

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

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D. COSTA, JUNE 9, 2017

REFERRED TO COMMITTEE ON JUDICIARY, JUNE 9, 2017

AN ACT

1 Amending Title 44 (Law and Justice) of the Pennsylvania
2 Consolidated Statutes, in DNA data and testing, further
3 providing for policy, for definitions, for powers and duties
4 of State Police, for State DNA Data Base, for State DNA Data
5 Bank, for State Police recommendation of additional offenses,
6 for procedural compatibility with FBI and for DNA sample
7 required upon conviction, delinquency adjudication and
8 certain ARD cases, providing for collection from persons
9 accepted from other jurisdictions and further providing for
10 procedures for withdrawal, collection and transmission of DNA
11 samples, for procedures for conduct, disposition and use of
12 DNA analysis, for DNA data base exchange and for expungement.

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

15 Section 1. Sections 2302, 2303, 2311(2), 2312, 2313, 2314,
16 2315 and 2316 of Title 44 of the Pennsylvania Consolidated
17 Statutes are amended to read:

18 § 2302. Policy.

19 The General Assembly finds and declares that:

20 (1) [DNA data banks are] Forensic DNA testing is an
21 important tool in criminal investigations, in [the exclusion

1 of] excluding innocent individuals who are the subject of
2 criminal investigations or prosecutions and in [detering and
3 detecting recidivist acts] detecting and deterring repeated
4 crimes by the same individual.

5 (2) Several states have enacted laws requiring persons
6 convicted of certain crimes, especially sex offenses, to
7 provide genetic samples for DNA profiling.

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

12 (4) It is therefore in the best interest of the
13 Commonwealth to establish a DNA data base and a DNA data bank
14 containing DNA samples submitted by individuals convicted of,
15 adjudicated delinquent for or accepted into ARD for felony
16 sex offenses and other specified offenses.

17 (5) It is in the best interest of the Commonwealth to
18 authorize the State Police to use DNA analysis and to
19 identify these individuals to a criminal justice agency in
20 certain cases.

21 § 2303. Definitions.

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

25 "Accredited forensic DNA laboratory." A forensic DNA
26 laboratory that has received accreditation by an accrediting
27 body nationally recognized within the forensic science community
28 in accordance with the FBI Quality Assurance Standards to
29 perform forensic DNA testing and is in compliance with FBI
30 Quality Assurance Standards.

1 "ARD." Accelerated Rehabilitative Disposition.

2 "CODIS." The [term is derived from] Combined DNA Index
3 System[, the Federal Bureau of Investigation's national DNA
4 identification index system that allows the storage and exchange
5 of DNA records submitted by state and local forensic DNA
6 laboratories.] established and maintained by the Federal Bureau
7 of Investigation.

8 "Commissioner." The Commissioner of the Pennsylvania State
9 Police.

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

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

15 "DNA." Deoxyribonucleic acid[. DNA is located in the cells
16 and provides an individual's personal genetic blueprint. DNA
17 encodes genetic information that is the basis of human heredity
18 and forensic identification.] located in the chromosomes or
19 mitochondria of a living organism's cells.

20 "DNA record." A forensic DNA profile and identification
21 information stored in the State DNA Data Base or the Combined
22 DNA Index System for the purpose of [generating investigative
23 leads] identification or supporting statistical interpretation
24 of DNA test results. [The term includes nuclear and
25 mitochondrial typing. The DNA record is the result obtained from
26 the DNA typing tests. The DNA record is comprised of the
27 characteristics of a DNA sample which are of value in
28 establishing the identity of individuals. The results of all DNA
29 identification tests on an individual's DNA sample are also
30 collectively referred to as the DNA profile of an individual.]

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

10 "FBI." The Federal Bureau of Investigation.

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

14 18 Pa.C.S. Ch. 31 (relating to sexual offenses).

15 18 Pa.C.S. § 4302 (relating to incest).

16 18 Pa.C.S. § [5902(c)(1)(iii) and (iv)] 5902(c)(1)(iv)
17 (relating to prostitution and related offenses).

