

AMENDMENTS TO SENATE BILL NO. 775

Sponsor: SENATOR COSTA

Printer's No. 1602

1 Amend Bill, page 9, lines 7 through 10, by striking out
2 "ARREST, DURING BOOKING OR INTAKE OR AS SOON AS" in line 7 and
3 all of lines 8 through 10 and inserting

4 :

5 (i) preliminary arraignment;

6 (ii) during booking or intake following an arrest
7 based on a warrant issued on probable cause; or

8 (iii) as soon as administratively practical after
9 the event specified in subparagraph (i) or (ii), but not
10 later than prior to release on bail or pending trial or
11 any other physical release from confinement or custody.

12 Amend Bill, page 17, line 14, by inserting a bracket before
13 "(a)"

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

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

18 Amend Bill, page 17, line 22, by striking out "; ["

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

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

23 Amend Bill, page 18, line 5, by striking out the bracket
24 before "written"

1 Amend Bill, page 18, line 6, by striking out the bracket
2 after "a"

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

5 Amend Bill, page 18, lines 7 through 11, by striking out the
6 bracket after "[or" in line 7 and all of lines 8 through 11

7 Amend Bill, page 18, line 13, by inserting after "mistake."
8]

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

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

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

27 (1) Except as provided in paragraph (2), all records and
28 identifiable information, including any sample, record or
29 profile, in the State DNA Data Bank or the State DNA Data
30 Base pertaining to a person shall be destroyed in the
31 following instances:

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

36 (ii) the charge on which the authority for including
37 the person's DNA sample, record or profile has been
38 dismissed and the prosecuting authority is barred from
39 seeking a retrial;

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

43 (iv) the person from whom the sample was taken was
44 not charged with the crime on which the authority for

1 including the person's DNA sample, record or profile was
2 based;

3 (v) the prosecuting authority has elected not to
4 commence criminal proceeding against the person for the
5 crime on which the authority for including the person's
6 DNA sample, record or profile was based;

7 (vi) charges for the crime on which the authority
8 for including the person's DNA sample, record or profile
9 was based were not filed within the statute of
10 limitations; and

11 (vii) the person is granted an unconditional pardon
12 for the crime on which the authority for including the
13 person's DNA sample, record or profile was based.

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

18 (d) Disposition reporting.--All criminal justice agencies,
19 including law enforcement agencies, district attorneys and
20 courts shall submit reports of dispositions that require
21 mandatory expungement under subsection (c) to the State Police
22 within 60 days of the date of such disposition. Courts shall
23 collect and submit criminal court dispositions as required by
24 the Administrative Office of Pennsylvania Courts.

25 (e) Duties of State Police.--The following shall apply:

26 (1) Upon receipt of any report of disposition under
27 subsection (d), the State Police shall immediately purge all
28 records and identifiable information in the State DNA Data
29 Bank or the State DNA Data Base pertaining to a person and
30 destroy each sample, record and profile of the person where
31 such sample, record or profile was created concerning the
32 person.

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

35 (3) The State Police shall provide written notice of the
36 expungement to the person and his attorney of record, if any,
37 within 45 days after expunging and destroying the sample,
38 record or profile.

39 (4) The State Police shall provide the CODIS expungement
40 policy to any person whose sample, record or profile has been
41 expunged and destroyed under this section if such information
42 has been transferred to CODIS.