

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 775 Session of
2011

INTRODUCED BY PILEGGI, GREENLEAF, RAFFERTY, ERICKSON, YAW,
PIPPY, LEACH, VANCE, SOLOBAY, WARD AND BROWNE, MARCH 15, 2011

SENATE AMENDMENTS TO HOUSE AMENDMENTS, OCTOBER 17, 2012

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; 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 and for DNA data base exchange, for expungement~~
13 ~~and for mandatory cost.~~

14 AMENDING TITLE 44 (LAW AND JUSTICE) OF THE PENNSYLVANIA ←
15 CONSOLIDATED STATUTES, IN DNA DATA AND TESTING, FURTHER
16 PROVIDING FOR POLICY, FOR DEFINITIONS, FOR POWERS AND DUTIES
17 OF STATE POLICE, FOR STATE DNA DATA BASE, FOR STATE DNA DATA
18 BANK, FOR STATE POLICE RECOMMENDATION OF ADDITIONAL OFFENSES,
19 FOR PROCEDURAL COMPATIBILITY WITH FBI AND FOR DNA SAMPLE
20 REQUIRED UPON CONVICTION, DELINQUENCY ADJUDICATION AND
21 CERTAIN ARD CASES; PROVIDING FOR COLLECTION FROM PERSONS
22 ACCEPTED FROM OTHER JURISDICTIONS; FURTHER PROVIDING FOR
23 PROCEDURES FOR WITHDRAWAL, COLLECTION AND TRANSMISSION OF DNA
24 SAMPLES, FOR PROCEDURES FOR CONDUCT, DISPOSITION AND USE OF
25 DNA ANALYSIS; PROVIDING FOR REQUEST FOR MODIFIED DNA SEARCH;
26 AND FURTHER PROVIDING FOR DNA DATA BASE EXCHANGE, FOR
27 EXPUNGEMENT AND FOR MANDATORY COST.

28 The General Assembly of the Commonwealth of Pennsylvania

29 hereby enacts as follows:

30 ~~Section 1. Sections 2302, 2303, 2311(2), 2312, 2313, 2314,~~ ←

1 ~~2315 and 2316 of Title 44 of the Pennsylvania Consolidated~~
2 ~~Statutes are amended to read:~~

3 ~~§ 2302. Policy.~~

4 ~~The General Assembly finds and declares that:~~

5 ~~(1) DNA data banks are an important tool in criminal~~
6 ~~investigations, in [the exclusion of] excluding innocent~~
7 ~~individuals who are the subject of criminal investigations or~~
8 ~~prosecutions and in [detering and detecting recidivist acts]-~~
9 ~~detecting and deterring repeated crimes by the same~~
10 ~~individual.~~

11 ~~(2) Several states have enacted laws requiring persons~~
12 ~~convicted of certain crimes, especially sex offenses, to~~
13 ~~provide genetic samples for DNA profiling.~~

14 ~~(3) Moreover, it is the policy of the Commonwealth to~~
15 ~~assist Federal, State and local criminal justice and law~~
16 ~~enforcement agencies in the identification and detection of~~
17 ~~individuals in criminal investigations.~~

18 ~~(4) It is therefore in the best interest of the~~
19 ~~Commonwealth to establish a DNA data base and a DNA data bank~~
20 ~~containing DNA samples submitted by individuals convicted of,~~
21 ~~adjudicated delinquent for or accepted into ARD for criminal~~
22 ~~homicides, felony sex offenses and other specified offenses.~~

23 ~~(5) It is in the best interest of the Commonwealth to~~
24 ~~authorize the State Police to use DNA analysis and to~~
25 ~~identify these individuals to a criminal justice agency in~~
26 ~~certain cases.~~

27 ~~§ 2303. Definitions.~~

28 ~~The following words and phrases when used in this chapter~~
29 ~~shall have the meanings given to them in this section unless the~~
30 ~~context clearly indicates otherwise:~~

1 ~~"Accredited forensic DNA laboratory." A forensic DNA~~
2 ~~laboratory that has received accreditation by an accrediting~~
3 ~~body nationally recognized within the forensic science community~~
4 ~~in accordance with the FBI Quality Assurance Standards to~~
5 ~~perform forensic DNA testing and is in compliance with FBI~~
6 ~~quality assurance standards.~~

7 ~~"ARD." Accelerated Rehabilitative Disposition.~~

8 ~~"CODIS." The [term is derived from] Combined DNA Index~~
9 ~~System[, the Federal Bureau of Investigation's national DNA~~
10 ~~identification index system that allows the storage and exchange~~
11 ~~of DNA records submitted by state and local forensic DNA~~
12 ~~laboratories] established and maintained by the Federal Bureau~~
13 ~~of Investigation.~~

14 ~~"Commissioner." The Commissioner of the Pennsylvania State~~
15 ~~Police.~~

16 ~~"Crime scene DNA profile." A DNA profile derived from a DNA~~
17 ~~sample recovered from a victim, crime scene or item linked to a~~
18 ~~crime, which may have originated from a perpetrator.~~

19 ~~"Criminal homicide." Any of the following:~~

20 ~~(1) 18 Pa.C.S. § 2501 (relating to criminal homicide).~~

21 ~~(2) 18 Pa.C.S. § 2502 (relating to murder).~~

22 ~~(3) 18 Pa.C.S. § 2503 (relating to voluntary~~
23 ~~manslaughter).~~

24 ~~(4) 18 Pa.C.S. § 2504 (relating to involuntary~~
25 ~~manslaughter), when the offense is graded as a felony.~~

26 ~~(5) 18 Pa.C.S. § 2505 (relating to causing or aiding~~
27 ~~suicide), when the offense is graded as a felony.~~

28 ~~(6) 18 Pa.C.S. § 2506 (relating to drug delivery~~
29 ~~resulting in death).~~

30 ~~(7) 18 Pa.C.S. § 2507 (relating to criminal homicide of~~

1 ~~law enforcement officer).~~

2 ~~(8) 18 Pa.C.S. § 2603 (relating to criminal homicide of~~
3 ~~unborn child).~~

4 ~~(9) 18 Pa.C.S. § 2604 (relating to murder of unborn~~
5 ~~child).~~

6 ~~(10) 18 Pa.C.S. § 2605 (relating to voluntary~~
7 ~~manslaughter of unborn child).~~

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

10 "DNA." ~~Deoxyribonucleic acid[. DNA is located in the cells~~
11 ~~and provides an individual's personal genetic blueprint. DNA]~~
12 ~~located in the chromosomes or mitochondria of a living~~
13 ~~organism's cells which encodes genetic information that is the~~
14 ~~basis of human heredity and forensic identification.~~

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

26 "DNA sample." ~~[A blood or tissue sample provided by any~~
27 ~~person with respect to offenses covered by this chapter or~~
28 ~~submitted to the Pennsylvania State Police laboratory pursuant~~
29 ~~to the former act of May 28, 1995 (1st Sp.Sess., P.L.1009,~~
30 ~~No.14), known as the DNA Detection of Sexual and Violent~~

1 ~~Offenders Act, to the former 42 Pa.C.S. Ch. 47 (relating to DNA-~~
2 ~~data and testing) or to this chapter for analysis or storage, or~~
3 ~~both.] A sample of biological material suitable for DNA~~
4 ~~analysis.~~

5 ~~"FBI." The Federal Bureau of Investigation.~~

6 ~~"Felony sex offense." A felony offense or an attempt,~~
7 ~~conspiracy or solicitation to commit a felony offense under any~~
8 ~~of the following:~~

9 ~~18 Pa.C.S. Ch. 31 (relating to sexual offenses).~~

10 ~~18 Pa.C.S. § 3130 (relating to conduct relating to sex~~
11 ~~offenders).~~

12 ~~18 Pa.C.S. § 4302 (relating to incest).~~

13 ~~18 Pa.C.S. § [5902(c)(1)(iii) and (iv)] 5902(c)(1)(iv)~~
14 ~~(relating to prostitution and related offenses).~~

15 ~~18 Pa.C.S. § 5903(a) (relating to obscene and other~~
16 ~~sexual materials and performances) where the offense~~
17 ~~constitutes a felony.~~

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

20 ~~18 Pa.C.S. § 6318 (relating to unlawful contact with~~
21 ~~minor) where the most serious underlying offense for which~~
22 ~~the defendant contacted the minor is graded as a felony.~~

