~~  
22 ~~collected under this subsection, and the DNA records and~~  
23 ~~samples contained therein shall not be subject to any~~  
24 ~~modified DNA search authorized under section 2318.1 (relating~~  
25 ~~to request for modified DNA search).~~

26 ~~(4) This subsection shall apply as follows:~~

27 ~~(i) Beginning 90 days after the effective date of~~  
28 ~~this subsection, any person required to provide a DNA~~  
29 ~~sample under this subsection for an arrest or charge~~  
30 ~~under 18 Pa.C.S. Chs. 25 (relating to criminal homicide),~~

1 ~~26 (relating to crimes against unborn child) and 31~~  
2 ~~(relating to sexual offenses) and §§ 6312 (relating to~~  
3 ~~sexual abuse of children) and 6320 (relating to sexual~~  
4 ~~exploitation of children) shall have a DNA sample~~  
5 ~~collected pursuant to this chapter.~~

6 ~~(ii) Beginning one year after the effective date of~~  
7 ~~this subsection, any person required to provide a DNA~~  
8 ~~sample under this subsection for an arrest or charge~~  
9 ~~under 18 Pa.C.S. Chs. 27 (relating to assault), 33~~  
10 ~~(relating to arson, criminal mischief and other property~~  
11 ~~destruction), 35 (relating to burglary and other criminal~~  
12 ~~intrusion), 37 (relating to robbery) and 43 (relating to~~  
13 ~~offenses against the family) shall have a DNA sample~~  
14 ~~collected pursuant to this chapter.~~

15 ~~(iii) Beginning two years after the effective date~~  
16 ~~of this subsection, any person required to provide a DNA~~  
17 ~~sample under this subsection for an arrest or charge for~~  
18 ~~any other felony sex offense or other specified offense~~  
19 ~~shall have a sample collected pursuant to this chapter.~~

20 \* \* \*

21 Section 3. Title 44 is amended by adding a section to read:

22 ~~§ 2316.1. Collection from other jurisdictions.~~

23 ~~(a) Conditional acceptance. When a person is accepted into~~  
24 ~~this Commonwealth for supervision from another jurisdiction~~  
25 ~~under the Interstate Compact for Supervision of Adult Offenders,~~  
26 ~~other reciprocal agreement with a Federal, state or county~~  
27 ~~agency, or a provision of law, whether or not the person is~~  
28 ~~confined or released, the acceptance shall be conditioned on the~~  
29 ~~offender's providing DNA samples under this chapter if the~~  
30 ~~offender has a past or present Federal, state or military court~~

~~1 conviction or adjudication that is equivalent to a felony sex  
2 offense or other specified offense as determined by the  
3 Pennsylvania Board of Probation and Parole. Additional DNA  
4 samples shall not be required if a DNA sample is currently on  
5 file with CODIS or the State DNA Data Base.~~

~~6 (b) Time period.~~

~~7 (1) If the person accepted under subsection (a) is not  
8 confined, the DNA sample and fingerprints required under this  
9 chapter shall be provided within five calendar days after the  
10 person reports to the supervising agent or within five  
11 calendar days of notice to the person, whichever occurs  
12 first. The person shall appear and the DNA samples shall be  
13 collected in accordance with the provisions of this chapter.~~

~~14 (2) If the person accepted under subsection (a) is  
15 confined, the person shall provide the DNA sample and  
16 fingerprints required by this chapter within five calendar  
17 days after the person is received at a place of incarceration  
18 or confinement.~~

~~19 Section 4. Sections 2317(a)(1) and 2318(a) and (c) of Title  
20 44 are amended to read:~~

~~21 § 2317. Procedures for withdrawal, collection and transmission  
22 of DNA samples.~~

~~23 (a) [Drawing] Collection of DNA samples.~~

~~24 (1) Each DNA sample required to be [drawn] collected  
25 pursuant to [section] sections 2316 (relating to DNA sample  
26 required upon arrest, criminal charge, conviction,  
27 delinquency adjudication and certain ARD cases) and 2316.1  
28 (relating to collection from persons accepted from other  
29 jurisdictions) from persons who are incarcerated or confined  
30 shall be [drawn] collected at the place of incarceration or~~

1 ~~confinement as provided for in section 2316. DNA samples from~~  
2 ~~persons who are not ordered or sentenced to a term of~~  
3 ~~confinement shall be [drawn] collected at a prison, jail~~  
4 ~~unit, juvenile facility or other facility to be specified by~~  
5 ~~the court. Only those individuals qualified to draw DNA blood~~  
6 ~~samples in a medically approved manner shall draw a DNA blood~~  
7 ~~sample to be submitted for DNA analysis. Such sample and the~~  
8 ~~set of fingerprints provided for in paragraph (2) shall be~~  
9 ~~delivered to the State Police within 48 hours of [drawing]~~  
10 ~~collecting the sample.~~

11 \* \* \*

12 ~~§ 2318. Procedures for conduct, disposition and use of DNA~~  
13 ~~analysis.~~

14 ~~(a) Procedures.~~

15 ~~(1) The State Police shall [prescribe] develop~~  
16 ~~guidelines to implement this chapter, including procedures to~~  
17 ~~be used in the collection, submission, identification,~~  
18 ~~analysis, storage and disposition of DNA samples and typing~~  
19 ~~results of DNA samples submitted under the former DNA Act,~~  
20 ~~former 42 Pa.C.S. Ch. 47 (relating to DNA data and testing)~~  
21 ~~or this chapter.~~

22 ~~(2) The DNA sample typing results shall be securely~~  
23 ~~stored in the State DNA Data Base, and records of testing~~  
24 ~~shall be retained on file with the State Police consistent~~  
25 ~~with the procedures established by the FBI quality assurance~~  
26 ~~standards for forensic DNA testing laboratories and DNA data~~  
27 ~~basing laboratories and CODIS policies and procedures.~~

28 ~~(3) These procedures shall also include quality~~  
29 ~~assurance guidelines to ensure that DNA identification~~  
30 ~~records meet standards for accredited forensic DNA~~

1 ~~laboratories which submit DNA records to the State DNA Data~~  
2 ~~Base.~~

3 ~~(4) The guidelines shall address the following:~~

4 ~~(i) Verification of accreditation.~~

5 ~~(ii) Compliance with FBI quality assurance standards~~  
6 ~~including continuing education requirements for the~~  
7 ~~personnel of forensics DNA testing laboratories.~~

8 \* \* \*

9 ~~(c) Use of tests.—~~

10 ~~(1) Except as otherwise provided in section 2319(c)~~  
11 ~~(relating to DNA data base exchange), the tests to be~~  
12 ~~performed on each DNA sample shall be used only for law~~  
13 ~~enforcement identification purposes or to assist in the~~  
14 ~~recovery or identification of human remains from disasters or~~  
15 ~~for other humanitarian identification purposes, including~~  
16 ~~identification of missing persons.~~

17 ~~(2) No DNA sample or DNA record shall be used for human~~  
18 ~~behavioral genetic research.~~

19 \* \* \*

20 Section 5. Title 44 is amended by adding a section to read:

21 ~~§ 2318.1. Request for modified DNA search.~~

22 ~~(a) General rule.—~~

23 ~~(1) A criminal justice agency may request in writing~~  
24 ~~that the State Police perform a modified DNA search in an~~  
25 ~~unsolved case and shall provide information as required by~~  
26 ~~the State Police.~~

27 ~~(2) The State Police shall grant a request to conduct a~~  
28 ~~modified DNA search if the State Police determine that the~~  
29 ~~request complies with subsection (d) (2).~~

30 ~~(b) Modified DNA search.—~~

1       ~~(1) The State Police shall conduct a modified DNA search~~  
2 ~~if it grants a request under subsection (a) (2).~~

3       ~~(2) The State Police may conduct a modified DNA search~~  
4 ~~in unsolved cases without the request of a criminal justice~~  
5 ~~agency only if the State Police determine that they would~~  
6 ~~have granted a request had a request been made by a criminal~~  
7 ~~justice agency.~~

8       ~~(3) In all cases, the State Police shall use procedures~~  
9 ~~for conducting a modified DNA search that are consistent with~~  
10 ~~the regulations published under subsection (d) (3).~~

11 ~~(c) Release of information from a modified DNA search. The~~  
12 ~~State Police shall provide the requesting criminal justice~~  
13 ~~agency with personally identifying information on individuals~~  
14 ~~whose DNA records were identified through a modified DNA search.~~

15 ~~(d) Requirements.~~

16       ~~(1) The State Police shall require a criminal justice~~  
17 ~~agency to provide assurances and information in support of~~  
18 ~~its request for a modified DNA search, including:~~

19           ~~(i) A representation that a modified DNA search is~~  
20 ~~necessary for law enforcement identification purposes in~~  
21 ~~an unsolved case.~~

22           ~~(ii) A representation that all other investigative~~  
23 ~~leads have been pursued.~~

24           ~~(iii) A commitment to further investigate the case~~  
25 ~~if personal identifying information from a modified DNA~~  
26 ~~search is provided.~~

27           ~~(iv) Any other information the State Police deem~~  
28 ~~necessary.~~

29       ~~(2) The State Police shall grant a modified DNA search~~  
30 ~~request so long as the State Police determine that:~~

1           ~~(i) The crime scene DNA profile has sufficient size,~~  
2           ~~quality and integrity.~~

3           ~~(ii) The crime scene DNA profile has previously been~~  
4           ~~subjected to a routine DNA search against the State DNA~~  
5           ~~Data Base.~~

6           ~~(iii) The modified DNA search is necessary for law~~  
7           ~~enforcement identification purposes in an unsolved case.~~

8           ~~(iv) The criminal justice agency has pursued all~~  
9           ~~other investigative leads.~~

10          ~~(v) Any relevant consideration, including factors or~~  
11          ~~requirements considered by any other jurisdiction,~~  
12          ~~supports granting the request.~~

13          ~~(3) The State Police shall adopt a procedure to conduct~~  
14          ~~modified DNA searches based on scientifically valid and~~  
15          ~~reliable methods to determine that a crime scene DNA profile~~  
16          ~~is sufficiently likely to have originated from a close~~  
17          ~~relative of an individual whose DNA profile is recorded in~~  
18          ~~the State DNA Data Base. The State Police may require the~~  
19          ~~following:~~