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

21 [18 Pa.C.S. § 6312 (relating to sexual abuse of
22 children).

23 18 Pa.C.S. § 6318 (relating to unlawful contact with
24 minor) where the most serious underlying offense for which
25 the defendant contacted the minor is graded as a felony.

26 18 Pa.C.S. § 6320 (relating to sexual exploitation of
27 children).]

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

1 "Forensic DNA laboratory." A laboratory that performs
2 forensic DNA testing for the purposes of identification.

3 "Forensic DNA profile." The data set derived from forensic
4 DNA testing.

5 "Forensic DNA testing." A test that applies techniques from
6 molecular biology to analyze human deoxyribonucleic acid (DNA)
7 to identify data which meets the requirements for inclusion in
8 CODIS and the national DNA identification index system
9 administered by the FBI.

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

13 "Fund." The DNA Detection Fund reestablished in section 2335
14 (relating to DNA Detection Fund).

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

19 "Law enforcement identification purposes." Assisting in the
20 determination of the identity of an individual whose DNA is
21 contained in a biological sample.

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

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

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

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

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

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

6 (5) A misdemeanor offense requiring registration under
7 42 Pa.C.S. Ch. 97 Subch. H (relating to registration of
8 sexual offenders).

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

11 18 Pa.C.S. § 2701 (relating to simple assault).

12 18 Pa.C.S. § 2903 (relating to false imprisonment).

13 18 Pa.C.S. § 3127 (relating to indecent exposure).

14 18 Pa.C.S. Ch. 39 (relating to theft and related
15 offenses).

16 18 Pa.C.S. § 4105 (relating to bad checks).

17 18 Pa.C.S. § 4106 (relating to access device fraud).

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

20 18 Pa.C.S. § 4953 (relating to retaliation against
21 witness, victim or party).

22 18 Pa.C.S. § 4958 (relating to intimidation,
23 retaliation or obstruction in child abuse cases).

24 18 Pa.C.S. § 5121 (relating to escape).

25 18 Pa.C.S. § 5126 (relating to flight to avoid
26 apprehension, trial or punishment).

27 18 Pa.C.S. § 5131 (relating to recruiting criminal
28 gang members).

29 18 Pa.C.S. § 5510 (relating to abuse of corpse).

30 18 Pa.C.S. § 5511 (relating to cruelty to animals).

1 18 Pa.C.S. § 5902 (relating to prostitution and
2 related offenses).

3 "State Police." The Pennsylvania State Police.

4 "Y chromosome analysis." A method that applies techniques
5 from molecular biology to examine DNA found on the Y chromosome.

6 § 2311. Powers and duties of State Police.

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

9 * * *

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

13 * * *

14 § 2312. State DNA Data Base.

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

28 (1) forensic casework;

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

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

§ 2313. State DNA Data Bank.

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

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

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

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

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

(2) The fiscal impact on the State Police of collecting
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

1 is already confined at the time of sentencing or
2 adjudication, the person shall have a DNA sample [drawn]
3 collected immediately after the sentencing or adjudication.
4 If a DNA sample is not timely [drawn] collected in accordance
5 with this section, the DNA sample may be [drawn] collected
6 any time thereafter by the prison, jail, juvenile detention
7 facility, detention facility or institution.

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

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

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

20 (1) A person who has been convicted or adjudicated
21 delinquent for a felony sex offense or other specified
22 offense and who serves a term of confinement in connection
23 therewith after June 18, 2002, shall not be released in any
24 manner unless and until a DNA sample has been [withdrawn]
25 collected.

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

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

30 (i) Except as provided under subparagraph (ii), this

chapter shall apply to incarcerated persons and persons on probation or parole who were convicted or adjudicated delinquent for a felony sex offense or other specified offenses prior to the effective date of this paragraph.

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

(c) Certain ARD cases.--Acceptance into ARD as a result of a criminal charge for a felony sex offense or other specified offense filed after June 18, 2002, [may] shall be conditioned upon the [giving] collection of a DNA sample.

