

AMENDMENTS TO SENATE BILL NO. 916

Sponsor: REPRESENTATIVE MARSICO

Printer's No. 1535

1 Amend Bill, page 1, line 1, by striking out "Title" and

2 inserting

3 Titles

4 Amend Bill, page 1, line 1, by inserting after "Procedure)"

5 and 44 (Law and Justice)

6 Amend Bill, page 1, line 3, by striking out the period after

7 "testing" and inserting

8 ; in DNA data and testing, further providing for policy, for

9 definitions, for powers and duties of State Police, for State

10 DNA Data Base, for State DNA Data Bank, for State Police

11 recommendation of additional offenses, for procedural

12 compatibility with FBI and for DNA sample required upon

13 conviction, delinquency adjudication and certain ARD cases,

14 providing for collection from persons accepted from other

15 jurisdictions and further providing for procedures for

16 withdrawal, collection and transmission of DNA samples, for

17 procedures for conduct, disposition and use of DNA analysis,

18 for DNA data base exchange and for expungement.

19 Amend Bill, page 12, line 12, by striking out all of said

20 line and inserting

21 Section 2. Sections 2302, 2303, 2311(2), 2312, 2313, 2314,

22 2315 and 2316 of Title 44 are amended to read:

23 § 2302. Policy.

24 The General Assembly finds and declares that:

25 (1) [DNA data banks are] Forensic DNA testing is an

26 important tool in criminal investigations, in [the exclusion

27 of] excluding innocent individuals who are the subject of

28 criminal investigations or prosecutions and in [detering and

29 detecting recidivist acts] detecting and deterring repeated

30 crimes by the same individual.

31 (2) Several states have enacted laws requiring persons

32 convicted of certain crimes, especially sex offenses, to

33 provide genetic samples for DNA profiling.

1 (3) Moreover, it is the policy of the Commonwealth to
2 assist Federal, State and local criminal justice and law
3 enforcement agencies in the identification and detection of
4 individuals in criminal investigations.

5 (4) It is [therefore] in the best interest of the
6 Commonwealth to establish a DNA data base and a DNA data bank
7 containing DNA samples submitted by individuals convicted of,
8 adjudicated delinquent for or accepted into ARD for felony
9 sex offenses and other specified offenses.

10 (5) It is in the best interest of the Commonwealth to
11 authorize the State Police to use DNA analysis and to
12 identify these individuals to a criminal justice agency in
13 certain cases.

14 § 2303. Definitions.

15 The following words and phrases when used in this chapter
16 shall have the meanings given to them in this section unless the
17 context clearly indicates otherwise:

18 "Accredited forensic DNA laboratory." A forensic DNA
19 laboratory that has received accreditation by an accrediting
20 body nationally recognized within the forensic science community
21 in accordance with the FBI Quality Assurance Standards to
22 perform forensic DNA testing and is in compliance with FBI
23 Quality Assurance Standards.

24 "ARD." Accelerated Rehabilitative Disposition.

25 "CODIS." The [term is derived from] Combined DNA Index
26 System[, the Federal Bureau of Investigation's national DNA
27 identification index system that allows the storage and exchange
28 of DNA records submitted by state and local forensic DNA
29 laboratories.] established and maintained by the Federal Bureau
30 of Investigation.

31 "Commissioner." The Commissioner of the Pennsylvania State
32 Police.

33 "Crime scene DNA profile." A DNA profile derived from a DNA
34 sample recovered from a victim, crime scene or item linked to a
35 crime, which may have originated from a perpetrator.

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

38 "DNA." Deoxyribonucleic acid[. DNA is located in the cells
39 and provides an individual's personal genetic blueprint. DNA
40 encodes genetic information that is the basis of human heredity
41 and forensic identification] located in the chromosomes or
42 mitochondria of a living organism's cells.

43 "DNA record." A forensic DNA profile and identification
44 information stored in the State DNA Data Base or the Combined
45 DNA Index System for the purpose of [generating investigative
46 leads] identification or supporting statistical interpretation
47 of DNA test results. [The term includes nuclear and
48 mitochondrial typing. The DNA record is the result obtained from
49 the DNA typing tests. The DNA record is comprised of the
50 characteristics of a DNA sample which are of value in
51 establishing the identity of individuals. The results of all DNA

1 identification tests on an individual's DNA sample are also
2 collectively referred to as the DNA profile of an individual.]
3 "DNA sample." [A blood or tissue sample provided by any
4 person with respect to offenses covered by this chapter or
5 submitted to the Pennsylvania State Police laboratory pursuant
6 to the former act of May 28, 1995 (1st Sp.Sess., P.L.1009,
7 No.14), known as the DNA Detection of Sexual and Violent
8 Offenders Act, to the former 42 Pa.C.S. Ch. 47 (relating to DNA
9 data and testing) or to this chapter for analysis or storage, or
10 both.] A sample of biological material suitable for forensic DNA
11 testing.