20                 ~~(i) An analysis of the rarity in the relevant~~  
21                 ~~population of each shared DNA characteristic.~~

22                 ~~(ii) An analysis of the pattern of shared DNA~~  
23                 ~~characteristics.~~

24                 ~~(iii) Y chromosome analysis.~~

25                 ~~(iv) Mitochondrial DNA analysis.~~

26                 ~~(v) Any other suitable method designed to determine~~  
27                 ~~that a crime scene DNA profile originated from a close~~  
28                 ~~relative of an individual in the State DNA Data Base.~~

29          ~~The State Police shall not be limited to procedures or~~  
30          ~~methods used by the FBI in conducting moderate or low~~

1 ~~stringency CODIS searches.~~

2 ~~Section 6. Sections 2319(a) and (c) and 2321(a) and (b) of~~  
3 ~~Title 44 are amended to read:~~

4 ~~§ 2319. DNA data base exchange.~~

5 ~~(a) Receipt of DNA samples by State Police. It shall be the~~  
6 ~~duty of the State Police to receive DNA samples, to store, to~~  
7 ~~perform analysis or to contract for DNA typing analysis with [a~~  
8 ~~qualified] an accredited forensic DNA laboratory that meets the~~  
9 ~~guidelines and regulations under section 2318 (relating to~~  
10 ~~procedures for conduct, disposition and use of DNA analysis) as~~  
11 ~~established by the State Police, to classify and to file the DNA~~  
12 ~~record of identification characteristic profiles of DNA samples~~  
13 ~~submitted under the former DNA Act, former 42 Pa.C.S. Ch. 47~~  
14 ~~(relating to DNA data and testing) or this chapter and to make~~  
15 ~~such information available as provided in this section. The~~  
16 ~~State Police may contract [out] for the storage of DNA typing~~  
17 ~~analysis [and may contract out] or DNA typing analysis to [a~~  
18 ~~qualified] an accredited forensic DNA laboratory that meets~~  
19 ~~guidelines and regulations as established by the State Police~~  
20 ~~under section 2318. The results of the DNA profile of~~  
21 ~~individuals in the State DNA Data Base shall be made available:~~

22 ~~(1) to criminal justice agencies or [approved crime]~~  
23 ~~CODIS participating DNA laboratories which serve these~~  
24 ~~agencies; or~~

25 ~~(2) upon written or electronic request and in~~  
26 ~~furtherance of an official investigation of a criminal~~  
27 ~~offense or offender or suspected offender.~~

28 ~~\*\*\*~~

29 ~~(c) Population data base.~~

30 ~~(1) The State Police may establish a separate population~~

1 ~~data base comprised of DNA samples obtained under this~~  
2 ~~chapter after all personal identification is removed.~~

3 ~~(2) The State Police may share or disseminate the~~  
4 ~~population data base with other criminal justice agencies or~~  
5 ~~[crime] CODIS participating DNA laboratories that serve to~~  
6 ~~assist the State Police with statistical data bases.~~

7 ~~(3) The population data base may be made available to~~  
8 ~~and searched by other agencies participating in the CODIS-~~  
9 ~~system.~~

10 ~~§ 2321. Expungement.~~

11 ~~[(a) General rule. A person whose DNA sample, record or~~  
12 ~~profile has been included in the State DNA Data Bank or the~~  
13 ~~State DNA Data Base pursuant to the former DNA Act, former 42-~~  
14 ~~Pa.C.S. Ch. 47 (relating to DNA data and testing) or this~~  
15 ~~chapter may request expungement on the grounds that~~

16 ~~— the conviction or delinquency adjudication on which~~  
17 ~~the authority for including that person's DNA sample, record~~  
18 ~~or profile was based has been reversed and the case~~  
19 ~~dismissed or that~~

20 ~~— the DNA sample, record or profile was included in the~~  
21 ~~State DNA Data Bank or the State DNA Data Base by mistake.~~

22 ~~(b) Duty of State Police. The State Police shall purge all~~  
23 ~~records and identifiable information in the State DNA Data Bank~~  
24 ~~or State DNA Data Base pertaining to the person and destroy each~~  
25 ~~sample, record and profile from the person upon:~~

26 ~~(1) receipt of a written request for expungement~~  
27 ~~pursuant to this section and a certified copy of the final~~  
28 ~~court order reversing and dismissing the conviction; or~~

29 ~~(2) clear and convincing proof that the sample record or~~  
30 ~~profile was included by mistake.]~~

1 ~~(a) General rule. A person whose DNA sample, record or~~  
2 ~~profile has been included in the State DNA Data Bank or the~~  
3 ~~State DNA Data Base under the former DNA Act, former provisions~~  
4 ~~of 42 Pa.C.S. Ch. 47 (relating to DNA data and testing) or this~~  
5 ~~chapter may have the DNA sample, record or profile expunged in~~  
6 ~~accordance with this section.~~

7 ~~(b) Expungement by request. A person whose DNA sample,~~  
8 ~~record or profile has been included in the State DNA Data Bank~~  
9 ~~or the State DNA Data Base under the former DNA Act, former~~  
10 ~~provisions of 42 Pa.C.S. Ch. 47 (relating to DNA data and~~  
11 ~~testing) or this chapter may file an expungement request with~~  
12 ~~the State Police on the grounds that the DNA sample, record or~~  
13 ~~profile was included in the State DNA Data Bank or the State DNA~~  
14 ~~Data Base by mistake. A person requesting expungement under this~~  
15 ~~subsection shall be required to prove that the DNA sample,~~  
16 ~~record or profile has been included in the State DNA Data Bank~~  
17 ~~or the State DNA Data Base by clear and convincing evidence.~~

18 ~~(c) Mandatory expungement. The following shall apply:~~

19 ~~(1) Except as provided in paragraph (2), all records and~~  
20 ~~identifiable information, including any sample, record or~~  
21 ~~profile, in the State DNA Data Bank or the State DNA Data~~  
22 ~~Base pertaining to a person shall be destroyed in the~~  
23 ~~following instances:~~

24 ~~(i) the arrest, charge, conviction or delinquency~~  
25 ~~adjudication on which the authority for including the~~  
26 ~~person's DNA sample, record or profile was based has been~~  
27 ~~reversed and the case dismissed;~~

28 ~~(ii) the charge on which the authority for including~~  
29 ~~the person's DNA sample, record or profile has been~~  
30 ~~dismissed and the prosecuting authority is barred from~~

1 ~~seeking a retrial;~~

2 ~~(iii) there has been a judgment of acquittal on the~~  
3 ~~charge on which the authority for including the person's~~  
4 ~~DNA sample, record or profile was based;~~

5 ~~(iv) the person from whom the sample was taken was~~  
6 ~~not charged with the crime on which the authority for~~  
7 ~~including the person's DNA sample, record or profile was~~  
8 ~~based;~~

9 ~~(v) the prosecuting authority has elected not to~~  
10 ~~commence criminal proceeding against the person for the~~  
11 ~~crime on which the authority for including the person's~~  
12 ~~DNA sample, record or profile was based;~~

13 ~~(vi) charges for the crime on which the authority~~  
14 ~~for including the person's DNA sample, record or profile~~  
15 ~~was based were not filed within the statute of~~  
16 ~~limitations; and~~

17 ~~(vii) the person is granted an unconditional pardon~~  
18 ~~for the crime on which the authority for including the~~  
19 ~~person's DNA sample, record or profile was based.~~

20 ~~(2) The provisions of paragraph (1) shall not apply if~~  
21 ~~the person has been arrested, charged, convicted or~~  
22 ~~adjudicated delinquent for any other crime for which a DNA~~  
23 ~~sample, record or profile is required under this chapter.~~

24 ~~(d) Disposition reporting. All criminal justice agencies,~~  
25 ~~including law enforcement agencies, district attorneys and~~  
26 ~~courts shall submit reports of dispositions that require~~  
27 ~~mandatory expungement under subsection (c)(1) to the State~~  
28 ~~Police within 60 days of the date of such disposition. Courts~~  
29 ~~shall collect and submit criminal court dispositions as required~~  
30 ~~by the Administrative Office of Pennsylvania Courts.~~

1 ~~(e) Duties of State Police. The following shall apply:~~

2 ~~(1) Upon receipt of any report of disposition under~~  
3 ~~subsection (d), the State Police shall immediately purge all~~  
4 ~~records and identifiable information in the State DNA Data~~  
5 ~~Bank or the State DNA Data Base pertaining to a person and~~  
6 ~~destroy each sample, record and profile of the person.~~

7 ~~(2) The expungement shall be processed at no cost to the~~  
8 ~~person from whom the DNA sample was taken.~~

9 ~~(3) The State Police shall provide written notice of the~~  
10 ~~expungement to the person and his attorney of record, if any,~~  
11 ~~within 45 days after expunging and destroying the sample,~~  
12 ~~record and profile.~~

13 ~~(4) The State Police shall provide the CODIS expungement~~  
14 ~~policy to any person whose sample, record and profile has~~  
15 ~~been expunged and destroyed under this section if such~~  
16 ~~information has been transferred to CODIS.~~

17 \* \* \*

18 Section 7. Title 44 is amended by adding a section to read:  
19 ~~§ 2337. Severability.~~

20 ~~The provisions of this chapter are severable. If any~~  
21 ~~provision of this chapter or its application to any person or~~  
22 ~~circumstance is held invalid, the invalidity shall not affect~~  
23 ~~other provisions or applications of this chapter which can be~~  
24 ~~given effect without the invalid provision or application.~~

25 Section 8. This act shall take effect in 270 days.

26 SECTION 1. SECTIONS 2302, 2303, 2311(2), 2312, 2313, 2314, ←  
27 2315 AND 2316 OF TITLE 44 OF THE PENNSYLVANIA CONSOLIDATED  
28 STATUTES ARE AMENDED TO READ:

29 § 2302. POLICY.

