

AMENDMENTS TO HOUSE BILL NO. 1523

Sponsor: REPRESENTATIVE MARSICO

Printer's No. 1958

1 Amend Bill, page 1, lines 1 through 12, by striking out all
2 of said lines and inserting

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

15 Amend Bill, page 1, lines 15 through 21; pages 2 through 20,
16 lines 1 through 30; page 21, lines 1 through 25; by striking out
17 all of said lines on said pages and inserting

18 Section 1. Sections 2302, 2303, 2311(2), 2312, 2313, 2314,
19 2315 and 2316 of Title 44 of the Pennsylvania Consolidated
20 Statutes are amended to read:

21 § 2302. Policy.

22 The General Assembly finds and declares that:

23 (1) [DNA data banks are] Forensic DNA testing is an
24 important tool in criminal investigations, in [the exclusion
25 of] excluding innocent individuals who are the subject of
26 criminal investigations or prosecutions and in [detering and
27 detecting recidivist acts] detecting and deterring repeated
28 crimes by the same individual.

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

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

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

6 (5) It is in the best interest of the Commonwealth to
7 authorize the State Police to use DNA analysis and to
8 identify these individuals to a criminal justice agency in
9 certain cases.

10 § 2303. Definitions.

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

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

20 "ARD." Accelerated Rehabilitative Disposition.

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

27 "Commissioner." The Commissioner of the Pennsylvania State
28 Police.

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

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

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

39 "DNA record." A forensic DNA profile and identification
40 information stored in the State DNA Data Base or the Combined
41 DNA Index System for the purpose of [generating investigative
42 leads] identification or supporting statistical interpretation
43 of DNA test results. [The term includes nuclear and
44 mitochondrial typing. The DNA record is the result obtained from
45 the DNA typing tests. The DNA record is comprised of the
46 characteristics of a DNA sample which are of value in
47 establishing the identity of individuals. The results of all DNA
48 identification tests on an individual's DNA sample are also
49 collectively referred to as the DNA profile of an individual.]

50 "DNA sample." [A blood or tissue sample provided by any
51 person with respect to offenses covered by this chapter or

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

8 "FBI." The Federal Bureau of Investigation.

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

12 18 Pa.C.S. Ch. 31 (relating to sexual offenses).

13 18 Pa.C.S. § 4302 (relating to incest).

14 18 Pa.C.S. § [5902(c)(1)(iii) and (iv)] 5902(c)(1)(iv)
15 (relating to prostitution and related offenses).

16 18 Pa.C.S. § 5903(a) (relating to obscene and other
17 sexual materials and performances) where the offense
18 constitutes a felony.

19 [18 Pa.C.S. § 6312 (relating to sexual abuse of
20 children).

21 18 Pa.C.S. § 6318 (relating to unlawful contact with
22 minor) where the most serious underlying offense for which
23 the defendant contacted the minor is graded as a felony.

24 18 Pa.C.S. § 6320 (relating to sexual exploitation of
25 children).]

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

29 "Forensic DNA laboratory." A laboratory that performs
30 forensic DNA testing for the purposes of identification.

31 "Forensic DNA profile." The data set derived from forensic
32 DNA testing.

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

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

41 "Fund." The DNA Detection Fund reestablished in section 2335
42 (relating to DNA Detection Fund).

43 "Human behavioral genetic research." The study of the
44 possible genetic underpinnings of behaviors, including, but not
45 limited to, aggression, substance abuse, social attitudes,
46 mental abilities, sexual activity and eating habits.

47 "Law enforcement identification purposes." Assisting in the
48 determination of the identity of an individual whose DNA is
49 contained in a biological sample.

50 "Mitochondrial DNA analysis." A method that applies
51 techniques from molecular biology to analyze DNA found in the

1 mitochondria of cells for the purpose of identification.

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

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

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

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

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

13 (5) A misdemeanor offense requiring registration under
14 42 Pa.C.S. Ch. 97 Subch. H (relating to registration of
15 sexual offenders).

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

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

19 18 Pa.C.S. § 2903 (relating to false imprisonment).

20 18 Pa.C.S. § 3127 (relating to indecent exposure).

21 18 Pa.C.S. Ch. 39 (relating to theft and related
22 offenses).

23 18 Pa.C.S. § 4105 (relating to bad checks).

24 18 Pa.C.S. § 4106 (relating to access device fraud).

25 18 Pa.C.S. § 4952 (relating to intimidation of
26 witnesses or victims).