23 ~~18 Pa.C.S. § 6320 (relating to sexual exploitation of~~
24 ~~children).]~~

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

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

30 ~~"Forensic DNA testing." A test that applies techniques from~~

1 ~~molecular biology to analyze deoxyribonucleic acid (DNA) to~~
2 ~~identify characteristics unique to a particular individual.~~

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

6 ~~"Fund." The DNA Detection Fund reestablished in section 2335~~
7 ~~(relating to DNA Detection Fund).~~

8 ~~"Human behavioral genetic research." The study of the~~
9 ~~possible genetic underpinnings of behaviors, including, but not~~
10 ~~limited to, aggression, substance abuse, social attitudes,~~
11 ~~mental abilities, sexual activity and eating habits.~~

12 ~~"Law enforcement identification purposes." Assisting in the~~
13 ~~determination of the identity of an individual whose DNA is~~
14 ~~contained in a biological sample.~~

15 ~~"Mitochondrial DNA analysis." A method that applies~~
16 ~~techniques from molecular biology to analyze DNA found in the~~
17 ~~mitochondria of cells.~~

18 ~~"Other specified offense." Any of the following:~~

19 ~~(1) A felony offense, other than criminal homicide or a~~
20 ~~felony sex offense.~~

21 ~~[(2) An offense under 18 Pa.C.S. § 2910 (relating to~~
22 ~~luring a child into a motor vehicle or structure) or 3126~~
23 ~~(relating to indecent assault) or an attempt to commit such~~
24 ~~an offense.~~

25 ~~(3) An offense subject to 42 Pa.C.S. Ch. 97 Subch. H~~
26 ~~(relating to registration of sexual offenders).]~~

27 ~~(4) 18 Pa.C.S. § 2701(b)(2) (relating to simple~~
28 ~~assault).~~

29 ~~(5) 18 Pa.C.S. § 2902(a) (relating to unlawful~~
30 ~~restraint).~~

1 ~~(6) 18 Pa.C.S. § 3503(b)(1)(v) (relating to criminal~~
2 ~~trespass).~~

3 ~~(7) 18 Pa.C.S. § 4303 (relating to concealing death of~~
4 ~~child).~~

5 ~~(8) 18 Pa.C.S. § 4305 (relating to dealing in infant~~
6 ~~children).~~

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

10 ~~"State Police." The Pennsylvania State Police.~~

11 ~~"Y chromosome analysis." A method that applies techniques~~
12 ~~from molecular biology to examine DNA found on the Y chromosome.~~

13 ~~§ 2311. Powers and duties of State Police.~~

14 ~~In addition to any other powers and duties conferred by this~~
15 ~~chapter, the State Police shall:~~

16 ~~* * *~~

17 ~~(2) Promulgate [rules and regulations], as necessary,~~
18 ~~rules, regulations and guidelines to carry out the provisions~~
19 ~~of this chapter.~~

20 ~~* * *~~

21 ~~§ 2312. State DNA Data Base.~~

22 ~~[The State DNA Data Base is reestablished. It shall be~~
23 ~~administered by the State Police and provide DNA records to the~~
24 ~~FBI for storage and maintenance by CODIS.] A Statewide DNA Data~~
25 ~~Base is established within the State Police to store DNA records~~
26 ~~from DNA samples submitted for analysis and storage to the State~~
27 ~~Police laboratory under the former DNA Act, the former~~
28 ~~provisions of 42 Pa.C.S. Ch. 47 (relating to DNA data and~~
29 ~~testing) or to this chapter, and to provide DNA records to~~
30 ~~CODIS. The State DNA Data Base shall have the capability~~

1 ~~provided by computer software and procedures administered by the~~
2 ~~State Police to store and maintain DNA records related to:~~

3 ~~(1) forensic casework;~~

4 ~~(2) [convicted] convicted or delinquency adjudicated~~
5 ~~offenders required to provide a DNA sample under this~~
6 ~~chapter; and~~

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

10 ~~§ 2313. State DNA Data Bank.~~

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

14 ~~§ 2314. State Police recommendation of additional offenses and~~
15 ~~annual report.~~

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

24 ~~(b) Annual report. No later than August 1 of each year, the~~
25 ~~commissioner shall submit to the Governor's Office, the majority~~
26 ~~and minority chairmen of the Senate Judiciary Committee and the~~
27 ~~majority and minority chairmen of the House Judiciary Committee,~~
28 ~~a written report containing information regarding the collection~~
29 ~~and testing of DNA samples under the provisions of this chapter.~~
30 ~~The report must include, but need not be limited to, the~~

1 ~~following information pertaining to the previous fiscal year:~~

2 ~~(1) The number of DNA samples collected at arrest.~~

3 ~~(2) The number of DNA samples collected at arrest that~~
4 ~~contributed to the filing of charges in or the closing of~~
5 ~~investigations related to previously unsolved offenses.~~

6 ~~(3) The number of acquittals, convictions and dismissals~~
7 ~~in cases where DNA samples collected at arrest contributed to~~
8 ~~the filing of charges in previously unsolved offenses.~~

9 ~~(4) The age, ethnicity, race and sex of arrestees from~~
10 ~~whom DNA samples were collected at arrest and upon~~
11 ~~conviction.~~

12 ~~(5) The fiscal impact on the State Police of collecting~~
13 ~~DNA samples from persons convicted of offenses.~~

14 ~~(6) The fiscal impact on the State Police of collecting~~
15 ~~DNA samples from arrestees.~~

16 ~~(7) The number of DNA samples collected at arrest that~~
17 ~~were expunged from the Statewide DNA Data Base by request, by~~
18 ~~court order, as a result of acquittal, as a result of charges~~
19 ~~never having been filed and because charges filed were~~
20 ~~dismissed.~~

21 ~~(8) The average length of time between the collection of~~
22 ~~DNA samples from arrestees and from those convicted of~~
23 ~~offenses and the completion of forensic DNA testing of each~~
24 ~~of those categories of DNA samples.~~

25 ~~(9) Recommendations, if any, under this section for the~~
26 ~~inclusion of additional offenses for which DNA samples must~~
27 ~~be collected or recommendations for the removal of specific~~
28 ~~offenses from the categories requiring the collection of DNA~~
29 ~~samples from arrestees or persons convicted of crimes.~~

30 ~~§ 2315. Procedural compatibility with FBI.~~

1 ~~The DNA identification system [as] established by the State~~
2 ~~Police shall be compatible with the procedures [specified]~~
3 ~~established by the FBI quality assurance standards for forensic~~
4 ~~DNA testing laboratories and DNA data basing laboratories and~~
5 ~~CODIS policies and procedures, including use of comparable test~~
6 ~~procedures, laboratory equipment, supplies and computer~~
7 ~~software.~~

8 ~~§ 2316. DNA sample required [upon conviction, delinquency~~
9 ~~adjudication and certain ARD cases].~~

10 ~~(a) [General rule] Conviction or adjudication. A person who~~
11 ~~is convicted or adjudicated delinquent for criminal homicide, a~~
12 ~~felony sex offense or other specified offense or who is or~~
13 ~~remains incarcerated for criminal homicide, a felony sex offense~~
14 ~~or other specified offense on or after the effective date of~~
15 ~~this chapter shall have a DNA sample [drawn] collected as~~
16 ~~follows:~~

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

29 ~~(2) A person who is convicted or adjudicated delinquent~~
30 ~~for an offense covered by this subsection shall have a DNA~~

1 ~~sample [drawn] collected as a condition for any sentence or~~
2 ~~adjudication which disposition will not involve an intake~~
3 ~~into a prison, jail, juvenile detention facility or any other~~
4 ~~detention facility or institution.~~

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

10 ~~(b) Condition of release, probation or parole.~~

11 ~~(1) A person who has been convicted or adjudicated~~
12 ~~delinquent for criminal homicide, a felony sex offense or~~
13 ~~other specified offense and who serves a term of confinement~~
14 ~~in connection therewith after June 18, 2002, shall not be~~
15 ~~released in any manner unless and until a DNA sample has been~~
16 ~~[withdrawn] collected.~~

17 ~~(2) This chapter shall apply to incarcerated persons~~
18 ~~convicted or adjudicated delinquent for criminal homicide, a~~
19 ~~felony sex offense or other specified offense prior to June~~
20 ~~19, 2002.~~