30 THE GENERAL ASSEMBLY FINDS AND DECLARES THAT:

1 (1) DNA DATA BANKS ARE AN IMPORTANT TOOL IN CRIMINAL  
2 INVESTIGATIONS, IN [THE EXCLUSION OF] EXCLUDING INNOCENT  
3 INDIVIDUALS WHO ARE THE SUBJECT OF CRIMINAL INVESTIGATIONS OR  
4 PROSECUTIONS AND IN [DETECTING AND DETERRING RECIDIVIST ACTS]  
5 DETECTING AND DETERRING REPEATED CRIMES BY THE SAME  
6 INDIVIDUAL.

7 (2) SEVERAL STATES HAVE ENACTED LAWS REQUIRING PERSONS  
8 ARRESTED, CHARGED OR CONVICTED OF CERTAIN CRIMES, ESPECIALLY  
9 SEX OFFENSES, TO PROVIDE GENETIC SAMPLES FOR DNA PROFILING.

10 (2.1) SEVERAL STATES HAVE AUTHORIZED THE DISCLOSURE OF  
11 DNA PROFILES IN THEIR STATE'S DNA DATA BASE WHERE COMPARISON  
12 OF DNA LINKED TO A CRIME WITH THE KNOWN OFFENDER DNA PROFILE  
13 IN THE DATA BASE ESTABLISHES THE LIKELIHOOD OF A CLOSE  
14 FAMILIAL RELATIONSHIP BETWEEN THE TWO.

15 (3) MOREOVER, IT IS THE POLICY OF THE COMMONWEALTH TO  
16 ASSIST FEDERAL, STATE AND LOCAL CRIMINAL JUSTICE AND LAW  
17 ENFORCEMENT AGENCIES IN THE IDENTIFICATION AND DETECTION OF  
18 INDIVIDUALS IN CRIMINAL INVESTIGATIONS.

19 (4) IT IS THEREFORE IN THE BEST INTEREST OF THE  
20 COMMONWEALTH TO ESTABLISH A DNA DATA BASE AND A DNA DATA BANK  
21 CONTAINING DNA SAMPLES SUBMITTED BY INDIVIDUALS ARRESTED FOR,  
22 CHARGED WITH, CONVICTED OF, ADJUDICATED DELINQUENT FOR OR  
23 ACCEPTED INTO ARD FOR CRIMINAL HOMICIDES, FELONY SEX OFFENSES  
24 AND OTHER SPECIFIED OFFENSES.

25 (5) IT IS IN THE BEST INTEREST OF THE COMMONWEALTH TO  
26 AUTHORIZE THE STATE POLICE TO USE DNA ANALYSIS AND TO  
27 IDENTIFY THESE INDIVIDUALS TO A CRIMINAL JUSTICE AGENCY IN  
28 CERTAIN CASES.

29 § 2303. DEFINITIONS.

30 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS CHAPTER

1 SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE  
2 CONTEXT CLEARLY INDICATES OTHERWISE:

3 "ACCREDITED FORENSIC DNA LABORATORY." A FORENSIC DNA  
4 LABORATORY THAT HAS RECEIVED ACCREDITATION BY AN ACCREDITING  
5 BODY NATIONALLY RECOGNIZED WITHIN THE FORENSIC SCIENCE COMMUNITY  
6 IN ACCORDANCE WITH THE FBI QUALITY ASSURANCE STANDARDS TO  
7 PERFORM FORENSIC DNA TESTING AND IS IN COMPLIANCE WITH FBI  
8 QUALITY ASSURANCE STANDARDS.

9 "ARD." ACCELERATED REHABILITATIVE DISPOSITION.

10 "CODIS." THE [TERM IS DERIVED FROM] COMBINED DNA INDEX  
11 SYSTEM[, THE FEDERAL BUREAU OF INVESTIGATION'S NATIONAL DNA  
12 IDENTIFICATION INDEX SYSTEM THAT ALLOWS THE STORAGE AND EXCHANGE  
13 OF DNA RECORDS SUBMITTED BY STATE AND LOCAL FORENSIC DNA  
14 LABORATORIES] ESTABLISHED AND MAINTAINED BY THE FEDERAL BUREAU  
15 OF INVESTIGATION.

16 "COMMISSIONER." THE COMMISSIONER OF THE PENNSYLVANIA STATE  
17 POLICE.

18 "CRIME SCENE DNA PROFILE." A DNA PROFILE DERIVED FROM A DNA  
19 SAMPLE RECOVERED FROM A VICTIM, CRIME SCENE OR ITEM LINKED TO A  
20 CRIME, WHICH MAY HAVE ORIGINATED FROM A PERPETRATOR.

21 "CRIMINAL HOMICIDE." ANY OF THE FOLLOWING:

22 (1) 18 PA.C.S. § 2501 (RELATING TO CRIMINAL HOMICIDE).

23 (2) 18 PA.C.S. § 2502 (RELATING TO MURDER).

24 (3) 18 PA.C.S. § 2503 (RELATING TO VOLUNTARY  
25 MANSLAUGHTER).

26 (4) 18 PA.C.S. § 2504 (RELATING TO INVOLUNTARY  
27 MANSLAUGHTER), WHEN THE OFFENSE IS GRADED AS A FELONY.

28 (5) 18 PA.C.S. § 2505 (RELATING TO CAUSING OR AIDING  
29 SUICIDE), WHEN THE OFFENSE IS GRADED AS A FELONY.

30 (6) 18 PA.C.S. § 2506 (RELATING TO DRUG DELIVERY

1 RESULTING IN DEATH).

2 (7) 18 PA.C.S. § 2507 (RELATING TO CRIMINAL HOMICIDE OF  
3 LAW ENFORCEMENT OFFICER).

4 (8) 18 PA.C.S. § 2603 (RELATING TO CRIMINAL HOMICIDE OF  
5 UNBORN CHILD).

6 (9) 18 PA.C.S. § 2604 (RELATING TO MURDER OF UNBORN  
7 CHILD).

8 (10) 18 PA.C.S. § 2605 (RELATING TO VOLUNTARY  
9 MANSLAUGHTER OF UNBORN CHILD).

10 "CRIMINAL JUSTICE AGENCY." A CRIMINAL JUSTICE AGENCY AS  
11 DEFINED IN 18 PA.C.S. § 9102 (RELATING TO DEFINITIONS).

12 "DNA." DEOXYRIBONUCLEIC ACID[. DNA IS LOCATED IN THE CELLS  
13 AND PROVIDES AN INDIVIDUAL'S PERSONAL GENETIC BLUEPRINT. DNA]  
14 LOCATED IN THE CHROMOSOMES OR MITOCHONDRIA OF A LIVING  
15 ORGANISM'S CELLS WHICH ENCODES GENETIC INFORMATION THAT IS THE  
16 BASIS OF HUMAN HEREDITY AND FORENSIC IDENTIFICATION.

17 "DNA RECORD." DNA PROFILE AND IDENTIFICATION INFORMATION  
18 STORED IN THE STATE DNA DATA BASE OR THE COMBINED DNA INDEX  
19 SYSTEM FOR THE PURPOSE OF GENERATING INVESTIGATIVE LEADS OR  
20 SUPPORTING STATISTICAL INTERPRETATION OF DNA TEST RESULTS. THE  
21 TERM INCLUDES NUCLEAR AND MITOCHONDRIAL TYPING. THE DNA RECORD  
22 IS THE RESULT OBTAINED FROM THE DNA TYPING TESTS. [THE DNA  
23 RECORD IS COMPRISED OF THE CHARACTERISTICS OF A DNA SAMPLE WHICH  
24 ARE OF VALUE IN ESTABLISHING THE IDENTITY OF INDIVIDUALS. THE  
25 RESULTS OF ALL DNA IDENTIFICATION TESTS ON AN INDIVIDUAL'S DNA  
26 SAMPLE ARE ALSO COLLECTIVELY REFERRED TO AS THE DNA PROFILE OF  
27 AN INDIVIDUAL.]

28 "DNA SAMPLE." [A BLOOD OR TISSUE SAMPLE PROVIDED BY ANY  
29 PERSON WITH RESPECT TO OFFENSES COVERED BY THIS CHAPTER OR  
30 SUBMITTED TO THE PENNSYLVANIA STATE POLICE LABORATORY PURSUANT

1 TO THE FORMER ACT OF MAY 28, 1995 (1ST SP.SESS., P.L.1009,  
2 NO.14), KNOWN AS THE DNA DETECTION OF SEXUAL AND VIOLENT  
3 OFFENDERS ACT, TO THE FORMER 42 PA.C.S. CH. 47 (RELATING TO DNA  
4 DATA AND TESTING) OR TO THIS CHAPTER FOR ANALYSIS OR STORAGE, OR  
5 BOTH.] A SAMPLE OF BIOLOGICAL MATERIAL SUITABLE FOR DNA  
6 ANALYSIS.

7 "FBI." THE FEDERAL BUREAU OF INVESTIGATION.

8 "FELONY SEX OFFENSE." A FELONY OFFENSE OR AN ATTEMPT,  
9 CONSPIRACY OR SOLICITATION TO COMMIT A FELONY OFFENSE UNDER ANY  
10 OF THE FOLLOWING:

11 18 PA.C.S. CH. 31 (RELATING TO SEXUAL OFFENSES).

12 18 PA.C.S. § 3130 (RELATING TO CONDUCT RELATING TO SEX  
13 OFFENDERS).

14 18 PA.C.S. § 4302 (RELATING TO INCEST).

15 18 PA.C.S. § [5902(C)(1)(III) AND (IV)] 5902(C)(1)(IV)  
16 (RELATING TO PROSTITUTION AND RELATED OFFENSES).

17 18 PA.C.S. § 5903(A) (RELATING TO OBSCENE AND OTHER  
18 SEXUAL MATERIALS AND PERFORMANCES) WHERE THE OFFENSE  
19 CONSTITUTES A FELONY.

20 [18 PA.C.S. § 6312 (RELATING TO SEXUAL ABUSE OF  
21 CHILDREN).

22 18 PA.C.S. § 6318 (RELATING TO UNLAWFUL CONTACT WITH  
23 MINOR) WHERE THE MOST SERIOUS UNDERLYING OFFENSE FOR WHICH  
24 THE DEFENDANT CONTACTED THE MINOR IS GRADED AS A FELONY.

25 18 PA.C.S. § 6320 (RELATING TO SEXUAL EXPLOITATION OF  
26 CHILDREN).]