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

(d.1) Mandatory submission.--The requirements of this chapter are mandatory and apply regardless of whether a court advises a person that a DNA sample must be provided to the State DNA Data Base and the State DNA Data Bank as a result of a conviction or adjudication of delinquency. A person who has been sentenced to death or life imprisonment without the possibility of parole or to any term of incarceration is not exempt from the requirements of this chapter. Any person subject to this chapter who has not provided a DNA sample for any reason, including because of an oversight or error, shall provide a DNA sample for inclusion in the State DNA Data Base and the State DNA Data Bank after being notified by authorized law enforcement or corrections personnel. If a person provides a DNA sample which

1 is not adequate for any reason, the person shall provide another
2 DNA sample for inclusion in the State DNA Data Base and the
3 State DNA Data Bank after being notified by authorized law
4 enforcement or corrections personnel. The DNA sample may be
5 collected under this chapter but shall not be required if the
6 authorized law enforcement or corrections official confirms that
7 a DNA sample from the person has already been validly collected
8 and provided to the State DNA Data Bank and a DNA record for the
9 person exists in the State DNA Data Base.

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

14 Section 2. Title 44 is amended by adding a section to read:
15 § 2316.1. Collection from persons accepted from other
16 jurisdictions.

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

1 DNA Data Bank and a DNA record for the person exists in the
2 State DNA Data Base.

3 (b) Time period.--

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

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

16 Section 3. Sections 2317 heading, (a) and (b), 2318(a) and
17 (c), 2319 and 2321 of Title 44 are amended to read:

18 § 2317. Procedures for [withdrawal,] collection and
19 transmission of DNA samples.

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

21 (1) Each DNA sample required to be [drawn] collected
22 pursuant to [section] sections 2316 (relating to DNA sample
23 required upon conviction, delinquency adjudication and
24 certain ARD cases) and 2316.1 (relating to collection from
25 persons accepted from other jurisdictions) [from persons who
26 are incarcerated or confined shall be drawn at the place of
27 incarceration or confinement as provided for in section 2316.
28 DNA samples from persons who are not ordered or sentenced to
29 a term of confinement shall be drawn at a prison, jail unit,
30 juvenile facility or other facility to be specified by the

1 court. Only] shall be collected as follows:

2 (i) From persons who are incarcerated or confined,
3 the DNA sample shall be collected at the place of
4 incarceration or confinement as provided in section 2316
5 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 sections 2316 and 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.

1 * * *

2 § 2318. Procedures for conduct, disposition and use of DNA
3 analysis.

4 (a) Procedures.--

5 (1) The State Police shall [prescribe] promulgate, as
6 necessary, rules, regulations and guidelines to implement
7 this chapter, including procedures to be used in the
8 collection, submission, identification, analysis, storage and
9 disposition of DNA samples and [typing results of] forensic
10 DNA profiles and records from DNA samples submitted under the
11 former DNA Act, former provisions of 42 Pa.C.S. Ch. 47
12 (relating to DNA data and testing) or this chapter.

13 (2) The [DNA sample typing] results of forensic DNA
14 testing shall be securely stored in the State DNA Data Base,
15 and records of testing shall be retained on file with the
16 State Police consistent with the procedures established by
17 the FBI[.] Quality Assurance Standards for forensic DNA
18 testing laboratories and DNA data basing laboratories and
19 CODIS policies and procedures.

20 (3) These procedures shall also include quality
21 assurance guidelines [to ensure that DNA identification
22 records meet standards] for samples and forensic DNA profiles
23 and records from accredited forensic DNA laboratories which
24 submit DNA records to the State DNA Data Base.

25 (4) The rules, regulations and guidelines shall address
26 the following:

27 (i) Verification of accreditation.

28 (ii) Compliance with FBI Quality Assurance
29 Standards, including continuing education requirements
30 for the personnel of forensics DNA testing laboratories.

* * *

(c) Use of tests.--

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

(2) A DNA sample or DNA record acquired under this chapter may not be used for human behavioral genetic research or for nonlaw enforcement or nonhumanitarian identification purposes.

* * *

§ 2319. DNA data base exchange.

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

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

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

1 this section.