21 ~~(3) This chapter shall apply to incarcerated persons and~~
22 ~~persons on probation or parole who were convicted or~~
23 ~~adjudicated delinquent for criminal homicide, a felony sex~~
24 ~~offense or other specified offenses prior to the effective~~
25 ~~date of this paragraph.~~

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

30 ~~(d) Supervision of DNA samples. All DNA samples taken~~

1 ~~pursuant to this section shall be taken in accordance with~~
2 ~~rules, regulations and guidelines promulgated by the State~~
3 ~~Police in consultation with the Department of Corrections.~~

4 ~~(d.1) Mandatory submission. The requirements of this~~
5 ~~chapter are mandatory and apply regardless of whether a court~~
6 ~~advises a person that a DNA sample must be provided to the State~~
7 ~~DNA Data Base and the State DNA Data Bank as a result of a~~
8 ~~conviction or adjudication of delinquency. A person who has been~~
9 ~~sentenced to death or life imprisonment without the possibility~~
10 ~~of parole or to any term of incarceration is not exempt from the~~
11 ~~requirements of this chapter. Any person subject to this chapter~~
12 ~~who has not provided a DNA sample for any reason, including~~
13 ~~because of an oversight or error, shall provide a DNA sample for~~
14 ~~inclusion in the State DNA Data Base and the State DNA Data Bank~~
15 ~~after being notified by authorized law enforcement or~~
16 ~~corrections personnel. If a person provides a DNA sample which~~
17 ~~is not adequate for any reason, the person shall provide another~~
18 ~~DNA sample for inclusion in the State DNA Data Base and the~~
19 ~~State DNA Data Bank after being notified by authorized law~~
20 ~~enforcement or corrections personnel. The collection of a DNA~~
21 ~~sample under this chapter shall not be required if the~~
22 ~~authorized law enforcement or corrections official confirms that~~
23 ~~a DNA sample from the person has already been validly collected~~
24 ~~and provided to the State DNA Data Base and the State DNA Data~~
25 ~~Bank.~~

26 ~~(e) Definition. As used in this section, the term~~
27 ~~"released" means any release, parole, furlough, work release,~~
28 ~~prerelease or release in any other manner from a prison, jail,~~
29 ~~juvenile detention facility or any other place of confinement.~~

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

1 ~~§ 2316.1. Collection from persons accepted from other~~
2 ~~jurisdictions.~~

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

16 ~~(b) Time period.~~

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

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

29 ~~Section 3. Sections 2317(a)(1) and (b) and 2318(a) and (c)~~
30 ~~of Title 44 are amended to read:~~

1 ~~§ 2317. Procedures for [withdrawal,] collection and~~
2 ~~transmission of DNA samples.~~

3 ~~(a) [Drawing] Collection of DNA samples.~~

4 ~~(1) Each DNA sample required to be [drawn] collected~~
5 ~~pursuant to [section] sections 2316 (relating to DNA sample~~
6 ~~required [upon conviction, delinquency adjudication and~~
7 ~~certain ARD cases]) and 2316.1 (relating to collection from~~
8 ~~persons accepted from other jurisdictions) from persons who~~
9 ~~are incarcerated or confined shall be [drawn] collected at~~
10 ~~the place of incarceration or confinement as provided for in~~
11 ~~section 2316. DNA samples from persons who are not ordered or~~
12 ~~sentenced to a term of confinement shall be [drawn] collected~~
13 ~~at a prison, jail unit, juvenile facility or other facility~~
14 ~~to be specified by the court. [Only] For DNA blood samples,~~
15 ~~only those individuals qualified to draw DNA blood samples in~~
16 ~~a medically approved manner shall draw a DNA blood sample to~~
17 ~~be submitted for DNA analysis. [Such sample] DNA samples and~~
18 ~~the set of fingerprints provided for in paragraph (2) shall~~
19 ~~be delivered to the State Police within 48 hours of [drawing]~~
20 ~~collecting the sample.~~

21 ~~* * *~~

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

30 ~~§ 2318. Procedures for conduct, disposition and use of DNA~~

1 analysis.

2 ~~(a) Procedures.~~

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

11 ~~(2) The DNA sample typing results shall be securely~~
12 ~~stored in the State DNA Data Base, and records of testing~~
13 ~~shall be retained on file with the State Police consistent~~
14 ~~with the procedures established by the FBI quality assurance~~
15 ~~standards for forensic DNA testing laboratories and DNA data~~
16 ~~basing laboratories and CODIS policies and procedures.~~

17 ~~(3) These procedures shall also include quality~~
18 ~~assurance guidelines to ensure that DNA identification~~
19 ~~records meet standards for accredited forensic DNA~~
20 ~~laboratories which submit DNA records to the State DNA Data~~
21 ~~Base.~~

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

24 ~~(i) Verification of accreditation.~~

25 ~~(ii) Compliance with FBI quality assurance standards~~
26 ~~including continuing education requirements for the~~
27 ~~personnel of forensics DNA testing laboratories.~~

28 * * *

29 ~~(c) Use of tests.~~

30 ~~(1) Except as otherwise provided in section 2319(c)~~

1 ~~(relating to DNA data base exchange), the tests to be~~
2 ~~performed on each DNA sample shall be used only for law~~
3 ~~enforcement identification purposes or to assist in the~~
4 ~~recovery or identification of human remains from disasters or~~
5 ~~for other humanitarian identification purposes, including~~
6 ~~identification of missing persons.~~

7 ~~(2) No DNA sample, record or profile acquired under this~~
8 ~~chapter may be used for human behavioral genetic research or~~
9 ~~for nonlaw enforcement or nonhumanitarian identification~~
10 ~~purposes.~~

11 * * *

12 Section 4. Sections 2319, 2321 and 2322 of Title 44 are
13 amended to read:

14 § 2319. DNA data base exchange.

15 (a) Receipt of DNA samples by State Police. It shall be the
16 duty of the State Police to receive DNA samples, to store, to
17 perform analysis or to contract for DNA typing analysis with [a
18 qualified] an accredited forensic DNA laboratory that meets the
19 [guidelines] rules, regulations and guidelines under section
20 2318 (relating to procedures for conduct, disposition and use of
21 DNA analysis) as established by the State Police, to classify
22 and to file the DNA record of identification characteristic
23 profiles of DNA samples submitted under the former DNA Act,
24 former provisions of 42 Pa.C.S. Ch. 47 (relating to DNA data and
25 testing) or this chapter and to make such information available
26 as provided in this section. The State Police may contract [out]
27 for the storage of DNA typing analysis [and may contract out] or
28 DNA typing analysis to [a qualified] an accredited forensic DNA
29 laboratory that meets the rules, regulations and guidelines as
30 established by the State Police under section 2318. The results

1 of the DNA profile of individuals in the State DNA Data Base
2 shall be made available:

3 ~~(1) to criminal justice agencies or [approved crime]~~
4 ~~CODIS participating DNA laboratories which serve these~~
5 ~~agencies; or~~

6 ~~(2) upon written or electronic request and in~~
7 ~~furtherance of an official investigation of a criminal~~
8 ~~offense or offender or suspected offender.~~

9 ~~(b) Methods of obtaining information. The State Police~~
10 ~~shall [adopt] promulgate, as necessary, rules, regulations and~~
11 ~~guidelines governing the methods of obtaining information from~~
12 ~~the State DNA Data Base and CODIS and procedures for~~
13 ~~verification of the identity and authority of the requester.~~

14 ~~(c) Population data base.~~

15 ~~(1) The State Police may establish a separate population~~
16 ~~data base comprised of DNA [samples] records or profiles~~
17 ~~obtained under this chapter after all personal identification~~
18 ~~is removed.~~

19 ~~(2) The State Police may share or disseminate the~~
20 ~~population data base with other criminal justice agencies or~~
21 ~~[crime] CODIS participating DNA laboratories that serve to~~
22 ~~assist the State Police with statistical data bases.~~

23 ~~(3) The population data base may be made available to~~
24 ~~and searched by other agencies participating in the CODIS~~
25 ~~system.~~

26 ~~§ 2321. Expungement.~~

27 ~~{(a) General rule. A person whose DNA sample, record or~~
28 ~~profile has been included in the State DNA Data Bank or the~~
29 ~~State DNA Data Base pursuant to the former DNA Act, former 42-~~
30 ~~Pa.C.S. Ch. 47 (relating to DNA data and testing) or this~~