27 ANY OFFENSE GRADED AS A FELONY REQUIRING REGISTRATION  
28 UNDER 42 PA.C.S. CH. 97 SUBCH. H (RELATING TO REGISTRATION OF  
29 SEXUAL OFFENDERS).

30 "FORENSIC DNA LABORATORY." A LABORATORY THAT PERFORMS

1 FORENSIC DNA TESTING FOR THE PURPOSES OF IDENTIFICATION.

2 "FORENSIC DNA TESTING." A TEST THAT APPLIES TECHNIQUES FROM  
3 MOLECULAR BIOLOGY TO ANALYZE DEOXYRIBONUCLEIC ACID (DNA) TO  
4 IDENTIFY CHARACTERISTICS UNIQUE TO A PARTICULAR INDIVIDUAL.

5 "FORMER DNA ACT." THE FORMER ACT OF MAY 28, 1995 (1ST  
6 SP.SESS., P.L.1009, NO.14), KNOWN AS THE DNA DETECTION OF SEXUAL  
7 AND VIOLENT OFFENDERS ACT.

8 "FUND." THE DNA DETECTION FUND REESTABLISHED IN SECTION 2335  
9 (RELATING TO DNA DETECTION FUND).

10 "HUMAN BEHAVIORAL GENETIC RESEARCH." THE STUDY OF THE  
11 POSSIBLE GENETIC UNDERPINNINGS OF BEHAVIORS, INCLUDING, BUT NOT  
12 LIMITED TO, AGGRESSION, SUBSTANCE ABUSE, SOCIAL ATTITUDES,  
13 MENTAL ABILITIES, SEXUAL ACTIVITY AND EATING HABITS.

14 "LAW ENFORCEMENT IDENTIFICATION PURPOSES." ASSISTING IN THE  
15 DETERMINATION OF THE IDENTITY OF AN INDIVIDUAL WHOSE DNA IS  
16 CONTAINED IN A BIOLOGICAL SAMPLE.

17 "MITOCHONDRIAL DNA ANALYSIS." A METHOD THAT APPLIES  
18 TECHNIQUES FROM MOLECULAR BIOLOGY TO ANALYZE DNA FOUND IN THE  
19 MITOCHONDRIA OF CELLS.

20 "MODIFIED DNA SEARCH." A SEARCH OF THE STATE DNA DATA BASE,  
21 USING SCIENTIFICALLY VALID AND RELIABLE METHODS IN ACCORDANCE  
22 WITH RULES, REGULATIONS AND GUIDELINES PROMULGATED UNDER SECTION  
23 2318 (RELATING TO PROCEDURES FOR CONDUCT, DISPOSITION AND USE OF  
24 DNA ANALYSIS), TO DETERMINE THAT A CRIME SCENE DNA PROFILE IS  
25 SUFFICIENTLY LIKELY TO HAVE ORIGINATED FROM A CLOSE RELATIVE OF  
26 AN INDIVIDUAL WHOSE DNA PROFILE IS RECORDED IN THE STATE DNA  
27 DATA BASE.

28 "OTHER SPECIFIED OFFENSE." ANY OF THE FOLLOWING:

29 (1) A FELONY OFFENSE, OTHER THAN CRIMINAL HOMICIDE OR A  
30 FELONY SEX OFFENSE.

1           [(2) AN OFFENSE UNDER 18 PA.C.S. § 2910 (RELATING TO  
2 LURING A CHILD INTO A MOTOR VEHICLE OR STRUCTURE) OR 3126  
3 (RELATING TO INDECENT ASSAULT) OR AN ATTEMPT TO COMMIT SUCH  
4 AN OFFENSE.

5           (3) AN OFFENSE SUBJECT TO 42 PA.C.S. CH. 97 SUBCH. H  
6 (RELATING TO REGISTRATION OF SEXUAL OFFENDERS).]

7           (4) 18 PA.C.S. § 2701(B)(2) (RELATING TO SIMPLE  
8 ASSAULT).

9           (5) 18 PA.C.S. § 2902(A) (RELATING TO UNLAWFUL  
10 RESTRAINT).

11           (6) 18 PA.C.S. § 3503(B)(1)(V) (RELATING TO CRIMINAL  
12 TRESPASS).

13           (7) 18 PA.C.S. § 4303 (RELATING TO CONCEALING DEATH OF  
14 CHILD).

15           (8) 18 PA.C.S. § 4305 (RELATING TO DEALING IN INFANT  
16 CHILDREN).

17           (9) A MISDEMEANOR OFFENSE REQUIRING REGISTRATION UNDER  
18 42 PA.C.S. CH. 97 SUBCH. H (RELATING TO REGISTRATION OF  
19 SEXUAL OFFENDERS).

20 "STATE POLICE." THE PENNSYLVANIA STATE POLICE.

21 "Y CHROMOSOME ANALYSIS." A METHOD THAT APPLIES TECHNIQUES  
22 FROM MOLECULAR BIOLOGY TO EXAMINE DNA FOUND ON THE Y CHROMOSOME.

23 § 2311. POWERS AND DUTIES OF STATE POLICE.

24 IN ADDITION TO ANY OTHER POWERS AND DUTIES CONFERRED BY THIS  
25 CHAPTER, THE STATE POLICE SHALL:

26 \* \* \*

27 (2) PROMULGATE [RULES AND REGULATIONS], AS NECESSARY,  
28 RULES, REGULATIONS AND GUIDELINES TO CARRY OUT THE PROVISIONS  
29 OF THIS CHAPTER.

30 \* \* \*

1 § 2312. STATE DNA DATA BASE.

2 [THE STATE DNA DATA BASE IS REESTABLISHED. IT SHALL BE  
3 ADMINISTERED BY THE STATE POLICE AND PROVIDE DNA RECORDS TO THE  
4 FBI FOR STORAGE AND MAINTENANCE BY CODIS.] A STATEWIDE DNA DATA  
5 BASE IS ESTABLISHED WITHIN THE STATE POLICE TO STORE DNA RECORDS  
6 FROM DNA SAMPLES SUBMITTED FOR ANALYSIS AND STORAGE TO THE STATE  
7 POLICE LABORATORY UNDER THE FORMER DNA ACT, THE FORMER  
8 PROVISIONS OF 42 PA.C.S. CH. 47 (RELATING TO DNA DATA AND  
9 TESTING) OR TO THIS CHAPTER, AND TO PROVIDE DNA RECORDS TO  
10 CODIS. THE STATE DNA DATA BASE SHALL HAVE THE CAPABILITY  
11 PROVIDED BY COMPUTER SOFTWARE AND PROCEDURES ADMINISTERED BY THE  
12 STATE POLICE TO STORE AND MAINTAIN DNA RECORDS RELATED TO:

13 (1) FORENSIC CASEWORK;

14 (2) [CONVICTED] ARRESTEES AND CONVICTED OR DELINQUENCY  
15 ADJUDICATED OFFENDERS REQUIRED TO PROVIDE A DNA SAMPLE UNDER  
16 THIS CHAPTER; AND

17 (3) ANONYMOUS DNA RECORDS USED FOR STATISTICAL RESEARCH  
18 [OR] ON THE FREQUENCY OF DNA GENOTYPES, QUALITY CONTROL OR  
19 THE DEVELOPMENT OF NEW DNA IDENTIFICATION METHODS.

20 § 2313. STATE DNA DATA BANK.

21 THE STATE DNA DATA BANK IS REESTABLISHED. IT SHALL SERVE AS  
22 THE REPOSITORY OF DNA SAMPLES COLLECTED UNDER THIS CHAPTER OR  
23 UNDER PRIOR LAW.

24 § 2314. STATE POLICE RECOMMENDATION OF ADDITIONAL OFFENSES.

25 THE STATE POLICE MAY RECOMMEND TO THE GENERAL ASSEMBLY THAT  
26 IT ENACT LEGISLATION FOR THE INCLUSION OF ADDITIONAL OFFENSES  
27 FOR WHICH DNA SAMPLES SHALL BE TAKEN AND OTHERWISE SUBJECTED TO  
28 THE PROVISIONS OF THIS CHAPTER. IN DETERMINING WHETHER TO  
29 RECOMMEND ADDITIONAL OFFENSES, THE STATE POLICE SHALL CONSIDER  
30 THOSE OFFENSES FOR WHICH DNA TESTING WILL HAVE A SUBSTANTIAL

1 IMPACT ON THE DETECTION AND IDENTIFICATION OF SEX OFFENDERS AND  
2 [VIOLENT] OTHER OFFENDERS.

3 § 2315. PROCEDURAL COMPATIBILITY WITH FBI.

4 THE DNA IDENTIFICATION SYSTEM [AS] ESTABLISHED BY THE STATE  
5 POLICE SHALL BE COMPATIBLE WITH THE PROCEDURES [SPECIFIED]  
6 ESTABLISHED BY THE FBI QUALITY ASSURANCE STANDARDS FOR FORENSIC  
7 DNA TESTING LABORATORIES AND DNA DATA BASING LABORATORIES AND  
8 CODIS POLICIES AND PROCEDURES, INCLUDING USE OF COMPARABLE TEST  
9 PROCEDURES, LABORATORY EQUIPMENT, SUPPLIES AND COMPUTER  
10 SOFTWARE.

11 § 2316. DNA SAMPLE REQUIRED [UPON CONVICTION, DELINQUENCY  
12 ADJUDICATION AND CERTAIN ARD CASES].