12 "FBI." The Federal Bureau of Investigation.

13 "Felony sex offense." A felony offense or an attempt,
14 conspiracy or solicitation to commit a felony offense under any
15 of the following:

16 18 Pa.C.S. Ch. 31 (relating to sexual offenses).

17 18 Pa.C.S. § 4302 (relating to incest).

18 18 Pa.C.S. § [5902(c)(1)(iii) and (iv)] 5902(c)(1)(iv)
19 (relating to prostitution and related offenses).

20 18 Pa.C.S. § 5903(a) (relating to obscene and other
21 sexual materials and performances) where the offense
22 constitutes a felony.

23 [18 Pa.C.S. § 6312 (relating to sexual abuse of
24 children).

25 18 Pa.C.S. § 6318 (relating to unlawful contact with
26 minor) where the most serious underlying offense for which
27 the defendant contacted the minor is graded as a felony.

28 18 Pa.C.S. § 6320 (relating to sexual exploitation of
29 children).]

30 Any offense graded as a felony requiring registration
31 under 42 Pa.C.S. Ch. 97 Subch. H (relating to registration of
32 sexual offenders).

33 "Forensic DNA laboratory." A laboratory that performs
34 forensic DNA testing for the purposes of identification.

35 "Forensic DNA profile." The data set derived from forensic
36 DNA testing.

37 "Forensic DNA testing." A test that applies techniques from
38 molecular biology to analyze human deoxyribonucleic acid (DNA)
39 to identify data which meets the requirements for inclusion in
40 CODIS and the national DNA identification index system
41 administered by the FBI.

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

45 "Fund." The DNA Detection Fund reestablished in section 2335
46 (relating to DNA Detection Fund).

47 "Human behavioral genetic research." The study of the
48 possible genetic underpinnings of behaviors, including, but not
49 limited to, aggression, substance abuse, social attitudes,
50 mental abilities, sexual activity and eating habits.

51 "Law enforcement identification purposes." Assisting in the

1 determination of the identity of an individual whose DNA is
2 contained in a biological sample.

3 "Mitochondrial DNA analysis." A method that applies
4 techniques from molecular biology to analyze DNA found in the
5 mitochondria of cells for the purpose of identification.

6 "Other specified offense." Any of the following:

7 (1) A felony offense, other than a felony sex offense.

8 (2) [An offense under 18 Pa.C.S. § 2910 (relating to
9 luring a child into a motor vehicle or structure) or 3126
10 (relating to indecent assault) or an attempt to commit such
11 an offense.] (Reserved).

12 (3) [An offense subject to 42 Pa.C.S. Ch. 97 Subch. H
13 (relating to registration of sexual offenders)] (Reserved).

14 (4) An offense under 18 Pa.C.S. (relating to crimes and
15 offenses) or 75 Pa.C.S. (relating to vehicles) that is graded
16 as a misdemeanor of the first degree.

17 (5) A misdemeanor offense requiring registration under
18 42 Pa.C.S. Ch. 97 Subch. H (relating to registration of
19 sexual offenders).

20 (6) An offense graded as a misdemeanor of the second
21 degree under any of the following:

22 18 Pa.C.S. § 2701 (relating to simple assault).

23 18 Pa.C.S. § 2903 (relating to false imprisonment).

24 18 Pa.C.S. § 3127 (relating to indecent exposure).

25 18 Pa.C.S. Ch. 39 (relating to theft and related
26 offenses).

27 18 Pa.C.S. § 4105 (relating to bad checks).

28 18 Pa.C.S. § 4106 (relating to access device fraud).

29 18 Pa.C.S. § 4952 (relating to intimidation of
30 witnesses or victims).

31 18 Pa.C.S. § 4953 (relating to retaliation against
32 witness, victim or party).

33 18 Pa.C.S. § 4958 (relating to intimidation,
34 retaliation or obstruction in child abuse cases).