1 ~~chapter may request expungement on the grounds that the~~
2 ~~conviction or delinquency adjudication on which the authority~~
3 ~~for including that person's DNA sample, record or profile was~~
4 ~~based has been reversed and the case dismissed or that the DNA~~
5 ~~sample, record or profile was included in the State DNA Data~~
6 ~~Bank or the State DNA Data Base by mistake.~~

7 ~~(b) Duty of State Police. The State Police shall purge all~~
8 ~~records and identifiable information in the State DNA Data Bank~~
9 ~~or State DNA Data Base pertaining to the person and destroy each~~
10 ~~sample, record and profile from the person upon:~~

11 ~~(1) receipt of a written request for expungement~~
12 ~~pursuant to this section and a certified copy of the final~~
13 ~~court order reversing and dismissing the conviction; or~~

14 ~~(2) clear and convincing proof that the sample record or~~
15 ~~profile was included by mistake.]~~

16 ~~(a) General rule. A person whose DNA sample, record or~~
17 ~~profile has been included in the State DNA Data Bank or the~~
18 ~~State DNA Data Base under the former DNA Act, former provisions~~
19 ~~of 42 Pa.C.S. Ch. 47 (relating to DNA data and testing) or this~~
20 ~~chapter may have the DNA sample, record or profile expunged in~~
21 ~~accordance with this section.~~

22 ~~(b) Removal by request. A person whose DNA sample, record~~
23 ~~or 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 make a written request to the State Police seeking~~
27 ~~removal of the person's DNA sample, record or profile from the~~
28 ~~State DNA Data Bank or the State DNA Data Base on the grounds~~
29 ~~that the sample, record or profile was collected or included by~~
30 ~~mistake. Within 60 days of receipt of a written request for~~

~~1 removal, the State Police shall review the request and determine~~
~~2 if the DNA sample, record or profile was included in the State~~
~~3 DNA Data Bank or the State DNA Data Base by mistake:~~

~~4 (1) If the State Police determine that the DNA sample,~~
~~5 record or profile was included by mistake, the request for~~
~~6 removal shall be granted and the DNA sample, record and~~
~~7 profile shall be destroyed within 30 days of the~~
~~8 determination at no cost to the person making the request.~~

~~9 The State Police shall provide written notice of the removal~~
~~10 to the person and his attorney of record, if any, upon~~
~~11 completion of the removal.~~

~~12 (2) If the State Police deny the request, written notice~~
~~13 of the denial and reasons therein shall be provided to the~~
~~14 person and his attorney of record, if any.~~

~~15 (3) If the State Police erroneously deny the request,~~
~~16 the person may request expungement of the DNA sample, record~~
~~17 or profile under subsection (b.1).~~

~~18 (b.1) Expungement by court order. The following shall~~
~~19 apply:~~

~~20 (1) Except as provided under paragraph (2), a person may~~
~~21 request the court of common pleas of the county where the~~
~~22 original charges were filed to issue an order directing the~~
~~23 expungement of the DNA sample, record or profile pertaining~~
~~24 to the person in the State DNA Data Bank or the State DNA~~
~~25 Data Base in the following instances:~~

~~26 (i) the conviction or delinquency adjudication for~~
~~27 which the person's DNA sample was collected has been~~
~~28 reversed and no appeal is pending;~~

~~29 (ii) there has been a judgment of acquittal on the~~
~~30 charge for which the DNA sample was taken; or~~

1 ~~(iii) the DNA sample, record or profile was included~~
2 ~~in the State DNA Data Bank or State DNA Data Base by~~
3 ~~mistake and the State Police has erroneously refused to~~
4 ~~grant the person's request for removal under subsection~~
5 ~~(b).~~

6 ~~(2) Paragraph (1) shall not apply if the person has been~~
7 ~~convicted or adjudicated delinquent for any other crime for~~
8 ~~which a DNA sample is required to be collected under this~~
9 ~~chapter.~~

10 ~~(3) The court shall give ten days' prior notice to the~~
11 ~~district attorney of the county where the original charges~~
12 ~~were filed of any application for expungement under this~~
13 ~~subsection.~~

14 ~~(4) Notwithstanding any other law or rule of court, the~~
15 ~~court shall have no authority to order the expungement of any~~
16 ~~DNA sample, record or profile in the State DNA Data Bank or~~
17 ~~the State DNA Data Base except as provided under this~~
18 ~~subsection.~~

19 ~~(b.2) Expungement reporting. A person whose DNA sample,~~
20 ~~record or profile has been expunged under subsection (b.1) shall~~
21 ~~forward a certified copy of the expungement order to the State~~
22 ~~Police.~~

23 ~~(b.3) Duties of State Police. The following shall apply:~~

24 ~~(1) Upon receipt of an expungement order issued under~~
25 ~~subsection (b.1), the State Police shall destroy the DNA~~
26 ~~sample, record and profile in the State DNA Data Bank and the~~
27 ~~State DNA Data Base pertaining to a person identified in an~~
28 ~~expungement order.~~

29 ~~(2) The expungement shall be processed at no cost to the~~
30 ~~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 and~~
4 ~~profile.~~

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 convicted~~
12 ~~or adjudicated delinquent for one of the other specified~~
13 ~~offenses prior to the effective date of the former DNA Act or~~
14 ~~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 ~~§ 2322. Mandatory cost.~~

20 ~~Unless the court finds that undue hardship would result, a~~
21 ~~mandatory cost of \$250, which shall be in addition to any other~~
22 ~~costs imposed pursuant to statutory authority, shall~~
23 ~~automatically be assessed on any person convicted, adjudicated~~
24 ~~delinquent or granted ARD for criminal homicide, a felony sex~~
25 ~~offense or other specified offense, and all proceeds derived~~
26 ~~from this section shall be transmitted to the fund.~~

27 ~~Section 5. This act shall take effect July 1, 2013.~~

28 SECTION 1. SECTIONS 2302, 2303, 2311(2), 2312, 2313, 2314,
29 2315 AND 2316 OF TITLE 44 OF THE PENNSYLVANIA CONSOLIDATED
30 STATUTES ARE AMENDED TO READ:



1 § 2302. POLICY.

2 THE GENERAL ASSEMBLY FINDS AND DECLARES THAT:

3 (1) DNA DATA BANKS ARE AN IMPORTANT TOOL IN CRIMINAL
4 INVESTIGATIONS, IN [THE EXCLUSION OF] EXCLUDING INNOCENT
5 INDIVIDUALS WHO ARE THE SUBJECT OF CRIMINAL INVESTIGATIONS OR
6 PROSECUTIONS AND IN [DETECTING AND DETERRING RECIDIVIST ACTS]
7 DETECTING AND DETERRING REPEATED CRIMES BY THE SAME
8 INDIVIDUAL.

9 (2) SEVERAL STATES HAVE ENACTED LAWS REQUIRING PERSONS
10 ARRESTED, CHARGED OR CONVICTED OF CERTAIN CRIMES, ESPECIALLY
11 SEX OFFENSES, TO PROVIDE GENETIC SAMPLES FOR DNA PROFILING.

12 (2.1) SEVERAL STATES HAVE AUTHORIZED THE DISCLOSURE OF
13 DNA PROFILES IN THEIR STATE'S DNA DATA BASE WHERE COMPARISON
14 OF DNA LINKED TO A CRIME WITH THE KNOWN OFFENDER DNA PROFILE
15 IN THE DATA BASE ESTABLISHES THE LIKELIHOOD OF A CLOSE
16 FAMILIAL RELATIONSHIP BETWEEN THE TWO.

17 (3) MOREOVER, IT IS THE POLICY OF THE COMMONWEALTH TO
18 ASSIST FEDERAL, STATE AND LOCAL CRIMINAL JUSTICE AND LAW
19 ENFORCEMENT AGENCIES IN THE IDENTIFICATION AND DETECTION OF
20 INDIVIDUALS IN CRIMINAL INVESTIGATIONS.

21 (4) IT IS THEREFORE IN THE BEST INTEREST OF THE
22 COMMONWEALTH TO ESTABLISH A DNA DATA BASE AND A DNA DATA BANK
23 CONTAINING DNA SAMPLES SUBMITTED BY INDIVIDUALS ARRESTED FOR,
24 CHARGED WITH, CONVICTED OF, ADJUDICATED DELINQUENT FOR OR
25 ACCEPTED INTO ARD FOR CRIMINAL HOMICIDES, FELONY SEX OFFENSES
26 AND OTHER SPECIFIED OFFENSES.