13 (A) [GENERAL RULE] CONVICTION OR ADJUDICATION.--A PERSON WHO  
14 IS CONVICTED OR ADJUDICATED DELINQUENT FOR CRIMINAL HOMICIDE, A  
15 FELONY SEX OFFENSE OR OTHER SPECIFIED OFFENSE OR WHO IS OR  
16 REMAINS INCARCERATED FOR A FELONY SEX OFFENSE OR OTHER SPECIFIED  
17 OFFENSE ON OR AFTER THE EFFECTIVE DATE OF THIS CHAPTER SHALL  
18 HAVE A DNA SAMPLE [DRAWN] COLLECTED AS FOLLOWS:

19 (1) A PERSON WHO IS SENTENCED OR RECEIVES A DELINQUENCY  
20 DISPOSITION TO A TERM OF CONFINEMENT FOR AN OFFENSE COVERED  
21 BY THIS SUBSECTION SHALL HAVE A DNA SAMPLE [DRAWN] COLLECTED  
22 UPON INTAKE TO A PRISON, JAIL OR JUVENILE DETENTION FACILITY  
23 OR ANY OTHER DETENTION FACILITY OR INSTITUTION. IF THE PERSON  
24 IS ALREADY CONFINED AT THE TIME OF SENTENCING OR  
25 ADJUDICATION, THE PERSON SHALL HAVE A DNA SAMPLE [DRAWN]  
26 COLLECTED IMMEDIATELY AFTER THE SENTENCING OR ADJUDICATION.  
27 IF A DNA SAMPLE IS NOT TIMELY [DRAWN] COLLECTED IN ACCORDANCE  
28 WITH THIS SECTION, THE DNA SAMPLE MAY BE [DRAWN] COLLECTED  
29 ANY TIME THEREAFTER BY THE PRISON, JAIL, JUVENILE DETENTION  
30 FACILITY, DETENTION FACILITY OR INSTITUTION.

1 (2) A PERSON WHO IS CONVICTED OR ADJUDICATED DELINQUENT  
2 FOR AN OFFENSE COVERED BY THIS SUBSECTION SHALL HAVE A DNA  
3 SAMPLE [DRAWN] COLLECTED AS A CONDITION FOR ANY SENTENCE OR  
4 ADJUDICATION WHICH DISPOSITION WILL NOT INVOLVE AN INTAKE  
5 INTO A PRISON, JAIL, JUVENILE DETENTION FACILITY OR ANY OTHER  
6 DETENTION FACILITY OR INSTITUTION.

7 (3) UNDER NO CIRCUMSTANCES SHALL A PERSON WHO IS  
8 CONVICTED OR ADJUDICATED DELINQUENT FOR AN OFFENSE COVERED BY  
9 THIS SUBSECTION BE RELEASED IN ANY MANNER AFTER SUCH  
10 DISPOSITION UNLESS AND UNTIL A DNA SAMPLE [HAS BEEN  
11 [WITHDRAWN] AND FINGERPRINTS HAVE BEEN COLLECTED.

12 (B) CONDITION OF RELEASE, PROBATION OR PAROLE.--

13 (1) A PERSON WHO HAS BEEN CONVICTED OR ADJUDICATED  
14 DELINQUENT FOR CRIMINAL HOMICIDE, A FELONY SEX OFFENSE OR  
15 OTHER SPECIFIED OFFENSE AND WHO SERVES A TERM OF CONFINEMENT  
16 IN CONNECTION THEREWITH AFTER JUNE 18, 2002, SHALL NOT BE  
17 RELEASED IN ANY MANNER UNLESS AND UNTIL A DNA SAMPLE HAS BEEN  
18 [WITHDRAWN] COLLECTED.

19 (2) THIS CHAPTER SHALL APPLY TO INCARCERATED PERSONS  
20 CONVICTED OR ADJUDICATED DELINQUENT FOR CRIMINAL HOMICIDE, A  
21 FELONY SEX OFFENSE OR OTHER SPECIFIED OFFENSE PRIOR TO JUNE  
22 19, 2002.

23 (3) THIS CHAPTER SHALL APPLY TO INCARCERATED PERSONS AND  
24 PERSONS ON PROBATION OR PAROLE WHO WERE CONVICTED OR  
25 ADJUDICATED DELINQUENT FOR CRIMINAL HOMICIDE, A FELONY SEX  
26 OFFENSE OR OTHER SPECIFIED OFFENSES PRIOR TO THE EFFECTIVE  
27 DATE OF THIS PARAGRAPH.

28 (C) CERTAIN ARD CASES.--ACCEPTANCE INTO ARD AS A RESULT OF A  
29 CRIMINAL CHARGE FOR CRIMINAL HOMICIDE, A FELONY SEX OFFENSE OR  
30 OTHER SPECIFIED OFFENSE FILED AFTER JUNE 18, 2002, [MAY] SHALL

1 BE CONDITIONED UPON THE [GIVING] COLLECTION OF A DNA SAMPLE.

2 (C.1) ARREST.--A PERSON WHO IS ARRESTED IN THIS COMMONWEALTH  
3 FOR CRIMINAL HOMICIDE AND FELONY SEX OFFENSES SHALL HAVE A DNA  
4 SAMPLE COLLECTED AS FOLLOWS:

5 (1) A PERSON WHO IS ARRESTED FOR AN OFFENSE COVERED  
6 UNDER THIS SUBSECTION SHALL HAVE A DNA SAMPLE COLLECTED NO  
7 LATER THAN FIVE DAYS AFTER THE DATE OF THE ARREST.

8 (2) IF A DNA SAMPLE IS NOT TIMELY COLLECTED IN  
9 ACCORDANCE WITH THIS SUBSECTION, THE DNA SAMPLE MAY BE  
10 COLLECTED ANY TIME THEREAFTER BY A LAW ENFORCEMENT OFFICIAL,  
11 PRISON, JAIL, JUVENILE DETENTION FACILITY, DETENTION FACILITY  
12 OR INSTITUTION.

13 (3) A PERSON WHO IS ARRESTED FOR AN OFFENSE COVERED  
14 UNDER THIS SUBSECTION MAY NOT BE RELEASED UNLESS AND UNTIL A  
15 DNA SAMPLE AND FINGERPRINTS HAVE BEEN COLLECTED.

16 (4) THIS SUBSECTION SHALL APPLY AS FOLLOWS:

17 (I) BEGINNING ONE YEAR AFTER THE EFFECTIVE DATE OF  
18 THIS SUBSECTION, ANY PERSON ARRESTED FOR CRIMINAL  
19 HOMICIDE SHALL HAVE A DNA SAMPLE COLLECTED UNDER THIS  
20 SUBSECTION UPON ARREST.

21 (II) BEGINNING TWO YEARS AFTER THE EFFECTIVE DATE OF  
22 THIS SUBSECTION, ANY PERSON ARRESTED FOR A FELONY SEX  
23 OFFENSE SHALL HAVE A DNA SAMPLE COLLECTED UNDER THIS  
24 SUBSECTION UPON ARREST.

25 (D) SUPERVISION OF DNA SAMPLES.--ALL DNA SAMPLES TAKEN  
26 PURSUANT TO THIS SECTION SHALL BE TAKEN IN ACCORDANCE WITH  
27 RULES, REGULATIONS AND GUIDELINES PROMULGATED BY THE STATE  
28 POLICE IN CONSULTATION WITH THE DEPARTMENT OF CORRECTIONS.

29 (D.1) MANDATORY SUBMISSION.--THE REQUIREMENTS OF THIS  
30 CHAPTER ARE MANDATORY AND APPLY REGARDLESS OF WHETHER A COURT

1 ADVISES A PERSON THAT A DNA SAMPLE MUST BE PROVIDED TO THE STATE  
2 DNA DATA BASE AND THE STATE DNA DATA BANK AS A RESULT OF [A] AN  
3 ARREST, CONVICTION OR ADJUDICATION OF DELINQUENCY. A PERSON WHO  
4 HAS BEEN SENTENCED TO DEATH OR LIFE IMPRISONMENT WITHOUT THE  
5 POSSIBILITY OF PAROLE OR TO ANY TERM OF INCARCERATION IS NOT  
6 EXEMPT FROM THE REQUIREMENTS OF THIS CHAPTER. ANY PERSON SUBJECT  
7 TO THIS CHAPTER WHO HAS NOT PROVIDED A DNA SAMPLE FOR ANY  
8 REASON, INCLUDING BECAUSE OF AN OVERSIGHT OR ERROR, SHALL  
9 PROVIDE A DNA SAMPLE FOR INCLUSION IN THE STATE DNA DATA BASE  
10 AND THE STATE DNA DATA BANK AFTER BEING NOTIFIED BY AUTHORIZED  
11 LAW ENFORCEMENT OR CORRECTIONS PERSONNEL. IF A PERSON PROVIDES A  
12 DNA SAMPLE WHICH IS NOT ADEQUATE FOR ANY REASON, THE PERSON  
13 SHALL PROVIDE ANOTHER DNA SAMPLE FOR INCLUSION IN THE STATE DNA  
14 DATA BASE AND THE STATE DNA DATA BANK AFTER BEING NOTIFIED BY  
15 AUTHORIZED LAW ENFORCEMENT OR CORRECTIONS PERSONNEL. THE  
16 COLLECTION OF A DNA SAMPLE UNDER THIS CHAPTER SHALL NOT BE  
17 REQUIRED IF THE AUTHORIZED LAW ENFORCEMENT OR CORRECTIONS  
18 OFFICIAL CONFIRMS THAT A DNA SAMPLE FROM THE PERSON HAS ALREADY  
19 BEEN VALIDLY COLLECTED AND PROVIDED TO THE STATE DNA DATA BASE  
20 AND THE STATE DNA DATA BANK.

21 (E) DEFINITION.--AS USED IN THIS SECTION, THE TERM  
22 "RELEASED" MEANS ANY RELEASE, PAROLE, FURLOUGH, WORK RELEASE,  
23 PRERELEASE OR RELEASE IN ANY OTHER MANNER FROM A PRISON, JAIL,  
24 JUVENILE DETENTION FACILITY OR ANY OTHER PLACE OF CONFINEMENT.

25 SECTION 2. TITLE 44 IS AMENDED BY ADDING A SECTION TO READ:

26 § 2316.1. COLLECTION FROM PERSONS ACCEPTED FROM OTHER  
27 JURISDICTIONS.