35 18 Pa.C.S. § 5121 (relating to escape).

36 18 Pa.C.S. § 5126 (relating to flight to avoid
37 apprehension, trial or punishment).

38 18 Pa.C.S. § 5131 (relating to recruiting criminal
39 gang members).

40 18 Pa.C.S. § 5510 (relating to abuse of corpse).

41 18 Pa.C.S. Ch. 55 Subch. B (relating to cruelty to
42 animals).

43 18 Pa.C.S. § 5902 (relating to prostitution and
44 related offenses).

45 "State Police." The Pennsylvania State Police.

46 "Y chromosome analysis." A method that applies techniques
47 from molecular biology to examine DNA found on the Y chromosome.
48 § 2311. Powers and duties of State Police.

49 In addition to any other powers and duties conferred by this
50 chapter, the State Police shall:

51 * * *

1 (2) Promulgate [rules and regulations], as necessary,
2 rules, regulations and guidelines to carry out the provisions
3 of this chapter.

4 * * *

5 § 2312. State DNA Data Base.

6 [The State DNA Data Base is reestablished. It shall be
7 administered by the State Police and provide DNA records to the
8 FBI for storage and maintenance by CODIS.] A Statewide DNA Data
9 Base is reestablished within the State Police to store forensic
10 DNA profiles and records developed by or submitted to the State
11 Police under the former DNA Act, the former provisions of 42
12 Pa.C.S. Ch. 47 (relating to DNA data and testing) or this
13 chapter, and to contribute forensic DNA profiles and records to
14 CODIS and the national DNA identification index system. The
15 State DNA Data Base shall have the capability provided by
16 computer software and procedures administered by the State
17 Police to store and maintain [DNA records] forensic DNA profiles
18 and records related to:

19 (1) forensic casework;

20 (2) convicted or delinquency adjudicated offenders
21 required to provide a DNA sample under this chapter; and

22 (3) anonymous DNA records used for statistical research
23 [or] on the frequency of DNA genotypes, quality control or
24 the development of new DNA identification methods.

25 § 2313. State DNA Data Bank.

26 The State DNA Data Bank is reestablished. It shall serve as
27 the repository of DNA samples collected under this chapter or
28 under prior law.

29 § 2314. State Police recommendation of additional offenses and
30 annual report.

31 (a) Recommendation.--The State Police may recommend to the
32 General Assembly that it enact legislation for the inclusion of
33 additional offenses for which DNA samples shall be taken and
34 otherwise subjected to the provisions of this chapter. In
35 determining whether to recommend additional offenses, the State
36 Police shall consider those offenses for which DNA testing will
37 have a substantial impact on the detection and identification of
38 sex offenders and [violent] other offenders.

39 (b) Annual report.--No later than August 1 of each year, the
40 commissioner shall submit to the Governor's Office, the
41 chairperson and minority chairperson of the Judiciary Committee
42 of the Senate and the chairperson and minority chairperson of
43 the Judiciary Committee of the House of Representatives, a
44 written report containing information regarding the collection
45 and testing of DNA samples under the provisions of this chapter.
46 The report must include, but need not be limited to, the
47 following information pertaining to the previous fiscal year:

48 (1) The age, race and sex of those convicted from whom
49 DNA samples were submitted upon conviction.

50 (2) The fiscal impact on the State Police of collecting
51 and testing DNA samples from persons convicted of or

1 adjudicated delinquent for offenses.

2 (3) The average length of time between the receipt of
3 DNA samples from those convicted of offenses and the
4 completion of forensic DNA testing of each of those
5 categories of DNA samples.

6 (4) Recommendations, if any, under this section for the
7 inclusion of additional offenses for which DNA samples must
8 be collected or recommendations for the removal of specific
9 offenses from the categories requiring the collection of DNA
10 samples from arrestees or persons convicted of crimes.

11 § 2315. Procedural compatibility with FBI.

12 The DNA identification system [as] established by the State
13 Police shall [be compatible] comply with [the procedures
14 specified by] the FBI Quality Assurance Standards for forensic
15 DNA testing laboratories and DNA data basing laboratories and
16 CODIS policies and procedures, including use of comparable test
17 procedures, laboratory equipment, supplies and computer
18 software.

19 § 2316. DNA sample required upon conviction, delinquency
20 adjudication and certain ARD cases.