27 (5) IT IS IN THE BEST INTEREST OF THE COMMONWEALTH TO
28 AUTHORIZE THE STATE POLICE TO USE DNA ANALYSIS AND TO
29 IDENTIFY THESE INDIVIDUALS TO A CRIMINAL JUSTICE AGENCY IN
30 CERTAIN CASES.

1 § 2303. DEFINITIONS.

2 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS CHAPTER
3 SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE
4 CONTEXT CLEARLY INDICATES OTHERWISE:

5 "ACCREDITED FORENSIC DNA LABORATORY." A FORENSIC DNA
6 LABORATORY THAT HAS RECEIVED ACCREDITATION BY AN ACCREDITING
7 BODY NATIONALLY RECOGNIZED WITHIN THE FORENSIC SCIENCE COMMUNITY
8 IN ACCORDANCE WITH THE FBI QUALITY ASSURANCE STANDARDS TO
9 PERFORM FORENSIC DNA TESTING AND IS IN COMPLIANCE WITH FBI
10 QUALITY ASSURANCE STANDARDS.

11 "ARD." ACCELERATED REHABILITATIVE DISPOSITION.

12 "CODIS." THE [TERM IS DERIVED FROM] COMBINED DNA INDEX
13 SYSTEM[, THE FEDERAL BUREAU OF INVESTIGATION'S NATIONAL DNA
14 IDENTIFICATION INDEX SYSTEM THAT ALLOWS THE STORAGE AND EXCHANGE
15 OF DNA RECORDS SUBMITTED BY STATE AND LOCAL FORENSIC DNA
16 LABORATORIES] ESTABLISHED AND MAINTAINED BY THE FEDERAL BUREAU
17 OF INVESTIGATION.

18 "COMMISSIONER." THE COMMISSIONER OF THE PENNSYLVANIA STATE
19 POLICE.

20 "CRIME SCENE DNA PROFILE." A DNA PROFILE DERIVED FROM A DNA
21 SAMPLE RECOVERED FROM A VICTIM, CRIME SCENE OR ITEM LINKED TO A
22 CRIME, WHICH MAY HAVE ORIGINATED FROM A PERPETRATOR.

23 "CRIMINAL HOMICIDE." ANY OF THE FOLLOWING:

24 (1) 18 PA.C.S. § 2501 (RELATING TO CRIMINAL HOMICIDE).

25 (2) 18 PA.C.S. § 2502 (RELATING TO MURDER).

26 (3) 18 PA.C.S. § 2503 (RELATING TO VOLUNTARY
27 MANSLAUGHTER).

28 (4) 18 PA.C.S. § 2504 (RELATING TO INVOLUNTARY
29 MANSLAUGHTER), WHEN THE OFFENSE IS GRADED AS A FELONY.

30 (5) 18 PA.C.S. § 2505 (RELATING TO CAUSING OR AIDING

1 SUICIDE), WHEN THE OFFENSE IS GRADED AS A FELONY.

2 (6) 18 PA.C.S. § 2506 (RELATING TO DRUG DELIVERY
3 RESULTING IN DEATH).

4 (7) 18 PA.C.S. § 2507 (RELATING TO CRIMINAL HOMICIDE OF
5 LAW ENFORCEMENT OFFICER).

6 (8) 18 PA.C.S. § 2603 (RELATING TO CRIMINAL HOMICIDE OF
7 UNBORN CHILD).

8 (9) 18 PA.C.S. § 2604 (RELATING TO MURDER OF UNBORN
9 CHILD).

10 (10) 18 PA.C.S. § 2605 (RELATING TO VOLUNTARY
11 MANSLAUGHTER OF UNBORN CHILD).

12 "CRIMINAL JUSTICE AGENCY." A CRIMINAL JUSTICE AGENCY AS
13 DEFINED IN 18 PA.C.S. § 9102 (RELATING TO DEFINITIONS).

14 "DNA." DEOXYRIBONUCLEIC ACID[. DNA IS LOCATED IN THE CELLS
15 AND PROVIDES AN INDIVIDUAL'S PERSONAL GENETIC BLUEPRINT. DNA]
16 LOCATED IN THE CHROMOSOMES OR MITOCHONDRIA OF A LIVING
17 ORGANISM'S CELLS WHICH ENCODES GENETIC INFORMATION THAT IS THE
18 BASIS OF HUMAN HEREDITY AND FORENSIC IDENTIFICATION.

19 "DNA RECORD." DNA PROFILE AND IDENTIFICATION INFORMATION
20 STORED IN THE STATE DNA DATA BASE OR THE COMBINED DNA INDEX
21 SYSTEM FOR THE PURPOSE OF GENERATING INVESTIGATIVE LEADS OR
22 SUPPORTING STATISTICAL INTERPRETATION OF DNA TEST RESULTS. THE
23 TERM INCLUDES NUCLEAR AND MITOCHONDRIAL TYPING. THE DNA RECORD
24 IS THE RESULT OBTAINED FROM THE DNA TYPING TESTS. [THE DNA
25 RECORD IS COMPRISED OF THE CHARACTERISTICS OF A DNA SAMPLE WHICH
26 ARE OF VALUE IN ESTABLISHING THE IDENTITY OF INDIVIDUALS. THE
27 RESULTS OF ALL DNA IDENTIFICATION TESTS ON AN INDIVIDUAL'S DNA
28 SAMPLE ARE ALSO COLLECTIVELY REFERRED TO AS THE DNA PROFILE OF
29 AN INDIVIDUAL.]

30 "DNA SAMPLE." [A BLOOD OR TISSUE SAMPLE PROVIDED BY ANY

1 PERSON WITH RESPECT TO OFFENSES COVERED BY THIS CHAPTER OR
2 SUBMITTED TO THE PENNSYLVANIA STATE POLICE LABORATORY PURSUANT
3 TO THE FORMER ACT OF MAY 28, 1995 (1ST SP.SESS., P.L.1009,
4 NO.14), KNOWN AS THE DNA DETECTION OF SEXUAL AND VIOLENT
5 OFFENDERS ACT, TO THE FORMER 42 PA.C.S. CH. 47 (RELATING TO DNA
6 DATA AND TESTING) OR TO THIS CHAPTER FOR ANALYSIS OR STORAGE, OR
7 BOTH.] A SAMPLE OF BIOLOGICAL MATERIAL SUITABLE FOR DNA
8 ANALYSIS.

9 "FBI." THE FEDERAL BUREAU OF INVESTIGATION.

10 "FELONY SEX OFFENSE." A FELONY OFFENSE OR AN ATTEMPT,
11 CONSPIRACY OR SOLICITATION TO COMMIT A FELONY OFFENSE UNDER ANY
12 OF THE FOLLOWING:

13 18 PA.C.S. CH. 31 (RELATING TO SEXUAL OFFENSES).

14 18 PA.C.S. § 3130 (RELATING TO CONDUCT RELATING TO SEX
15 OFFENDERS).

16 18 PA.C.S. § 4302 (RELATING TO INCEST).

17 18 PA.C.S. § [5902(C)(1)(III) AND (IV)] 5902(C)(1)(IV)
18 (RELATING TO PROSTITUTION AND RELATED OFFENSES).

19 18 PA.C.S. § 5903(A) (RELATING TO OBSCENE AND OTHER
20 SEXUAL MATERIALS AND PERFORMANCES) WHERE THE OFFENSE
21 CONSTITUTES A FELONY.

22 [18 PA.C.S. § 6312 (RELATING TO SEXUAL ABUSE OF
23 CHILDREN).

24 18 PA.C.S. § 6318 (RELATING TO UNLAWFUL CONTACT WITH
25 MINOR) WHERE THE MOST SERIOUS UNDERLYING OFFENSE FOR WHICH
26 THE DEFENDANT CONTACTED THE MINOR IS GRADED AS A FELONY.

27 18 PA.C.S. § 6320 (RELATING TO SEXUAL EXPLOITATION OF
28 CHILDREN).]