28 (A) CONDITIONAL ACCEPTANCE.--WHEN A PERSON IS ACCEPTED INTO  
29 THIS COMMONWEALTH FOR SUPERVISION FROM ANOTHER JURISDICTION  
30 UNDER THE INTERSTATE COMPACT FOR SUPERVISION OF ADULT OFFENDERS,

1 OTHER RECIPROCAL AGREEMENT WITH A FEDERAL, STATE OR COUNTY  
2 AGENCY, OR A PROVISION OF LAW, WHETHER OR NOT THE PERSON IS  
3 CONFINED OR RELEASED, THE ACCEPTANCE SHALL BE CONDITIONED ON THE  
4 OFFENDER'S PROVIDING DNA SAMPLES UNDER THIS CHAPTER IF THE  
5 OFFENDER HAS A PAST OR PRESENT FEDERAL, STATE OR MILITARY COURT  
6 CONVICTION OR ADJUDICATION THAT IS EQUIVALENT TO CRIMINAL  
7 HOMICIDE, A FELONY SEX OFFENSE OR OTHER SPECIFIED OFFENSE AS  
8 DETERMINED BY THE PENNSYLVANIA BOARD OF PROBATION AND PAROLE.  
9 ADDITIONAL DNA SAMPLES SHALL NOT BE REQUIRED IF A DNA SAMPLE IS  
10 CURRENTLY ON FILE WITH THE STATE DNA DATA BASE.

11 (B) TIME PERIOD.--

12 (1) IF THE PERSON ACCEPTED UNDER SUBSECTION (A) IS NOT  
13 CONFINED, THE DNA SAMPLE AND FINGERPRINTS REQUIRED UNDER THIS  
14 CHAPTER SHALL BE PROVIDED WITHIN FIVE CALENDAR DAYS AFTER THE  
15 PERSON REPORTS TO THE SUPERVISING AGENT OR WITHIN FIVE  
16 CALENDAR DAYS OF NOTICE TO THE PERSON, WHICHEVER OCCURS  
17 FIRST. THE PERSON SHALL APPEAR AND THE DNA SAMPLES SHALL BE  
18 COLLECTED IN ACCORDANCE WITH THE PROVISIONS OF THIS CHAPTER.

19 (2) IF THE PERSON ACCEPTED UNDER SUBSECTION (A) IS  
20 CONFINED, THE PERSON SHALL PROVIDE THE DNA SAMPLE AND  
21 FINGERPRINTS REQUIRED BY THIS CHAPTER WITHIN FIVE CALENDAR  
22 DAYS AFTER THE PERSON IS RECEIVED AT A PLACE OF INCARCERATION  
23 OR CONFINEMENT.

24 SECTION 3. SECTIONS 2317(A) (1) AND (B) AND 2318(A) AND (C)  
25 OF TITLE 44 ARE AMENDED TO READ:

26 § 2317. PROCEDURES FOR [WITHDRAWAL,] COLLECTION AND  
27 TRANSMISSION OF DNA SAMPLES.

28 (A) [DRAWING] COLLECTION OF DNA SAMPLES.--

29 (1) EACH DNA SAMPLE REQUIRED TO BE [DRAWN] COLLECTED  
30 PURSUANT TO [SECTION] SECTIONS 2316 (RELATING TO DNA SAMPLE

1       REQUIRED [UPON CONVICTION, DELINQUENCY ADJUDICATION AND  
2       CERTAIN ARD CASES]) AND 2316.1 (RELATING TO COLLECTION FROM  
3       PERSONS ACCEPTED FROM OTHER JURISDICTIONS) FROM PERSONS WHO  
4       ARE INCARCERATED OR CONFINED SHALL BE [DRAWN] COLLECTED AT  
5       THE PLACE OF INCARCERATION OR CONFINEMENT AS PROVIDED FOR IN  
6       SECTION 2316. DNA SAMPLES FROM PERSONS WHO ARE NOT ORDERED OR  
7       SENTENCED TO A TERM OF CONFINEMENT SHALL BE [DRAWN] COLLECTED  
8       AT A PRISON, JAIL UNIT, JUVENILE FACILITY OR OTHER FACILITY  
9       TO BE SPECIFIED BY THE COURT. [ONLY] FOR DNA BLOOD SAMPLES,  
10      ONLY THOSE INDIVIDUALS QUALIFIED TO DRAW DNA BLOOD SAMPLES IN  
11      A MEDICALLY APPROVED MANNER SHALL DRAW A DNA BLOOD SAMPLE TO  
12      BE SUBMITTED FOR DNA ANALYSIS. [SUCH SAMPLE] DNA SAMPLES AND  
13      THE SET OF FINGERPRINTS PROVIDED FOR IN PARAGRAPH (2) SHALL  
14      BE DELIVERED TO THE STATE POLICE WITHIN 48 HOURS OF [DRAWING]  
15      COLLECTING THE SAMPLE.

16               \* \* \*

17      (B) LIMITATION ON LIABILITY.--PERSONS AUTHORIZED TO [DRAW]  
18      COLLECT DNA SAMPLES UNDER THIS SECTION SHALL NOT BE CRIMINALLY  
19      LIABLE FOR WITHDRAWING A DNA SAMPLE AND TRANSMITTING TEST  
20      RESULTS PURSUANT TO THIS CHAPTER IF THEY PERFORM THESE  
21      ACTIVITIES IN GOOD FAITH AND SHALL NOT BE CIVILLY LIABLE FOR  
22      SUCH ACTIVITIES WHEN THE PERSON ACTED IN A REASONABLE MANNER  
23      ACCORDING TO GENERALLY ACCEPTED MEDICAL AND OTHER PROFESSIONAL  
24      PRACTICES.

25      § 2318. PROCEDURES FOR CONDUCT, DISPOSITION AND USE OF DNA  
26               ANALYSIS.

27      (A) PROCEDURES.--

28              (1) THE STATE POLICE SHALL [PRESCRIBE] PROMULGATE, AS  
29              NECESSARY, RULES, REGULATIONS AND GUIDELINES TO IMPLEMENT  
30              THIS CHAPTER, INCLUDING PROCEDURES TO BE USED IN THE

1 COLLECTION, SUBMISSION, IDENTIFICATION, ANALYSIS, STORAGE AND  
2 DISPOSITION OF DNA SAMPLES AND TYPING RESULTS OF DNA SAMPLES  
3 SUBMITTED UNDER THE FORMER DNA ACT, FORMER PROVISIONS OF 42  
4 PA.C.S. CH. 47 (RELATING TO DNA DATA AND TESTING) OR THIS  
5 CHAPTER.

6 (2) THE DNA SAMPLE TYPING RESULTS SHALL BE SECURELY  
7 STORED IN THE STATE DNA DATA BASE, AND RECORDS OF TESTING  
8 SHALL BE RETAINED ON FILE WITH THE STATE POLICE CONSISTENT  
9 WITH THE PROCEDURES ESTABLISHED BY THE FBI QUALITY ASSURANCE  
10 STANDARDS FOR FORENSIC DNA TESTING LABORATORIES AND DNA DATA  
11 BASING LABORATORIES AND CODIS POLICIES AND PROCEDURES.

12 (3) THESE PROCEDURES SHALL ALSO INCLUDE QUALITY  
13 ASSURANCE GUIDELINES TO ENSURE THAT DNA IDENTIFICATION  
14 RECORDS MEET STANDARDS FOR ACCREDITED FORENSIC DNA  
15 LABORATORIES WHICH SUBMIT DNA RECORDS TO THE STATE DNA DATA  
16 BASE.

17 (4) THE RULES, REGULATIONS AND GUIDELINES SHALL ADDRESS  
18 THE FOLLOWING:

19 (I) VERIFICATION OF ACCREDITATION.

20 (II) COMPLIANCE WITH FBI QUALITY ASSURANCE STANDARDS  
21 INCLUDING CONTINUING EDUCATION REQUIREMENTS FOR THE  
22 PERSONNEL OF FORENSICS DNA TESTING LABORATORIES.

23 \* \* \*

24 (C) USE OF TESTS.--

25 (1) EXCEPT AS OTHERWISE PROVIDED IN SECTION 2319(C)  
26 (RELATING TO DNA DATA BASE EXCHANGE), THE TESTS TO BE  
27 PERFORMED ON EACH DNA SAMPLE SHALL BE USED ONLY FOR LAW  
28 ENFORCEMENT IDENTIFICATION PURPOSES OR TO ASSIST IN THE  
29 RECOVERY OR IDENTIFICATION OF HUMAN REMAINS FROM DISASTERS OR  
30 FOR OTHER HUMANITARIAN IDENTIFICATION PURPOSES, INCLUDING

1 IDENTIFICATION OF MISSING PERSONS.

2 (2) NO DNA SAMPLE OR DNA RECORD ACQUIRED UNDER THIS  
3 CHAPTER MAY BE USED FOR HUMAN BEHAVIORAL GENETIC RESEARCH OR  
4 FOR NONLAW ENFORCEMENT OR NONHUMANITARIAN IDENTIFICATION  
5 PURPOSES.

6 \* \* \*

7 SECTION 4. TITLE 44 IS AMENDED BY ADDING A SECTION TO READ:

8 § 2318.1. REQUEST FOR MODIFIED DNA SEARCH.

9 (A) GENERAL RULE.--

10 (1) A CRIMINAL JUSTICE AGENCY MAY REQUEST IN WRITING  
11 THAT THE STATE POLICE PERFORM A MODIFIED DNA SEARCH IN AN  
12 UNSOLVED CASE AND SHALL PROVIDE INFORMATION AS REQUIRED BY  
13 THE STATE POLICE.

14 (2) THE STATE POLICE MAY GRANT A REQUEST TO CONDUCT A  
15 MODIFIED DNA SEARCH IF THE STATE POLICE DETERMINE THAT THE  
16 REQUEST COMPLIES WITH SUBSECTION (D) (2).

17 (B) MODIFIED DNA SEARCH.--

18 (1) THE STATE POLICE MAY CONDUCT A MODIFIED DNA SEARCH  
19 IF IT GRANTS A REQUEST UNDER SUBSECTION (A) (2).

20 (2) THE STATE POLICE MAY CONDUCT A MODIFIED DNA SEARCH  
21 IN UNSOLVED CASES WITHOUT THE REQUEST OF A CRIMINAL JUSTICE  
22 AGENCY IF THE STATE POLICE DETERMINE THAT THEY WOULD HAVE  
23 GRANTED A REQUEST HAD A REQUEST BEEN MADE BY A CRIMINAL  
24 JUSTICE AGENCY.

25 (3) IN ALL CASES, THE STATE POLICE SHALL USE PROCEDURES  
26 FOR CONDUCTING A MODIFIED DNA SEARCH THAT ARE CONSISTENT WITH  
27 THE RULES, REGULATIONS AND GUIDELINES PROMULGATED UNDER  
28 SECTION 2318 (RELATING TO PROCEDURES FOR CONDUCT, DISPOSITION  
29 AND USE OF DNA ANALYSIS).

