

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 841 Session of
2023INTRODUCED BY HOWARD, SANCHEZ, MADDEN, KHAN, KRAJEWSKI AND
KINKEAD, APRIL 4, 2023AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES,
JUNE 29, 2023

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 DNA sample
4 required upon conviction, delinquency adjudication and
5 certain ARD cases, for collection from persons accepted from
6 other jurisdictions, for expungement and for mandatory cost.

7 The General Assembly of the Commonwealth of Pennsylvania
8 hereby enacts as follows:

9 Section 1. Section 2302(4) of Title 44 of the Pennsylvania
10 Consolidated Statutes, amended February 3, 2022 (P.L.16, No.4),
11 is amended to read:

12 § 2302. Policy.

13 The General Assembly finds and declares that:

14 * * *

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

1 containing DNA samples collected as part of an investigation
2 into missing persons or unidentified decedents.

3 * * *

4 Section 2. The definition of "other specified offense" in
5 section 2303 of Title 44 is amended and the section is amended
6 by adding a definition to read:

7 § 2303. Definitions.

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

11 * * *

12 "Other specified offense of an adult." Any of the following:

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

14 (2) (Reserved).

15 (3) (Reserved).

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

19 (5) A misdemeanor offense requiring registration under
20 42 Pa.C.S. Ch. 97 Subch. H (relating to registration of
21 sexual offenders).

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

24 18 Pa.C.S. § 2701 (relating to simple assault).

25 18 Pa.C.S. § 2903 (relating to false imprisonment).

26 18 Pa.C.S. § 3127 (relating to indecent exposure).

27 18 Pa.C.S. Ch. 39 (relating to theft and related
28 offenses).

29 18 Pa.C.S. § 4105 (relating to bad checks).

30 18 Pa.C.S. § 4106 (relating to access device fraud).

1 18 Pa.C.S. § 4952 (relating to intimidation of
2 witnesses or victims).

3 18 Pa.C.S. § 4953 (relating to retaliation against
4 witness, victim or party).

5 18 Pa.C.S. § 4958 (relating to intimidation,
6 retaliation or obstruction in child abuse cases).

7 18 Pa.C.S. § 5121 (relating to escape).

8 18 Pa.C.S. § 5126 (relating to flight to avoid
9 apprehension, trial or punishment).

10 18 Pa.C.S. § 5131 (relating to recruiting criminal
11 gang members).

12 18 Pa.C.S. § 5510 (relating to abuse of corpse).

13 18 Pa.C.S. Ch. 55 Subch. B (relating to cruelty to
14 animals).

15 18 Pa.C.S. § 5902 (relating to prostitution and
16 related offenses).

17 "Other specified offense of a juvenile." An offense under
18 any of the following for which a juvenile has been tried as an
19 adult or adjudicated delinquent:

20 (1) 18 Pa.C.S. § 2502 (relating to murder).

21 (2) 18 Pa.C.S. § 2503 (relating to voluntary
22 manslaughter).

23 (3) 18 Pa.C.S. § 2507 (relating to criminal homicide of
24 law enforcement officer).

25 (4) 18 Pa.C.S. § 2702 (relating to aggravated assault).

26 (5) 18 Pa.C.S. § 2702.1 (relating to assault of law
27 enforcement officer).

28 (6) 18 Pa.C.S. § 2707.1 (relating to discharge of a
29 firearm into an occupied structure).

30 (7) 18 Pa.C.S. § 2716 (relating to weapons of mass

destruction).

(8) 18 Pa.C.S. § 2717 (relating to terrorism).

(9) 18 Pa.C.S. § 2718 (relating to strangulation).

(10) A MISDEMEANOR OFFENSE REQUIRING REGISTRATION UNDER <--

42 PA.C.S. CH. 97 SUBCH. H.

* * *

Section 3. Sections 2316(a) introductory paragraph, (b) and (c) and 2316.1(a) of Title 44 are amended to read:

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

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

* * *

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

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

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

(3) The following shall apply:

(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] offense of an adult 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 of an adult" 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 of an adult, other than an offense enumerated under paragraph (4) or (6) of the definition of "other specified offense of an adult" in section 2303 filed after June 18, 2002, may be conditioned upon the collection of a DNA sample.

* * *

§ 2316.1. Collection from persons accepted from other jurisdictions.

(a) Conditional acceptance.--When a person is accepted into this Commonwealth for supervision from another jurisdiction under the Interstate Compact for Supervision of Adult Offenders, other reciprocal agreement with a Federal, state or county agency, or a provision of law, whether or not the person is confined or released, the acceptance shall be conditioned on the offender providing a DNA sample under this chapter and fingerprints if the offender has a past or present Federal, state or military court conviction or adjudication that is equivalent to a felony sex offense or other specified offense of

1 an adult as determined by the Pennsylvania Parole Board [of
2 Probation and Parole]. Additional DNA samples may be collected
3 but shall not be required if the supervising agency or place of
4 confinement confirms that a DNA sample is currently on file with
5 the State DNA Data Bank and a DNA record for the person exists
6 in the State DNA Data Base.

7 * * *

8 Section 4. Section 2321(c)(2) of Title 44 is amended and the
9 section is amended by adding a subsection to read:

10 § 2321. Expungement.

11 * * *

12 (a.1) Automatic expungement of juvenile record.--A DNA
13 sample, record or profile of a juvenile that has been included
14 in the State DNA Data Bank or the State DNA Data Base under the
15 former DNA Act, former provisions of 42 Pa.C.S. Ch. 47 or this
16 chapter shall be automatically expunged at the time the
17 applicable offense would be eligible for expungement.

18 * * *

19 (c) Limitations.--

20 * * *

21 (2) A person may not seek expungement of a DNA sample,
22 record or profile on the ground that that person was
23 convicted or adjudicated delinquent for [one of the other]
24 another specified [offenses] offense of an adult prior to the
25 effective date of the former DNA Act or this chapter.

26 * * *

27 Section 5. Section 2322 of Title 44 is amended to read:

28 § 2322. Mandatory cost.

29 Unless the court finds that undue hardship would result, a
30 mandatory cost of \$250, which shall be in addition to any other

1 costs imposed pursuant to statutory authority, shall
2 automatically be assessed on any person convicted, adjudicated
3 delinquent or granted ARD for a felony sex offense or other
4 specified offense of an adult, and all proceeds derived from
5 this section shall be transmitted to the fund.

6 Section 6. This act shall take effect in 60 days.