29 ANY OFFENSE GRADED AS A FELONY REQUIRING REGISTRATION
30 UNDER 42 PA.C.S. CH. 97 SUBCH. H (RELATING TO REGISTRATION OF

1 SEXUAL OFFENDERS).

2 "FORENSIC DNA LABORATORY." A LABORATORY THAT PERFORMS
3 FORENSIC DNA TESTING FOR THE PURPOSES OF IDENTIFICATION.

4 "FORENSIC DNA TESTING." A TEST THAT APPLIES TECHNIQUES FROM
5 MOLECULAR BIOLOGY TO ANALYZE DEOXYRIBONUCLEIC ACID (DNA) TO
6 IDENTIFY CHARACTERISTICS UNIQUE TO A PARTICULAR INDIVIDUAL.

7 "FORMER DNA ACT." THE FORMER ACT OF MAY 28, 1995 (1ST
8 SP.SESS., P.L.1009, NO.14), KNOWN AS THE DNA DETECTION OF SEXUAL
9 AND VIOLENT OFFENDERS ACT.

10 "FUND." THE DNA DETECTION FUND REESTABLISHED IN SECTION 2335
11 (RELATING TO DNA DETECTION FUND).

12 "HUMAN BEHAVIORAL GENETIC RESEARCH." THE STUDY OF THE
13 POSSIBLE GENETIC UNDERPINNINGS OF BEHAVIORS, INCLUDING, BUT NOT
14 LIMITED TO, AGGRESSION, SUBSTANCE ABUSE, SOCIAL ATTITUDES,
15 MENTAL ABILITIES, SEXUAL ACTIVITY AND EATING HABITS.

16 "LAW ENFORCEMENT IDENTIFICATION PURPOSES." ASSISTING IN THE
17 DETERMINATION OF THE IDENTITY OF AN INDIVIDUAL WHOSE DNA IS
18 CONTAINED IN A BIOLOGICAL SAMPLE.

19 "MITOCHONDRIAL DNA ANALYSIS." A METHOD THAT APPLIES
20 TECHNIQUES FROM MOLECULAR BIOLOGY TO ANALYZE DNA FOUND IN THE
21 MITOCHONDRIA OF CELLS.

22 "MODIFIED DNA SEARCH." A SEARCH OF THE STATE DNA DATA BASE,
23 USING SCIENTIFICALLY VALID AND RELIABLE METHODS IN ACCORDANCE
24 WITH RULES, REGULATIONS AND GUIDELINES PROMULGATED UNDER SECTION
25 2318 (RELATING TO PROCEDURES FOR CONDUCT, DISPOSITION AND USE OF
26 DNA ANALYSIS), TO DETERMINE THAT A CRIME SCENE DNA PROFILE IS
27 SUFFICIENTLY LIKELY TO HAVE ORIGINATED FROM A CLOSE RELATIVE OF
28 AN INDIVIDUAL WHOSE DNA PROFILE IS RECORDED IN THE STATE DNA
29 DATA BASE.

30 "OTHER SPECIFIED OFFENSE." ANY OF THE FOLLOWING:

1 (1) A FELONY OFFENSE, OTHER THAN CRIMINAL HOMICIDE OR A
2 FELONY SEX OFFENSE.

3 [(2) AN OFFENSE UNDER 18 PA.C.S. § 2910 (RELATING TO
4 LURING A CHILD INTO A MOTOR VEHICLE OR STRUCTURE) OR 3126
5 (RELATING TO INDECENT ASSAULT) OR AN ATTEMPT TO COMMIT SUCH
6 AN OFFENSE.]

7 (3) AN OFFENSE SUBJECT TO 42 PA.C.S. CH. 97 SUBCH. H
8 (RELATING TO REGISTRATION OF SEXUAL OFFENDERS).]

9 (4) 18 PA.C.S. § 2701(B)(2) (RELATING TO SIMPLE
10 ASSAULT).

11 (5) 18 PA.C.S. § 2902(A) (RELATING TO UNLAWFUL
12 RESTRAINT).

13 (6) 18 PA.C.S. § 3503(B)(1)(V) (RELATING TO CRIMINAL
14 TRESPASS).

15 (7) 18 PA.C.S. § 4303 (RELATING TO CONCEALING DEATH OF
16 CHILD).

17 (8) 18 PA.C.S. § 4305 (RELATING TO DEALING IN INFANT
18 CHILDREN).

19 (9) A MISDEMEANOR OFFENSE REQUIRING REGISTRATION UNDER
20 42 PA.C.S. CH. 97 SUBCH. H (RELATING TO REGISTRATION OF
21 SEXUAL OFFENDERS).

22 "STATE POLICE." THE PENNSYLVANIA STATE POLICE.

23 "Y CHROMOSOME ANALYSIS." A METHOD THAT APPLIES TECHNIQUES
24 FROM MOLECULAR BIOLOGY TO EXAMINE DNA FOUND ON THE Y CHROMOSOME.
25 § 2311. POWERS AND DUTIES OF STATE POLICE.

26 IN ADDITION TO ANY OTHER POWERS AND DUTIES CONFERRED BY THIS
27 CHAPTER, THE STATE POLICE SHALL:

28 * * *

29 (2) PROMULGATE [RULES AND REGULATIONS], AS NECESSARY,
30 RULES, REGULATIONS AND GUIDELINES TO CARRY OUT THE PROVISIONS

1 OF THIS CHAPTER.

2 * * *

3 § 2312. STATE DNA DATA BASE.

4 [THE STATE DNA DATA BASE IS REESTABLISHED. IT SHALL BE
5 ADMINISTERED BY THE STATE POLICE AND PROVIDE DNA RECORDS TO THE
6 FBI FOR STORAGE AND MAINTENANCE BY CODIS.] A STATEWIDE DNA DATA
7 BASE IS ESTABLISHED WITHIN THE STATE POLICE TO STORE DNA RECORDS
8 FROM DNA SAMPLES SUBMITTED FOR ANALYSIS AND STORAGE TO THE STATE
9 POLICE LABORATORY UNDER THE FORMER DNA ACT, THE FORMER
10 PROVISIONS OF 42 PA.C.S. CH. 47 (RELATING TO DNA DATA AND
11 TESTING) OR TO THIS CHAPTER, AND TO PROVIDE DNA RECORDS TO
12 CODIS. THE STATE DNA DATA BASE SHALL HAVE THE CAPABILITY
13 PROVIDED BY COMPUTER SOFTWARE AND PROCEDURES ADMINISTERED BY THE
14 STATE POLICE TO STORE AND MAINTAIN DNA RECORDS RELATED TO:

15 (1) FORENSIC CASEWORK;

16 (2) [CONVICTED] ARRESTEES AND CONVICTED OR DELINQUENCY
17 ADJUDICATED OFFENDERS REQUIRED TO PROVIDE A DNA SAMPLE UNDER
18 THIS CHAPTER; AND

19 (3) ANONYMOUS DNA RECORDS USED FOR STATISTICAL RESEARCH
20 [OR] ON THE FREQUENCY OF DNA GENOTYPES, QUALITY CONTROL OR
21 THE DEVELOPMENT OF NEW DNA IDENTIFICATION METHODS.

22 § 2313. STATE DNA DATA BANK.

23 THE STATE DNA DATA BANK IS REESTABLISHED. IT SHALL SERVE AS
24 THE REPOSITORY OF DNA SAMPLES COLLECTED UNDER THIS CHAPTER OR
25 UNDER PRIOR LAW.

26 § 2314. STATE POLICE RECOMMENDATION OF ADDITIONAL OFFENSES AND
27 ANNUAL REPORT.

28 (A) RECOMMENDATION. --THE STATE POLICE MAY RECOMMEND TO THE
29 GENERAL ASSEMBLY THAT IT ENACT LEGISLATION FOR THE INCLUSION OF
30 ADDITIONAL OFFENSES FOR WHICH DNA SAMPLES SHALL BE TAKEN AND

1 OTHERWISE SUBJECTED TO THE PROVISIONS OF THIS CHAPTER. IN
2 DETERMINING WHETHER TO RECOMMEND ADDITIONAL OFFENSES, THE STATE
3 POLICE SHALL CONSIDER THOSE OFFENSES FOR WHICH DNA TESTING WILL
4 HAVE A SUBSTANTIAL IMPACT ON THE DETECTION AND IDENTIFICATION OF
5 SEX OFFENDERS AND [VIOLENT] OTHER OFFENDERS.