21 (a) General rule.--A person who is convicted or adjudicated
22 delinquent for a felony sex offense or other specified offense
23 or who is or remains incarcerated for a felony sex offense or
24 other specified offense on or after the effective date of this
25 chapter shall have a DNA sample [drawn] collected as follows:

26 (1) A person who is sentenced or receives a delinquency
27 disposition to a term of confinement for an offense covered
28 by this subsection shall have a DNA sample [drawn] collected
29 upon intake to a prison, jail or juvenile detention facility
30 or any other detention facility or institution. If the person
31 is already confined at the time of sentencing or
32 adjudication, the person shall have a DNA sample [drawn]
33 collected immediately after the sentencing or adjudication.
34 If a DNA sample is not timely [drawn] collected in accordance
35 with this section, the DNA sample may be [drawn] collected
36 any time thereafter by the prison, jail, juvenile detention
37 facility, detention facility or institution.

38 (2) A person who is convicted or adjudicated delinquent
39 for an offense covered by this subsection shall have a DNA
40 sample [drawn] collected as a condition for any sentence or
41 adjudication which disposition will not involve an intake
42 into a prison, jail, juvenile detention facility or any other
43 detention facility or institution.

44 (3) Under no circumstances shall a person who is
45 convicted or adjudicated delinquent for an offense covered by
46 this subsection be released in any manner after such
47 disposition unless and until a DNA sample [has been
48 withdrawn] and fingerprints have been collected.

49 (b) Condition of release, probation or parole.--

50 (1) A person who has been convicted or adjudicated
51 delinquent for a felony sex offense or other specified

1 offense and who serves a term of confinement in connection
2 therewith after June 18, 2002, shall not be released in any
3 manner unless and until a DNA sample has been [withdrawn]
4 collected.

5 (2) This chapter shall apply to incarcerated persons
6 convicted or adjudicated delinquent for a felony sex offense
7 or other specified offense prior to June 19, 2002.

8 (3) [This] The following shall apply:

9 (i) Except as provided under subparagraph (ii), this
10 chapter shall apply to incarcerated persons and persons
11 on probation or parole who were convicted or adjudicated
12 delinquent for a felony sex offense or other specified
13 offenses prior to the effective date of this paragraph.

14 (ii) Subparagraph (i) shall not apply to persons
15 convicted or adjudicated delinquent of an offense
16 enumerated under paragraph (4) or (6) of the definition
17 of "other specified offense" in section 2303 (relating to
18 definitions).

19 (c) Certain ARD cases.--Acceptance into ARD as a result of a
20 criminal charge for a felony sex offense or other specified
21 offense, other than an offense enumerated under paragraph (4) or
22 (6) of the definition of "other specified offense" in section
23 2303 filed after June 18, 2002, may be conditioned upon the
24 [giving] collection of a DNA sample.

25 (d) Supervision of DNA samples.--All DNA samples [taken]
26 collected pursuant to this section shall be [taken] collected in
27 accordance with rules, regulations and guidelines promulgated by
28 the State Police in consultation with the Department of
29 Corrections.

30 (d.1) Mandatory submission.--The requirements of this
31 chapter are mandatory and apply regardless of whether a court
32 advises a person that a DNA sample must be provided to the State
33 DNA Data Base and the State DNA Data Bank as a result of a
34 conviction or adjudication of delinquency. A person who has been
35 sentenced to death or life imprisonment without the possibility
36 of parole or to any term of incarceration is not exempt from the
37 requirements of this chapter. Any person subject to this chapter
38 who has not provided a DNA sample for any reason, including
39 because of an oversight or error, shall provide a DNA sample for
40 inclusion in the State DNA Data Base and the State DNA Data Bank
41 after being notified by authorized law enforcement or
42 corrections personnel. If a person provides a DNA sample which
43 is not adequate for any reason, the person shall provide another
44 DNA sample for inclusion in the State DNA Data Base and the
45 State DNA Data Bank after being notified by authorized law
46 enforcement or corrections personnel. The DNA sample may be
47 collected under this chapter but shall not be required if the
48 authorized law enforcement or corrections official confirms that
49 a DNA sample from the person has already been validly collected
50 and provided to the State DNA Data Bank and a DNA record for the
51 person exists in the State DNA Data Base.

1 (e) Definition.--As used in this section, the term
2 "released" means any release, parole, furlough, work release,
3 prerelease or release in any other manner from a prison, jail,
4 juvenile detention facility or any other place of confinement.

