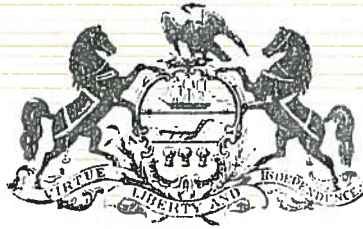


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House of Representatives
COMMONWEALTH OF PENNSYLVANIA
HARRISBURG

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FIRST CLASS CITIES
EDUCATION
VETERANS & EMERGENCY PREPAREDNESS

February 7, 2011

MEMORANDUM

Subject: Proposed Legislation
DNA

To: All House Members

From: Representative Thomas P. Murt

In the near future, I am planning to introduce legislation which will amend the Judicial Code (Title 42 of the Pennsylvania Consolidated Statutes) to require saliva or tissue samples to be taken for DNA analysis after an individual has been arrested for a violent offense. Additionally, my legislation provides for the storage of the DNA analysis in the DNA databank exchange.

Under the statute as it is presently written, DNA samples are only required to be taken, tested and stored if an individual is convicted or adjudicated delinquent for a felony sex offense or other specified offense. Additionally, acceptance into ARD as a result of a criminal charge for a felony sex offense or other specified offense may be conditioned upon the giving of a DNA sample.

My legislation will add a section to the general provisions relating to criminal proceedings by requiring that a saliva or tissue sample be taken for DNA analysis after an individual is arrested for a violent offense. A violent offense is defined in the new section as an offense under the Crimes Code (Title 18) which is punishable by imprisonment of more than one year and involves an act dangerous to human life or property including an attempt, conspiracy or solicitation to commit any such offense. The court would have to make a determination that probable cause exists for the arrest prior to the DNA sample being taken. The Pennsylvania State Police (PSP) or other entity designated by the Commissioner of the Pennsylvania State Police shall perform the analysis. The storage and maintenance of the identification characteristics of the profile resulting from the DNA analysis will be the responsibility of the PSP.

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My legislation will require the clerk of courts to notify the PSP, within 60 days, as to the final disposition of the criminal proceedings. If the charge for which the sample was taken is dismissed or the defendant is acquitted at trial, the PSP must destroy the sample and all records relating to the sample. However, if there are other pending arrests or felony convictions that would otherwise require that the sample remain in the bank, then the PSP will not destroy the sample and records.

My legislation also proposes to add section 8705 to the Judicial Code which will relate to the DNA data bank exchange. Under these provisions, the results of an analysis and comparison of the identification characteristics from two or more blood, saliva or tissue samples will be made available directly to Federal, State and Local law enforcement officers upon request made in furtherance of an official investigation of any criminal offense. Regular access to the database will be restricted to only those positions specifically designated by the PSP which require regular access as a necessary function of the job. Additionally, the PSP would create a separate statistical database comprised of DNA profiles of persons whose identities are unknown.

Similar legislation has been enacted in fifteen states: Alaska, Arizona, California, Kansas, Louisiana, Maryland, Michigan, Minnesota, New Mexico, North Dakota, South Carolina, South Dakota, Tennessee, Texas, and Virginia.

If you would like to join me in sponsoring this bill, please contact Amy Bossart in my office by e-mail at ABossart@pahousegop.com or by calling 787-6886.

TPM/ab