6 (B) ANNUAL REPORT.--NO LATER THAN AUGUST 1 OF EACH YEAR, THE
7 COMMISSIONER SHALL SUBMIT TO THE GOVERNOR'S OFFICE, THE MAJORITY
8 AND MINORITY CHAIRMEN OF THE SENATE JUDICIARY COMMITTEE AND THE
9 MAJORITY AND MINORITY CHAIRMEN OF THE HOUSE JUDICIARY COMMITTEE,
10 A WRITTEN REPORT CONTAINING INFORMATION REGARDING THE COLLECTION
11 AND TESTING OF DNA SAMPLES UNDER THE PROVISIONS OF THIS CHAPTER.
12 THE REPORT MUST INCLUDE, BUT NEED NOT BE LIMITED TO, THE
13 FOLLOWING INFORMATION PERTAINING TO THE PREVIOUS FISCAL YEAR:

14 (1) THE NUMBER OF DNA SAMPLES COLLECTED AT ARREST.

15 (2) THE NUMBER OF DNA SAMPLES COLLECTED AT ARREST THAT
16 CONTRIBUTED TO THE FILING OF CHARGES IN OR THE CLOSING OF
17 INVESTIGATIONS RELATED TO PREVIOUSLY UNSOLVED OFFENSES.

18 (3) THE NUMBER OF ACQUITTALS, CONVICTIONS AND DISMISSALS
19 IN CASES WHERE DNA SAMPLES COLLECTED AT ARREST CONTRIBUTED TO
20 THE FILING OF CHARGES IN PREVIOUSLY UNSOLVED OFFENSES.

21 (4) THE AGE, ETHNICITY, RACE AND SEX OF ARRESTEES FROM
22 WHOM DNA SAMPLES WERE COLLECTED AT ARREST AND UPON
23 CONVICTION.

24 (5) THE FISCAL IMPACT ON THE STATE POLICE OF COLLECTING
25 DNA SAMPLES FROM PERSONS CONVICTED OF OFFENSES.

26 (6) THE FISCAL IMPACT ON THE STATE POLICE OF COLLECTING
27 DNA SAMPLES FROM ARRESTEES.

28 (7) THE NUMBER OF DNA SAMPLES COLLECTED AT ARREST THAT
29 WERE EXPUNGED FROM THE STATEWIDE DNA DATA BASE BY REQUEST, BY
30 COURT ORDER, AS A RESULT OF ACQUITTAL, AS A RESULT OF CHARGES

1 NEVER HAVING BEEN FILED AND BECAUSE CHARGES FILED WERE
2 DISMISSED.

3 (8) THE AVERAGE LENGTH OF TIME BETWEEN THE COLLECTION OF
4 DNA SAMPLES FROM ARRESTEES AND FROM THOSE CONVICTED OF
5 OFFENSES AND THE COMPLETION OF FORENSIC DNA TESTING OF EACH
6 OF THOSE CATEGORIES OF DNA SAMPLES.

7 (9) RECOMMENDATIONS, IF ANY, UNDER THIS SECTION FOR THE
8 INCLUSION OF ADDITIONAL OFFENSES FOR WHICH DNA SAMPLES MUST
9 BE COLLECTED OR RECOMMENDATIONS FOR THE REMOVAL OF SPECIFIC
10 OFFENSES FROM THE CATEGORIES REQUIRING THE COLLECTION OF DNA
11 SAMPLES FROM ARRESTEES OR PERSONS CONVICTED OF CRIMES.

12 § 2315. PROCEDURAL COMPATIBILITY WITH FBI.

13 THE DNA IDENTIFICATION SYSTEM [AS] ESTABLISHED BY THE STATE
14 POLICE SHALL BE COMPATIBLE WITH THE PROCEDURES [SPECIFIED]
15 ESTABLISHED BY THE FBI QUALITY ASSURANCE STANDARDS FOR FORENSIC
16 DNA TESTING LABORATORIES AND DNA DATA BASING LABORATORIES AND
17 CODIS POLICIES AND PROCEDURES, INCLUDING USE OF COMPARABLE TEST
18 PROCEDURES, LABORATORY EQUIPMENT, SUPPLIES AND COMPUTER
19 SOFTWARE.

20 § 2316. DNA SAMPLE REQUIRED [UPON CONVICTION, DELINQUENCY
21 ADJUDICATION AND CERTAIN ARD CASES].

22 (A) [GENERAL RULE] CONVICTION OR ADJUDICATION.--A PERSON WHO
23 IS CONVICTED OR ADJUDICATED DELINQUENT FOR CRIMINAL HOMICIDE, A
24 FELONY SEX OFFENSE OR OTHER SPECIFIED OFFENSE OR WHO IS OR
25 REMAINS INCARCERATED FOR A FELONY SEX OFFENSE OR OTHER SPECIFIED
26 OFFENSE ON OR AFTER THE EFFECTIVE DATE OF THIS CHAPTER SHALL
27 HAVE A DNA SAMPLE [DRAWN] COLLECTED AS FOLLOWS:

28 (1) A PERSON WHO IS SENTENCED OR RECEIVES A DELINQUENCY
29 DISPOSITION TO A TERM OF CONFINEMENT FOR AN OFFENSE COVERED
30 BY THIS SUBSECTION SHALL HAVE A DNA SAMPLE [DRAWN] COLLECTED

1 UPON INTAKE TO A PRISON, JAIL OR JUVENILE DETENTION FACILITY
2 OR ANY OTHER DETENTION FACILITY OR INSTITUTION. IF THE PERSON
3 IS ALREADY CONFINED AT THE TIME OF SENTENCING OR
4 ADJUDICATION, THE PERSON SHALL HAVE A DNA SAMPLE [DRAWN]
5 COLLECTED IMMEDIATELY AFTER THE SENTENCING OR ADJUDICATION.
6 IF A DNA SAMPLE IS NOT TIMELY [DRAWN] COLLECTED IN ACCORDANCE
7 WITH THIS SECTION, THE DNA SAMPLE MAY BE [DRAWN] COLLECTED
8 ANY TIME THEREAFTER BY THE PRISON, JAIL, JUVENILE DETENTION
9 FACILITY, DETENTION FACILITY OR INSTITUTION.

10 (2) A PERSON WHO IS CONVICTED OR ADJUDICATED DELINQUENT
11 FOR AN OFFENSE COVERED BY THIS SUBSECTION SHALL HAVE A DNA
12 SAMPLE [DRAWN] COLLECTED AS A CONDITION FOR ANY SENTENCE OR
13 ADJUDICATION WHICH DISPOSITION WILL NOT INVOLVE AN INTAKE
14 INTO A PRISON, JAIL, JUVENILE DETENTION FACILITY OR ANY OTHER
15 DETENTION FACILITY OR INSTITUTION.

16 (3) UNDER NO CIRCUMSTANCES SHALL A PERSON WHO IS
17 CONVICTED OR ADJUDICATED DELINQUENT FOR AN OFFENSE COVERED BY
18 THIS SUBSECTION BE RELEASED IN ANY MANNER AFTER SUCH
19 DISPOSITION UNLESS AND UNTIL A DNA SAMPLE [HAS BEEN
20 [WITHDRAWN] AND FINGERPRINTS HAVE BEEN COLLECTED.

21 (B) CONDITION OF RELEASE, PROBATION OR PAROLE.--

22 (1) A PERSON WHO HAS BEEN CONVICTED OR ADJUDICATED
23 DELINQUENT FOR CRIMINAL HOMICIDE, A FELONY SEX OFFENSE OR
24 OTHER SPECIFIED OFFENSE AND WHO SERVES A TERM OF CONFINEMENT
25 IN CONNECTION THEREWITH AFTER JUNE 18, 2002, SHALL NOT BE
26 RELEASED IN ANY MANNER UNLESS AND UNTIL A DNA SAMPLE HAS BEEN
27 [WITHDRAWN] COLLECTED.

28 (2) THIS CHAPTER SHALL APPLY TO INCARCERATED PERSONS
29 CONVICTED OR ADJUDICATED DELINQUENT FOR CRIMINAL HOMICIDE, A
30 FELONY SEX OFFENSE OR OTHER SPECIFIED OFFENSE PRIOR TO JUNE

1 19, 2002.