27 18 Pa.C.S. § 4953 (relating to retaliation against
28 witness, victim or party).

29 18 Pa.C.S. § 4958 (relating to intimidation,
30 retaliation or obstruction in child abuse cases).

31 18 Pa.C.S. § 5121 (relating to escape).

32 18 Pa.C.S. § 5126 (relating to flight to avoid
33 apprehension, trial or punishment).

34 18 Pa.C.S. § 5131 (relating to recruiting criminal
35 gang members).

36 18 Pa.C.S. § 5510 (relating to abuse of corpse).

37 18 Pa.C.S. § 5511 (relating to cruelty to animals).

38 18 Pa.C.S. § 5902 (relating to prostitution and
39 related offenses).

40 "State Police." The Pennsylvania State Police.

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

43 § 2311. Powers and duties of State Police.

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

46 * * *

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

50 * * *

51 § 2312. State DNA Data Base.

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

- 14 (1) forensic casework;
15 (2) convicted or delinquency adjudicated offenders
16 required to provide a DNA sample under this chapter; and
17 (3) anonymous DNA records used for statistical research
18 [or] on the frequency of DNA genotypes, quality control or
19 the development of new DNA identification methods.

20 § 2313. State DNA Data Bank.

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

24 § 2314. State Police recommendation of additional offenses and
25 annual report.

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

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

- 43 (1) The age, race and sex of those convicted from whom
44 DNA samples were submitted upon conviction.
45 (2) The fiscal impact on the State Police of collecting
46 and testing DNA samples from persons convicted of or
47 adjudicated delinquent for offenses.
48 (3) The average length of time between the receipt of
49 DNA samples from those convicted of offenses and the
50 completion of forensic DNA testing of each of those
51 categories of DNA samples.

1 (4) Recommendations, if any, under this section for the
2 inclusion of additional offenses for which DNA samples must
3 be collected or recommendations for the removal of specific
4 offenses from the categories requiring the collection of DNA
5 samples from arrestees or persons convicted of crimes.

6 § 2315. Procedural compatibility with FBI.

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

14 § 2316. DNA sample required upon conviction, delinquency
15 adjudication and certain ARD cases.

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

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

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

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

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

45 (1) A person who has been convicted or adjudicated
46 delinquent for a felony sex offense or other specified
47 offense and who serves a term of confinement in connection
48 therewith after June 18, 2002, shall not be released in any
49 manner unless and until a DNA sample has been [withdrawn]
50 collected.

51 (2) This chapter shall apply to incarcerated persons

1 convicted or adjudicated delinquent for a felony sex offense
2 or other specified offense prior to June 19, 2002.

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

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

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

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

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

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

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

49 Section 2. Title 44 is amended by adding a section to read:

50 § 2316.1. Collection from persons accepted from other
51 jurisdictions.

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

17 (b) Time period.--

18 (1) If the person accepted under subsection (a) is not
19 confined, the DNA sample and fingerprints required under this
20 chapter shall be provided within five calendar days after the
21 person reports to the supervising agent or within five
22 calendar days of notice to the person, whichever occurs
23 first. The person shall appear and the DNA sample shall be
24 collected in accordance with the provisions of this chapter.

25 (2) If the person accepted under subsection (a) is
26 confined, the person shall provide the DNA sample and
27 fingerprints required by this chapter within five calendar
28 days after the person is received at a place of incarceration
29 or confinement.

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

32 § 2317. Procedures for [withdrawal,] collection and
33 transmission of DNA samples.

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

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

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

50 (ii) DNA samples from persons who are not ordered to
51 be or are not currently incarcerated or confined shall be

1 collected as provided in sections 2316 or 2316.1 or at a
2 prison, jail unit, juvenile facility or other facility
3 specified by the court or supervising agency.

4 (iii) For DNA blood samples, only those individuals
5 qualified to draw DNA blood samples in a medically
6 approved manner shall draw a DNA blood sample to be
7 submitted for DNA analysis. [Such sample]

8 (iv) DNA samples and the set of fingerprints
9 provided for in paragraph (2) shall be delivered to the
10 State Police within 48 hours of [drawing] collecting the
11 sample.

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

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

24 * * *

25 § 2318. Procedures for conduct, disposition and use of DNA
26 analysis.

27 (a) Procedures.--

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

36 (2) The [DNA sample typing] results of forensic DNA
37 testing shall be securely stored in the State DNA Data Base,
38 and records of testing shall be retained on file with the
39 State Police consistent with the procedures established by
40 the FBI[.] Quality Assurance Standards for forensic DNA
41 testing laboratories and DNA data basing laboratories and
42 CODIS policies and procedures.

