

AMENDMENTS TO SENATE BILL NO. 775

Sponsor: SENATOR PILEGGI

Printer's No. 1602

1 Amend Bill, page 15, line 14, by striking out "THAT" and
2 inserting a comma

3 Amend Bill, page 17, line 14, by inserting a bracket before
4 "(a)"

5 Amend Bill, page 17, lines 18 and 19, by striking out ":" in
6 line 18 and "(1)" in line 19

7 Amend Bill, page 17, line 19, by striking out "arrest,
8 charge,"

9 Amend Bill, page 17, line 22, by striking out "i ["

10 Amend Bill, page 17, lines 22 through 27, by striking out the
11 bracket after "that" in line 22, all of lines 23 through 26 and
12 "(5)" in line 27

13 Amend Bill, page 18, line 1, by striking out "immediately"

14 Amend Bill, page 18, line 5, by striking out the bracket
15 before "written"

16 Amend Bill, page 18, line 6, by striking out the bracket
17 after "a"

18 Amend Bill, page 18, line 7, by striking out the bracket
19 before "or]"

20 Amend Bill, page 18, lines 7 through 11, by striking out the

1 bracket after "[or" in line 7 and all of lines 8 through 11

2 Amend Bill, page 18, line 13, by inserting after "mistake."

3]

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

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

21 (c) Mandatory expungement.--The following shall apply:

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

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

31 (ii) the charge on which the authority for including
32 the person's DNA sample, record or profile has been
33 dismissed and the prosecuting authority is barred from
34 seeking a retrial;

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

38 (iv) the person from whom the sample was taken was
39 not charged with the crime on which the authority for
40 including the person's DNA sample, record or profile was
41 based;

42 (v) the prosecuting authority has elected not to
43 commence criminal proceeding against the person for the
44 crime on which the authority for including the person's
45 DNA sample, record or profile was based;

46 (vi) charges for the crime on which the authority
47 for including the person's DNA sample, record or profile
48 was based were not filed within the statute of

1 limitations; and
2 (vii) the person is granted an unconditional pardon
3 for the crime on which the authority for including the
4 person's DNA sample, record or profile was based.
5 (2) The provisions of paragraph (1) shall not apply if
6 the person has been arrested, charged, convicted or
7 adjudicated delinquent for any other crime for which a DNA
8 sample, record or profile is required under this chapter.
9 (d) Disposition reporting.--All criminal justice agencies,
10 including law enforcement agencies, district attorneys and
11 courts shall submit reports of dispositions that require
12 mandatory expungement under subsection (c)(1) to the State
13 Police within 60 days of the date of such disposition. Courts
14 shall collect and submit criminal court dispositions as required
15 by the Administrative Office of Pennsylvania Courts.
16 (e) Duties of State Police.--The following shall apply:
17 (1) Upon receipt of any report of disposition under
18 subsection (d), the State Police shall immediately purge all
19 records and identifiable information in the State DNA Data
20 Bank or the State DNA Data Base pertaining to a person and
21 destroy each sample, record and profile of the person.
22 (2) The expungement shall be processed at no cost to the
23 person from whom the DNA sample was taken.
24 (3) The State Police shall provide written notice of the
25 expungement to the person and his attorney of record, if any,
26 within 45 days after expunging and destroying the sample,
27 record and profile.
28 (4) The State Police shall provide the CODIS expungement
29 policy to any person whose sample, record and profile has
30 been expunged and destroyed under this section if such
31 information has been transferred to CODIS.