30 (C) RELEASE OF INFORMATION FROM A MODIFIED DNA SEARCH.--THE

1 STATE POLICE SHALL PROVIDE THE REQUESTING CRIMINAL JUSTICE  
2 AGENCY WITH PERSONALLY IDENTIFYING INFORMATION ON INDIVIDUALS  
3 WHOSE DNA RECORDS WERE IDENTIFIED THROUGH A MODIFIED DNA SEARCH.

4 (D) REQUIREMENTS.--

5 (1) THE STATE POLICE SHALL REQUIRE A CRIMINAL JUSTICE  
6 AGENCY TO PROVIDE ASSURANCES AND INFORMATION IN SUPPORT OF  
7 ITS REQUEST FOR A MODIFIED DNA SEARCH, INCLUDING:

8 (I) A REPRESENTATION THAT A MODIFIED DNA SEARCH IS  
9 NECESSARY FOR LAW ENFORCEMENT IDENTIFICATION PURPOSES IN  
10 AN UNSOLVED CASE.

11 (II) A REPRESENTATION THAT ALL OTHER INVESTIGATIVE  
12 LEADS HAVE BEEN PURSUED.

13 (III) A COMMITMENT TO FURTHER INVESTIGATE THE CASE  
14 IF PERSONAL IDENTIFYING INFORMATION FROM A MODIFIED DNA  
15 SEARCH IS PROVIDED.

16 (IV) ANY OTHER INFORMATION THE STATE POLICE DEEM  
17 NECESSARY.

18 (2) THE STATE POLICE SHALL GRANT A MODIFIED DNA SEARCH  
19 REQUEST IF THE STATE POLICE DETERMINE THAT:

20 (I) THE CRIME SCENE DNA PROFILE HAS SUFFICIENT SIZE,  
21 QUALITY AND INTEGRITY.

22 (II) THE CRIME SCENE DNA PROFILE HAS PREVIOUSLY BEEN  
23 SUBJECTED TO A ROUTINE DNA SEARCH AGAINST THE STATE DNA  
24 DATA BASE.

25 (III) THE MODIFIED DNA SEARCH IS NECESSARY FOR LAW  
26 ENFORCEMENT IDENTIFICATION PURPOSES IN AN UNSOLVED CASE.

27 (IV) THE CRIMINAL JUSTICE AGENCY HAS PURSUED ALL  
28 OTHER INVESTIGATIVE LEADS.

29 (V) ANY RELEVANT CONSIDERATION, INCLUDING FACTORS OR  
30 REQUIREMENTS CONSIDERED BY ANY OTHER JURISDICTION,

1           SUPPORTS GRANTING THE REQUEST.

2           (3) THE STATE POLICE PROCEDURES, PROMULGATED UNDER  
3           SECTION 2318, TO CONDUCT MODIFIED DNA SEARCHES SHALL BE BASED  
4           ON SCIENTIFICALLY VALID AND RELIABLE METHODS TO DETERMINE  
5           THAT A CRIME SCENE DNA PROFILE IS SUFFICIENTLY LIKELY TO HAVE  
6           ORIGINATED FROM A CLOSE RELATIVE OF AN INDIVIDUAL WHOSE DNA  
7           PROFILE IS RECORDED IN THE STATE DNA DATA BASE. THE STATE  
8           POLICE MAY REQUIRE THE FOLLOWING:

9                   (I) AN ANALYSIS OF THE RARITY IN THE RELEVANT  
10                   POPULATION OF EACH SHARED DNA CHARACTERISTIC.

11                   (II) AN ANALYSIS OF THE PATTERN OF SHARED DNA  
12                   CHARACTERISTICS.

13                   (III) Y CHROMOSOME ANALYSIS.

14                   (IV) MITOCHONDRIAL DNA ANALYSIS.

15                   (V) ANY OTHER SUITABLE METHOD DESIGNED TO DETERMINE  
16           THAT A CRIME SCENE DNA PROFILE ORIGINATED FROM A CLOSE  
17           RELATIVE OF AN INDIVIDUAL IN THE STATE DNA DATA BASE.

18           SECTION 5. SECTIONS 2319, 2321 AND 2322 OF TITLE 44 ARE  
19           AMENDED TO READ:

20           § 2319. DNA DATA BASE EXCHANGE.

21           (A) RECEIPT OF DNA SAMPLES BY STATE POLICE.--IT SHALL BE THE  
22           DUTY OF THE STATE POLICE TO RECEIVE DNA SAMPLES, TO STORE, TO  
23           PERFORM ANALYSIS OR TO CONTRACT FOR DNA TYPING ANALYSIS WITH [A  
24           QUALIFIED] AN ACCREDITED FORENSIC DNA LABORATORY THAT MEETS THE  
25           [GUIDELINES] RULES, REGULATIONS AND GUIDELINES UNDER SECTION  
26           2318 (RELATING TO PROCEDURES FOR CONDUCT, DISPOSITION AND USE OF  
27           DNA ANALYSIS) AS ESTABLISHED BY THE STATE POLICE, TO CLASSIFY  
28           AND TO FILE THE DNA RECORD OF IDENTIFICATION CHARACTERISTIC  
29           PROFILES OF DNA SAMPLES SUBMITTED UNDER THE FORMER DNA ACT,  
30           FORMER PROVISIONS OF 42 PA.C.S. CH. 47 (RELATING TO DNA DATA AND

1 TESTING) OR THIS CHAPTER AND TO MAKE SUCH INFORMATION AVAILABLE  
2 AS PROVIDED IN THIS SECTION. THE STATE POLICE MAY CONTRACT [OUT]  
3 FOR THE STORAGE OF DNA TYPING ANALYSIS [AND MAY CONTRACT OUT] OR  
4 DNA TYPING ANALYSIS TO [A QUALIFIED] AN ACCREDITED FORENSIC DNA  
5 LABORATORY THAT MEETS THE RULES, REGULATIONS AND GUIDELINES AS  
6 ESTABLISHED BY THE STATE POLICE UNDER SECTION 2318. THE RESULTS  
7 OF THE DNA PROFILE OF INDIVIDUALS IN THE STATE DNA DATA BASE  
8 SHALL BE MADE AVAILABLE:

9 (1) TO CRIMINAL JUSTICE AGENCIES OR [APPROVED CRIME]  
10 CODIS-PARTICIPATING DNA LABORATORIES WHICH SERVE THESE  
11 AGENCIES; OR

12 (2) UPON WRITTEN OR ELECTRONIC REQUEST AND IN  
13 FURTHERANCE OF AN OFFICIAL INVESTIGATION OF A CRIMINAL  
14 OFFENSE OR OFFENDER OR SUSPECTED OFFENDER.

15 (B) METHODS OF OBTAINING INFORMATION.--THE STATE POLICE  
16 SHALL [ADOPT] PROMULGATE, AS NECESSARY, RULES, REGULATIONS AND  
17 GUIDELINES GOVERNING THE METHODS OF OBTAINING INFORMATION FROM  
18 THE STATE DNA DATA BASE AND CODIS AND PROCEDURES FOR  
19 VERIFICATION OF THE IDENTITY AND AUTHORITY OF THE REQUESTER.

20 (C) POPULATION DATA BASE.--

21 (1) THE STATE POLICE MAY ESTABLISH A SEPARATE POPULATION  
22 DATA BASE COMPRISED OF DNA SAMPLES OBTAINED UNDER THIS  
23 CHAPTER AFTER ALL PERSONAL IDENTIFICATION IS REMOVED.

24 (2) THE STATE POLICE MAY SHARE OR DISSEMINATE THE  
25 POPULATION DATA BASE WITH OTHER CRIMINAL JUSTICE AGENCIES OR  
26 [CRIME] CODIS-PARTICIPATING DNA LABORATORIES THAT SERVE TO  
27 ASSIST THE STATE POLICE WITH STATISTICAL DATA BASES.

28 (3) THE POPULATION DATA BASE MAY BE MADE AVAILABLE TO  
29 AND SEARCHED BY OTHER AGENCIES PARTICIPATING IN THE CODIS  
30 SYSTEM.

1 (D) SEPARATE CATEGORY.--THE STATE POLICE SHALL CREATE A  
2 SEPARATE CATEGORY WITHIN THE DATA BASE TO STORE DNA SAMPLES AND  
3 RECORDS COLLECTED UPON ARREST UNDER SECTION 2316(C.1) (RELATING  
4 TO DNA SAMPLE REQUIRED).

5 § 2321. EXPUNGEMENT.

6 [(A) GENERAL RULE.--A PERSON WHOSE DNA SAMPLE, RECORD OR  
7 PROFILE HAS BEEN INCLUDED IN THE STATE DNA DATA BANK OR THE  
8 STATE DNA DATA BASE PURSUANT TO THE FORMER DNA ACT, FORMER 42  
9 PA.C.S. CH. 47 (RELATING TO DNA DATA AND TESTING) OR THIS  
10 CHAPTER MAY REQUEST EXPUNGEMENT ON THE GROUNDS THAT THE  
11 CONVICTION OR DELINQUENCY ADJUDICATION ON WHICH THE AUTHORITY  
12 FOR INCLUDING THAT PERSON'S DNA SAMPLE, RECORD OR PROFILE WAS  
13 BASED HAS BEEN REVERSED AND THE CASE DISMISSED OR THAT THE DNA  
14 SAMPLE, RECORD OR PROFILE WAS INCLUDED IN THE STATE DNA DATA  
15 BANK OR THE STATE DNA DATA BASE BY MISTAKE.

16 (B) DUTY OF STATE POLICE.--THE STATE POLICE SHALL PURGE ALL  
17 RECORDS AND IDENTIFIABLE INFORMATION IN THE STATE DNA DATA BANK  
18 OR STATE DNA DATA BASE PERTAINING TO THE PERSON AND DESTROY EACH  
19 SAMPLE, RECORD AND PROFILE FROM THE PERSON UPON:

20 (1) RECEIPT OF A WRITTEN REQUEST FOR EXPUNGEMENT  
21 PURSUANT TO THIS SECTION AND A CERTIFIED COPY OF THE FINAL  
22 COURT ORDER REVERSING AND DISMISSING THE CONVICTION; OR

23 (2) CLEAR AND CONVINCING PROOF THAT THE SAMPLE RECORD OR  
24 PROFILE WAS INCLUDED BY MISTAKE.]