5 Section 3. Title 44 is amended by adding a section to read:
6 § 2316.1. Collection from persons accepted from other
7 jurisdictions.

8 (a) Conditional acceptance.--When a person is accepted into
9 this Commonwealth for supervision from another jurisdiction
10 under the Interstate Compact for Supervision of Adult Offenders,
11 other reciprocal agreement with a Federal, state or county
12 agency, or a provision of law, whether or not the person is
13 confined or released, the acceptance shall be conditioned on the
14 offender providing a DNA sample under this chapter and
15 fingerprints if the offender has a past or present Federal,
16 state or military court conviction or adjudication that is
17 equivalent to a felony sex offense or other specified offense as
18 determined by the Pennsylvania Board of Probation and Parole.
19 Additional DNA samples may be collected but shall not be
20 required if the supervising agency or place of confinement
21 confirms that a DNA sample is currently on file with the State
22 DNA Data Bank and a DNA record for the person exists in the
23 State DNA Data Base.

24 (b) Time period.--

25 (1) If the person accepted under subsection (a) is not
26 confined, the DNA sample and fingerprints required under this
27 chapter shall be provided within five calendar days after the
28 person reports to the supervising agent or within five
29 calendar days of notice to the person, whichever occurs
30 first. The person shall appear and the DNA sample shall be
31 collected in accordance with the provisions of this chapter.

32 (2) If the person accepted under subsection (a) is
33 confined, the person shall provide the DNA sample and
34 fingerprints required by this chapter within five calendar
35 days after the person is received at a place of incarceration
36 or confinement.

37 Section 4. Sections 2317 heading and (a) and (b), 2318(a)
38 and (c), 2319 and 2321 of Title 44 are amended to read:

39 § 2317. Procedures for [withdrawal,] collection and
40 transmission of DNA samples.

41 (a) [Drawing] Collection of DNA samples.--

42 (1) Each DNA sample required to be [drawn] collected
43 pursuant to [section] sections 2316 (relating to DNA sample
44 required upon conviction, delinquency adjudication and
45 certain ARD cases) [from persons who are incarcerated or
46 confined shall be drawn at the place of incarceration or
47 confinement as provided for in section 2316. DNA samples from
48 persons who are not ordered or sentenced to a term of
49 confinement shall be drawn at a prison, jail unit, juvenile
50 facility or other facility to be specified by the court.
51 Only] and 2316.1 (relating to collection from persons

1 accepted from other jurisdictions) shall be collected as
2 follows:

3 (i) DNA samples from persons who are incarcerated or
4 confined shall be collected at the place of incarceration
5 or confinement as provided in section 2316 or 2316.1.

6 (ii) DNA samples from persons who are not ordered to
7 be or are not currently incarcerated or confined shall be
8 collected as provided in section 2316 or 2316.1 or at a
9 prison, jail unit, juvenile facility or other facility
10 specified by the court or supervising agency.

11 (iii) For DNA blood samples, only those individuals
12 qualified to draw DNA blood samples in a medically
13 approved manner shall draw a DNA blood sample to be
14 submitted for DNA analysis. [Such sample]

15 (iv) DNA samples and the set of fingerprints
16 provided for in paragraph (2) shall be delivered to the
17 State Police within 48 hours of [drawing] collecting the
18 sample.

19 (2) In addition to the DNA sample, a full set of
20 fingerprints shall be taken from the person from whom the DNA
21 sample is being [drawn] collected for the exclusive purpose
22 of verifying the identity of such person.

23 (b) Limitation on liability.--Persons authorized to [draw]
24 collect DNA samples under this section shall not be criminally
25 liable for withdrawing a DNA sample and transmitting test
26 results pursuant to this chapter if they perform these
27 activities in good faith and shall not be civilly liable for
28 such activities when the person acted in a reasonable manner
29 according to generally accepted medical and other professional
30 practices.

31 * * *

32 § 2318. Procedures for conduct, disposition and use of DNA
33 analysis.

34 (a) Procedures.--

35 (1) The State Police shall [prescribe] promulgate, as
36 necessary, rules, regulations and guidelines to implement
37 this chapter, including procedures to be used in the
38 collection, submission, identification, analysis, storage and
39 disposition of DNA samples and [typing results of] forensic
40 DNA profiles and records from DNA samples submitted under the
41 former DNA Act, former provisions of 42 Pa.C.S. Ch. 47
42 (relating to DNA data and testing) or this chapter.

