

## 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

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

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

(i) Verification of accreditation.

(ii) Compliance with FBI Quality Assurance Standards, including continuing education requirements for the personnel of forensic 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 non-law 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 this section.

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

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