2 (a.1) Contracts.--The State Police may contract [out the
3 storage of DNA typing analysis and may contract out] for DNA
4 [typing analysis] testing to [a qualified] an accredited
5 forensic DNA laboratory that meets the rules, regulations and
6 guidelines as established by the State Police under section
7 2318. [The results of the DNA profile of individuals] DNA
8 records in the State DNA Data Base 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 forensic DNA [samples] profiles
23 obtained under this chapter after all personal identification
24 is removed.

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

29 (3) The population data base may be made available to
30 and searched by other agencies participating in the CODIS

1 system.

2 § 2321. Expungement.

3 [(a) General rule.--A person whose DNA sample, record or
4 profile has been included in the State DNA Data Bank or the
5 State DNA Data Base pursuant to the former DNA Act, former 42
6 Pa.C.S. Ch. 47 (relating to DNA data and testing) or this
7 chapter may request expungement on the grounds that the
8 conviction or delinquency adjudication on which the authority
9 for including that person's DNA sample, record or profile was
10 based has been reversed and the case dismissed or that the DNA
11 sample, record or profile was included in the State DNA Data
12 Bank or the State DNA Data Base by mistake.

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

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

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

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 under the former DNA Act, former provisions
25 of 42 Pa.C.S. Ch. 47 (relating to DNA data and testing) or this
26 chapter may have the DNA sample, record or profile expunged in
27 accordance with this section.

28 (b) Removal by request.--A person whose DNA sample, record
29 or profile has been included in the State DNA Data Bank or the
30 State DNA Data Base under the former DNA Act, former provisions

1 of 42 Pa.C.S. Ch. 47 or this chapter may file a written request
2 with the State Police that the DNA sample, record or profile be
3 removed on the grounds that the DNA sample, record or profile
4 was included in the State DNA Data Bank or the State DNA Data
5 Base by mistake. If the State Police grants the request, the
6 request shall be processed at no cost and the State Police shall
7 provide written notice of the removal to the person and his
8 attorney of record, if any, within 60 days after destroying the
9 DNA sample, record and profile. If the State Police denies the
10 request, the person may request expungement of the DNA sample,
11 record or profile under subsection (b.1).

12 (b.1) Expungement by court order.--The following shall
13 apply:

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

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

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

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

30 (2) Paragraph (1) shall not apply if the person has been

1 convicted or adjudicated delinquent for any other crime for
2 which a DNA sample is required to be collected under this
3 chapter.

4 (3) The court shall give 10 days' prior notice to the
5 district attorney of the county where the original charges
6 were filed of any application for expungement under this
7 subsection.

8 (4) Notwithstanding any other law or rule of court, the
9 court shall have no authority to order the expungement of any
10 DNA sample, record or profile in the State DNA Data Bank or
11 the State DNA Data Base except as provided under this
12 subsection.

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

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

17 (1) Upon receipt of an expungement order issued under
18 subsection (b.1), the State Police shall destroy the DNA
19 sample, record and profile in the State DNA Data Bank and the
20 State DNA Data Base pertaining to a person identified in an
21 expungement order.

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 60 days after destroying the DNA sample, record and
27 profile.

28 (4) The State Police shall publish information regarding
29 the eligibility requirements for expungement under this
30 section and the steps necessary to obtain an expungement

1 under this section on the State Police's publicly accessible
2 Internet website. The State Police shall publish the
3 information in at least two commonly accessible formats, such
4 as HyperText Markup Language and Portable Document Format.

5 (c) Limitations.--

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

10 (2) A person may not seek expungement of a DNA sample,
11 record or profile on the ground that that person was
12 convicted or adjudicated delinquent for one of the other
13 specified offenses prior to the effective date of the former
14 DNA Act or this chapter.

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

19 Section 4. This act shall take effect as follows:

20 (1) This section shall take effect in 180 days.

21 (2) The addition of paragraphs (4) and (6) of the
22 definition of "other specified offense" in 44 Pa.C.S. § 2303
23 shall take effect December 1, 2019.

24 (3) The remainder of this act shall take effect in 180
25 days.