43 (2) The [DNA sample typing] results of forensic DNA
44 testing shall be securely stored in the State DNA Data Base,
45 and records of testing shall be retained on file with the
46 State Police consistent with the procedures established by
47 the FBI[.] Quality Assurance Standards for forensic DNA
48 testing laboratories and DNA data basing laboratories and
49 CODIS policies and procedures.

50 (3) These procedures shall also include quality
51 assurance guidelines [to ensure that DNA identification

1 records meet standards for] for samples and forensic DNA
2 profiles and records from accredited forensic DNA
3 laboratories which submit DNA records to the State DNA Data
4 Base.

5 (4) The rules, regulations and guidelines shall address
6 the following:

7 (i) Verification of accreditation.

8 (ii) Compliance with FBI Quality Assurance
9 Standards, including continuing education requirements
10 for the personnel of forensics DNA testing laboratories.

11 * * *

12 (c) Use of tests.--

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

20 (2) A DNA sample or DNA record acquired under this
21 chapter may not be used for human behavioral genetic research
22 or for non-law enforcement or nonhumanitarian identification
23 purposes.

24 * * *

25 § 2319. DNA data base exchange.

26 (a) Receipt of DNA samples by State Police.--It shall be the
27 duty of the State Police to [receive]:

28 (1) Receive and store DNA samples, [to store,] to
29 perform [analysis] forensic DNA testing or to contract for
30 [DNA typing analysis] testing with [a qualified] an
31 accredited forensic DNA laboratory that meets the
32 [guidelines] rules, regulations and guidelines under section
33 2318 (relating to procedures for conduct, disposition and use
34 of DNA analysis) as established by the State Police[, to
35 classify and to file the DNA record of identification
36 characteristic PROFILES OF].

37 (2) Store forensic DNA records from DNA samples
38 submitted under the former DNA Act, former provisions of 42
39 Pa.C.S. Ch. 47 (relating to DNA data and testing) or this
40 chapter and to make such information available as provided in
41 this section.

42 (a.1) Contracts.--The State Police may contract [out the
43 storage of DNA typing analysis and may contract out] for DNA
44 [typing analysis] testing to [a qualified] an accredited
45 forensic DNA laboratory that meets the rules, regulations and
46 guidelines as established by the State Police under section
47 2318. [The results of the DNA profile of individuals] DNA
48 records in the State DNA Data Base shall be made available:

49 (1) to criminal justice agencies or [approved crime]
50 CODIS-participating DNA laboratories which serve these
51 agencies; or

1 (2) upon written or electronic request and in
2 furtherance of an official investigation of a criminal
3 offense or offender or suspected offender.

4 (b) Methods of obtaining information.--The State Police
5 shall [adopt] promulgate, as necessary, rules, regulations and
6 guidelines governing the methods of obtaining information from
7 the State DNA Data Base and CODIS and procedures for
8 verification of the identity and authority of the requester.

9 (c) Population data base.--

10 (1) The State Police may establish a separate population
11 data base comprised of forensic DNA [samples] profiles
12 obtained under this chapter after all personal identification
13 is removed.

14 (2) The State Police may share or disseminate the
15 population data base with other criminal justice agencies or
16 [crime] CODIS-participating DNA laboratories that serve to
17 assist the State Police with statistical data bases.

18 (3) The population data base may be made available to
19 and searched by other agencies participating in the CODIS
20 system.

21 § 2321. Expungement.

22 [(a) General rule.--A person whose DNA sample, record or
23 profile has been included in the State DNA Data Bank or the
24 State DNA Data Base pursuant to the former DNA Act, former 42
25 Pa.C.S. Ch. 47 (relating to DNA data and testing) or this
26 chapter may request expungement on the grounds that the
27 conviction or delinquency adjudication on which the authority
28 for including that person's DNA sample, record or profile was
29 based has been reversed and the case dismissed or that the DNA
30 sample, record or profile was included in the State DNA Data
31 Bank or the State DNA Data Base by mistake.

32 (b) Duty of State Police.--The State Police shall purge all
33 records and identifiable information in the State DNA Data Bank
34 or State DNA Data Base pertaining to the person and destroy each
35 sample, record and profile from the person upon:

36 (1) receipt of a written request for expungement
37 pursuant to this section and a certified copy of the final
38 court order reversing and dismissing the conviction; or

39 (2) clear and convincing proof that the sample record or
40 profile was included by mistake.]