43 (3) These procedures shall also include quality
44 assurance guidelines [to ensure that DNA identification
45 records meet standards for] for samples and forensic DNA
46 profiles and records from accredited forensic DNA
47 laboratories which submit DNA records to the State DNA Data
48 Base.

49 (4) The rules, regulations and guidelines shall address
50 the following:

51 (i) Verification of accreditation.

1 (ii) Compliance with FBI Quality Assurance
2 Standards, including continuing education requirements
3 for the personnel of forensics DNA testing laboratories.

4 * * *

5 (c) Use of tests.--

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

13 (2) A DNA sample or DNA record acquired under this
14 chapter may not be used for human behavioral genetic research
15 or for non-law enforcement or nonhumanitarian identification
16 purposes.

17 * * *

18 § 2319. DNA data base exchange.

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

21 (1) Receive and store DNA samples, [to store,] to
22 perform [analysis] forensic DNA testing or to contract for
23 [DNA typing analysis] testing with [a qualified] an
24 accredited forensic DNA laboratory that meets the
25 [guidelines] rules, regulations and guidelines under section
26 2318 (relating to procedures for conduct, disposition and use
27 of DNA analysis) as established by the State Police[, to
28 classify and to file the DNA record of identification
29 characteristic PROFILES OF].

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

35 (a.1) Contracts.--The State Police may contract [out the
36 storage of DNA typing analysis and may contract out] for DNA
37 [typing analysis] testing to [a qualified] an accredited
38 forensic DNA laboratory that meets the rules, regulations and
39 guidelines as established by the State Police under section
40 2318. [The results of the DNA profile of individuals] DNA
41 records in the State DNA Data Base shall be made available:

42 (1) to criminal justice agencies or [approved crime]
43 CODIS-participating DNA laboratories which serve these
44 agencies; or

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

48 (b) Methods of obtaining information.--The State Police
49 shall [adopt] promulgate, as necessary, rules, regulations and
50 guidelines governing the methods of obtaining information from
51 the State DNA Data Base and CODIS and procedures for

1 verification of the identity and authority of the requester.

2 (c) Population data base.--

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

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

11 (3) The population data base may be made available to
12 and searched by other agencies participating in the CODIS
13 system.

14 § 2321. Expungement.

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

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

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

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

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

40 (b) Removal by request.--A person whose DNA sample, record
41 or profile has been included in the State DNA Data Bank or the
42 State DNA Data Base under the former DNA Act, former provisions
43 of 42 Pa.C.S. Ch. 47 or this chapter may file a written request
44 with the State Police that the DNA sample, record or profile be
45 removed on the grounds that the DNA sample, record or profile
46 was included in the State DNA Data Bank or the State DNA Data
47 Base by mistake. If the State Police grants the request, the
48 request shall be processed at no cost and the State Police shall
49 provide written notice of the removal to the person and his
50 attorney of record, if any, within 60 days after destroying the
51 DNA sample, record or profile. If the State Police denies the

1 request, the person may request expungement of the DNA sample,
2 record or profile under subsection (b.1).

3 (b.1) Expungement by court order.--The following shall
4 apply:

5 (1) Except as provided under paragraph (2), a person may
6 request the court of common pleas of the county where the
7 original charges were filed to issue an order directing the
8 expungement of the DNA sample, record or profile pertaining
9 to the person in the State DNA Data Bank or the State DNA
10 Data Base in the following instances:

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

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

16 (iii) the DNA sample, record or profile was included
17 in the State DNA Data Bank or State DNA Data Base by
18 mistake and the State Police has erroneously refused to
19 grant the person's request for removal under subsection
20 (b).

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

25 (3) The court shall give 10 days' prior notice to the
26 district attorney of the county where the original charges
27 were filed of an application for expungement under this
28 subsection.

29 (4) Notwithstanding any other law or rule of court, the
30 court shall have no authority to order the expungement of a
31 DNA sample, record or profile in the State DNA Data Bank or
32 the State DNA Data Base except as provided under this
33 subsection.

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

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

38 (1) Upon receipt of an expungement order issued under
39 subsection (b.1), the State Police shall destroy the DNA
40 sample, record or profile in the State DNA Data Bank and the
41 State DNA Data Base pertaining to a person identified in an
42 expungement order.

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

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

49 (4) The State Police shall publish information regarding
50 the eligibility requirements for expungement under this
51 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.