25 (A) GENERAL RULE.--A PERSON WHOSE DNA SAMPLE, RECORD OR  
26 PROFILE HAS BEEN INCLUDED IN THE STATE DNA DATA BANK OR THE  
27 STATE DNA DATA BASE UNDER THE FORMER DNA ACT, FORMER PROVISIONS  
28 OF 42 PA.C.S. CH. 47 (RELATING TO DNA DATA AND TESTING) OR THIS  
29 CHAPTER MAY HAVE THE DNA SAMPLE, RECORD OR PROFILE EXPUNGED IN  
30 ACCORDANCE WITH THIS SECTION.

1       (B) REMOVAL BY REQUEST.--A PERSON WHOSE DNA SAMPLE, RECORD  
2 OR PROFILE HAS BEEN INCLUDED IN THE STATE DNA DATA BANK OR THE  
3 STATE DNA DATA BASE UNDER THE FORMER DNA ACT, FORMER PROVISIONS  
4 OF 42 PA.C.S. CH. 47 (RELATING TO DNA DATA AND TESTING) OR THIS  
5 CHAPTER MAY FILE A WRITTEN REQUEST WITH THE STATE POLICE ON THE  
6 GROUND THAT THE DNA SAMPLE, RECORD OR PROFILE BE REMOVED ON THE  
7 GROUND THAT THE DNA SAMPLE, RECORD OR PROFILE WAS INCLUDED IN  
8 THE STATE DNA DATA BANK OR THE STATE DNA DATA BASE BY MISTAKE.  
9 IF THE STATE POLICE GRANTS THE REQUEST, THE REQUEST SHALL BE  
10 PROCESSED AT NO COST AND THE STATE POLICE SHALL PROVIDE WRITTEN  
11 NOTICE OF THE REMOVAL TO THE PERSON AND HIS ATTORNEY OF RECORD,  
12 IF ANY, WITHIN 60 DAYS AFTER DESTROYING THE DNA SAMPLE, RECORD  
13 AND PROFILE. IF THE STATE POLICE ERRONEOUSLY DENIES THE REQUEST,  
14 THE PERSON MAY REQUEST EXPUNGEMENT OF THE DNA SAMPLE, RECORD OR  
15 PROFILE UNDER SUBSECTION (C).

16       (B.1) EXPUNGEMENT BY COURT ORDER.--THE FOLLOWING SHALL  
17 APPLY:

18           (1) EXCEPT AS PROVIDED UNDER PARAGRAPH (2), A PERSON MAY  
19 REQUEST THE COURT OF COMMON PLEAS OF THE COUNTY WHERE THE  
20 ORIGINAL CHARGES WERE FILED TO ISSUE AN ORDER DIRECTING THE  
21 EXPUNGEMENT OF THE DNA SAMPLE, RECORD OR PROFILE PERTAINING  
22 TO THE PERSON IN THE STATE DNA DATA BANK OR THE STATE DNA  
23 DATA BASE IN THE FOLLOWING INSTANCES:

24           (I) THE CONVICTION OR DELINQUENCY ADJUDICATION FOR  
25 WHICH THE PERSON'S DNA SAMPLE WAS COLLECTED HAS BEEN  
26 REVERSED AND NO APPEAL IS PENDING;

27           (II) THE CHARGE FOR WHICH THE DNA SAMPLE WAS TAKEN  
28 HAS BEEN DISMISSED, NO APPEAL IS PENDING AND THE  
29 PROSECUTING AUTHORITY IS BARRED FROM SEEKING A RETRIAL;

30           (III) THERE HAS BEEN A JUDGMENT OF ACQUITTAL ON THE

1 CHARGE FOR WHICH THE DNA SAMPLE WAS TAKEN;

2 (IV) THE PERSON FROM WHOM THE DNA SAMPLE WAS TAKEN  
3 WAS NOT CHARGED WITH A CRIME FOR WHICH A DNA SAMPLE IS  
4 AUTHORIZED TO BE TAKEN UNDER THIS CHAPTER;

5 (V) THE PROSECUTING AUTHORITY HAS EXPRESSLY DECLINED  
6 TO PROSECUTE THE CHARGE FOR WHICH THE DNA SAMPLE WAS  
7 TAKEN;

8 (VI) THE CHARGE FOR WHICH THE DNA SAMPLE WAS TAKEN  
9 WAS NOT FILED WITHIN THE STATUTE OF LIMITATIONS;

10 (VII) THE PERSON WAS GRANTED AN UNCONDITIONAL PARDON  
11 FOR THE CRIME FOR WHICH THE DNA SAMPLE WAS TAKEN; OR

12 (VIII) THE DNA SAMPLE, RECORD OR PROFILE WAS  
13 INCLUDED IN THE STATE DNA DATA BANK OR STATE DNA DATA  
14 BASE BY MISTAKE AND THE STATE POLICE HAS ERRONEOUSLY  
15 REFUSED TO GRANT THE PERSON'S REQUEST FOR REMOVAL UNDER  
16 SUBSECTION (B).

17 (2) PARAGRAPH (1) SHALL NOT APPLY IF THE PERSON HAS BEEN  
18 ARRESTED, CHARGED, CONVICTED OR ADJUDICATED DELINQUENT FOR  
19 ANY OTHER CRIME FOR WHICH A DNA SAMPLE IS REQUIRED TO BE  
20 COLLECTED UNDER THIS CHAPTER.

21 (3) THE COURT SHALL GIVE TEN DAYS' PRIOR NOTICE TO THE  
22 DISTRICT ATTORNEY OF THE COUNTY WHERE THE ORIGINAL CHARGES  
23 WERE FILED OF ANY APPLICATION FOR EXPUNGEMENT UNDER  
24 SUBSECTION (C) (1).

25 (4) NOTWITHSTANDING ANY OTHER LAW OR RULE OF COURT, THE  
26 COURT SHALL HAVE NO AUTHORITY TO ORDER THE EXPUNGEMENT OF ANY  
27 DNA SAMPLE, RECORD OR PROFILE IN THE STATE DNA DATA BANK OR  
28 THE STATE DNA DATA BASE EXCEPT AS PROVIDED UNDER THIS  
29 SUBSECTION.

30 (B.2) EXPUNGEMENT REPORTING.--A PERSON WHOSE DNA SAMPLE,

1 RECORD OR PROFILE HAS BEEN EXPUNGED UNDER SUBSECTION (C) SHALL  
2 FORWARD A CERTIFIED COPY OF AN EXPUNGEMENT ORDER ISSUED UNDER  
3 SUBSECTION (C) TO THE STATE POLICE.

4 (B.3) DUTIES OF STATE POLICE.--THE FOLLOWING SHALL APPLY:

5 (1) UPON RECEIPT OF AN EXPUNGEMENT ORDER ISSUED UNDER  
6 SUBSECTION (C), THE STATE POLICE SHALL DESTROY THE DNA  
7 SAMPLE, RECORD AND PROFILE IN THE STATE DNA DATA BANK AND THE  
8 STATE DNA DATA BASE PERTAINING TO A PERSON IDENTIFIED IN AN  
9 EXPUNGEMENT ORDER.

10 (2) THE EXPUNGEMENT SHALL BE PROCESSED AT NO COST TO THE  
11 PERSON FROM WHOM THE DNA SAMPLE WAS TAKEN.

12 (3) THE STATE POLICE SHALL PROVIDE WRITTEN NOTICE OF THE  
13 EXPUNGEMENT TO THE PERSON AND HIS ATTORNEY OF RECORD, IF ANY,  
14 WITHIN 60 DAYS AFTER DESTROYING THE DNA SAMPLE, RECORD AND  
15 PROFILE.

16 (C) LIMITATIONS.--

17 (1) AN INCARCERATED OR PREVIOUSLY INCARCERATED PERSON  
18 MAY NOT SEEK EXPUNGEMENT OF A DNA SAMPLE, RECORD OR PROFILE  
19 ON THE GROUND THAT THAT PERSON WAS CONVICTED OR ADJUDICATED  
20 DELINQUENT FOR A FELONY SEX OFFENSE PRIOR TO JULY 27, 1995.

21 (2) A PERSON MAY NOT SEEK EXPUNGEMENT OF A DNA SAMPLE,  
22 RECORD OR PROFILE ON THE GROUND THAT THAT PERSON WAS CONVICTED  
23 OR ADJUDICATED DELINQUENT FOR ONE OF THE OTHER SPECIFIED  
24 OFFENSES PRIOR TO THE EFFECTIVE DATE OF THE FORMER DNA ACT OR  
25 THIS CHAPTER.

26 (D) EFFECT OF EXPUNGEMENT.--THE EXPUNGEMENT OF A DNA SAMPLE,  
27 RECORD OR PROFILE PURSUANT TO THIS SECTION SHALL HAVE NO EFFECT  
28 ON ANY DATA BANK OR DATA BASE MATCH OR PARTIAL MATCH OCCURRING  
29 PRIOR TO THE EXPUNGEMENT OF THE SAMPLE, RECORD OR PROFILE.

30 § 2322. MANDATORY COST.

1           UNLESS THE COURT FINDS THAT UNDUE HARDSHIP WOULD RESULT, A  
2 MANDATORY COST OF \$250, WHICH SHALL BE IN ADDITION TO ANY OTHER  
3 COSTS IMPOSED PURSUANT TO STATUTORY AUTHORITY, SHALL  
4 AUTOMATICALLY BE ASSESSED ON ANY PERSON CONVICTED, ADJUDICATED  
5 DELINQUENT OR GRANTED ARD FOR CRIMINAL HOMICIDE, A FELONY SEX  
6 OFFENSE OR OTHER SPECIFIED OFFENSE, AND ALL PROCEEDS DERIVED  
7 FROM THIS SECTION SHALL BE TRANSMITTED TO THE FUND.

8           SECTION 6. THIS ACT SHALL TAKE EFFECT IN 270 DAYS.