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

47 (b) Removal by request.--A person whose DNA sample, record
48 or profile has been included in the State DNA Data Bank or the
49 State DNA Data Base under the former DNA Act, former provisions
50 of 42 Pa.C.S. Ch. 47 or this chapter may file a written request
51 with the State Police that the DNA sample, record or profile be

1 removed on the grounds that the DNA sample, record or profile
2 was included in the State DNA Data Bank or the State DNA Data
3 Base by mistake. If the State Police grants the request, the
4 request shall be processed at no cost and the State Police shall
5 provide written notice of the removal to the person and his
6 attorney of record, if any, within 60 days after destroying the
7 DNA sample, record or profile. If the State Police denies the
8 request, the person may request expungement of the DNA sample,
9 record or profile under subsection (b.1).

10 (b.1) Expungement by court order.--The following shall
11 apply:

12 (1) Except as provided under paragraph (2), a person may
13 request the court of common pleas of the county where the
14 original charges were filed to issue an order directing the
15 expungement of the DNA sample, record or profile pertaining
16 to the person in the State DNA Data Bank or the State DNA
17 Data Base in the following instances:

18 (i) the conviction or delinquency adjudication for
19 which the person's DNA sample was collected has been
20 reversed and no appeal is pending;

21 (ii) the person was granted an unconditional pardon
22 for the crime for which the DNA sample was taken; or

23 (iii) the DNA sample, record or profile was included
24 in the State DNA Data Bank or State DNA Data Base by
25 mistake and the State Police has erroneously refused to
26 grant the person's request for removal under subsection
27 (b).

28 (2) Paragraph (1) shall not apply if the person has been
29 convicted or adjudicated delinquent for any other crime for
30 which a DNA sample is required to be collected under this
31 chapter.

32 (3) The court shall give 10 days' prior notice to the
33 district attorney of the county where the original charges
34 were filed of an application for expungement under this
35 subsection.

36 (4) Notwithstanding any other law or rule of court, the
37 court shall have no authority to order the expungement of a
38 DNA sample, record or profile in the State DNA Data Bank or
39 the State DNA Data Base except as provided under this
40 subsection.

41 (b.2) Expungement reporting.--The court shall forward a
42 certified copy of an expungement order issued under subsection
43 (b.1) to the State Police.

44 (b.3) Duties of State Police.--The following shall apply:

45 (1) Upon receipt of an expungement order issued under
46 subsection (b.1), the State Police shall destroy the DNA
47 sample, record or profile in the State DNA Data Bank and the
48 State DNA Data Base pertaining to a person identified in an
49 expungement order.

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

1 (3) The State Police shall provide written notice of the
2 expungement to the person and his attorney of record, if any,
3 within 60 days after destroying the DNA sample, record or
4 profile.

5 (4) The State Police shall publish information regarding
6 the eligibility requirements for expungement under this
7 section and the steps necessary to obtain an expungement
8 under this section on the State Police's publicly accessible
9 Internet website. The State Police shall publish the
10 information in at least two commonly accessible formats, such
11 as HyperText Markup Language and Portable Document Format.

12 (c) Limitations.--

13 (1) An incarcerated or previously incarcerated person
14 may not seek expungement of a DNA sample, record or profile
15 on the ground that that person was convicted or adjudicated
16 delinquent for a felony sex offense prior to July 27, 1995.

17 (2) A person may not seek expungement of a DNA sample,
18 record or profile on the ground that that person was
19 convicted or adjudicated delinquent for one of the other
20 specified offenses prior to the effective date of the former
21 DNA Act or this chapter.

22 (d) Effect of expungement.--The expungement of a DNA sample,
23 record or profile pursuant to this section shall have no effect
24 on any data bank or data base match or partial match occurring
25 prior to the expungement of the sample, record or profile.

26 Section 5. This act shall take effect as follows:

27 (1) This section shall take effect immediately.

28 (2) The amendment of 42 Pa.C.S. § 9543.1 shall take
29 effect in 60 days.

30 (3) The addition of paragraphs (4) and (6) of the
31 definition of "other specified offense" in 44 Pa.C.S. § 2303
32 shall take effect December 1, 2019.

33 (4) The remainder of this act shall take effect in 360
34 days.