2 (3) THIS CHAPTER SHALL APPLY TO INCARCERATED PERSONS AND
3 PERSONS ON PROBATION OR PAROLE WHO WERE CONVICTED OR
4 ADJUDICATED DELINQUENT FOR CRIMINAL HOMICIDE, A FELONY SEX
5 OFFENSE OR OTHER SPECIFIED OFFENSES PRIOR TO THE EFFECTIVE
6 DATE OF THIS PARAGRAPH.

7 (C) CERTAIN ARD CASES.--ACCEPTANCE INTO ARD AS A RESULT OF A
8 CRIMINAL CHARGE FOR CRIMINAL HOMICIDE, A FELONY SEX OFFENSE OR
9 OTHER SPECIFIED OFFENSE FILED AFTER JUNE 18, 2002, [MAY] SHALL
10 BE CONDITIONED UPON THE [GIVING] COLLECTION OF A DNA SAMPLE.

11 (C.1) ARREST.--A PERSON WHO IS ARRESTED IN THIS COMMONWEALTH
12 FOR CRIMINAL HOMICIDE AND FELONY SEX OFFENSES SHALL HAVE A DNA
13 SAMPLE COLLECTED AS FOLLOWS:

14 (1) A PERSON WHO IS ARRESTED FOR AN OFFENSE COVERED
15 UNDER THIS SUBSECTION SHALL HAVE A DNA SAMPLE COLLECTED NO
16 LATER THAN FIVE DAYS AFTER THE DATE OF THE ARREST.

17 (2) IF A DNA SAMPLE IS NOT TIMELY COLLECTED IN
18 ACCORDANCE WITH THIS SUBSECTION, THE DNA SAMPLE MAY BE
19 COLLECTED ANY TIME THEREAFTER BY A LAW ENFORCEMENT OFFICIAL,
20 PRISON, JAIL, JUVENILE DETENTION FACILITY, DETENTION FACILITY
21 OR INSTITUTION.

22 (3) A PERSON WHO IS ARRESTED FOR AN OFFENSE COVERED
23 UNDER THIS SUBSECTION MAY NOT BE RELEASED UNLESS AND UNTIL A
24 DNA SAMPLE AND FINGERPRINTS HAVE BEEN COLLECTED.

25 (4) THIS SUBSECTION SHALL APPLY AS FOLLOWS:

26 (I) BEGINNING ONE YEAR AFTER THE EFFECTIVE DATE OF
27 THIS SUBSECTION, ANY PERSON ARRESTED FOR CRIMINAL
28 HOMICIDE SHALL HAVE A DNA SAMPLE COLLECTED UNDER THIS
29 SUBSECTION UPON ARREST.

30 (II) BEGINNING TWO YEARS AFTER THE EFFECTIVE DATE OF

1 THIS SUBSECTION, ANY PERSON ARRESTED FOR A FELONY SEX
2 OFFENSE SHALL HAVE A DNA SAMPLE COLLECTED UNDER THIS
3 SUBSECTION UPON ARREST.

4 (D) SUPERVISION OF DNA SAMPLES.--ALL DNA SAMPLES TAKEN
5 PURSUANT TO THIS SECTION SHALL BE TAKEN IN ACCORDANCE WITH
6 RULES, REGULATIONS AND GUIDELINES PROMULGATED BY THE STATE
7 POLICE IN CONSULTATION WITH THE DEPARTMENT OF CORRECTIONS.

8 (D.1) MANDATORY SUBMISSION.--THE REQUIREMENTS OF THIS
9 CHAPTER ARE MANDATORY AND APPLY REGARDLESS OF WHETHER A COURT
10 ADVISES A PERSON THAT A DNA SAMPLE MUST BE PROVIDED TO THE STATE
11 DNA DATA BASE AND THE STATE DNA DATA BANK AS A RESULT OF [A] AN
12 ARREST, CONVICTION OR ADJUDICATION OF DELINQUENCY. A PERSON WHO
13 HAS BEEN SENTENCED TO DEATH OR LIFE IMPRISONMENT WITHOUT THE
14 POSSIBILITY OF PAROLE OR TO ANY TERM OF INCARCERATION IS NOT
15 EXEMPT FROM THE REQUIREMENTS OF THIS CHAPTER. ANY PERSON SUBJECT
16 TO THIS CHAPTER WHO HAS NOT PROVIDED A DNA SAMPLE FOR ANY
17 REASON, INCLUDING BECAUSE OF AN OVERSIGHT OR ERROR, SHALL
18 PROVIDE A DNA SAMPLE FOR INCLUSION IN THE STATE DNA DATA BASE
19 AND THE STATE DNA DATA BANK AFTER BEING NOTIFIED BY AUTHORIZED
20 LAW ENFORCEMENT OR CORRECTIONS PERSONNEL. IF A PERSON PROVIDES A
21 DNA SAMPLE WHICH IS NOT ADEQUATE FOR ANY REASON, THE PERSON
22 SHALL PROVIDE ANOTHER DNA SAMPLE FOR INCLUSION IN THE STATE DNA
23 DATA BASE AND THE STATE DNA DATA BANK AFTER BEING NOTIFIED BY
24 AUTHORIZED LAW ENFORCEMENT OR CORRECTIONS PERSONNEL. THE
25 COLLECTION OF A DNA SAMPLE UNDER THIS CHAPTER SHALL NOT BE
26 REQUIRED IF THE AUTHORIZED LAW ENFORCEMENT OR CORRECTIONS
27 OFFICIAL CONFIRMS THAT A DNA SAMPLE FROM THE PERSON HAS ALREADY
28 BEEN VALIDLY COLLECTED AND PROVIDED TO THE STATE DNA DATA BASE
29 AND THE STATE DNA DATA BANK.

30 (E) DEFINITION.--AS USED IN THIS SECTION, THE TERM

1 "RELEASED" MEANS ANY RELEASE, PAROLE, FURLOUGH, WORK RELEASE,
2 PRERELEASE OR RELEASE IN ANY OTHER MANNER FROM A PRISON, JAIL,
3 JUVENILE DETENTION FACILITY OR ANY OTHER PLACE OF CONFINEMENT.

4 SECTION 2. TITLE 44 IS AMENDED BY ADDING A SECTION TO READ:

5 § 2316.1. COLLECTION FROM PERSONS ACCEPTED FROM OTHER
6 JURISDICTIONS.

7 (A) CONDITIONAL ACCEPTANCE.--WHEN A PERSON IS ACCEPTED INTO
8 THIS COMMONWEALTH FOR SUPERVISION FROM ANOTHER JURISDICTION
9 UNDER THE INTERSTATE COMPACT FOR SUPERVISION OF ADULT OFFENDERS,
10 OTHER RECIPROCAL AGREEMENT WITH A FEDERAL, STATE OR COUNTY
11 AGENCY, OR A PROVISION OF LAW, WHETHER OR NOT THE PERSON IS
12 CONFINED OR RELEASED, THE ACCEPTANCE SHALL BE CONDITIONED ON THE
13 OFFENDER'S PROVIDING DNA SAMPLES UNDER THIS CHAPTER IF THE
14 OFFENDER HAS A PAST OR PRESENT FEDERAL, STATE OR MILITARY COURT
15 CONVICTION OR ADJUDICATION THAT IS EQUIVALENT TO CRIMINAL
16 HOMICIDE, A FELONY SEX OFFENSE OR OTHER SPECIFIED OFFENSE AS
17 DETERMINED BY THE PENNSYLVANIA BOARD OF PROBATION AND PAROLE.
18 ADDITIONAL DNA SAMPLES SHALL NOT BE REQUIRED IF A DNA SAMPLE IS
19 CURRENTLY ON FILE WITH THE STATE DNA DATA BASE.

20 (B) TIME PERIOD.--

21 (1) IF THE PERSON ACCEPTED UNDER SUBSECTION (A) IS NOT
22 CONFINED, THE DNA SAMPLE AND FINGERPRINTS REQUIRED UNDER THIS
23 CHAPTER SHALL BE PROVIDED WITHIN FIVE CALENDAR DAYS AFTER THE
24 PERSON REPORTS TO THE SUPERVISING AGENT OR WITHIN FIVE
25 CALENDAR DAYS OF NOTICE TO THE PERSON, WHICHEVER OCCURS
26 FIRST. THE PERSON SHALL APPEAR AND THE DNA SAMPLES SHALL BE
27 COLLECTED IN ACCORDANCE WITH THE PROVISIONS OF THIS CHAPTER.

28 (2) IF THE PERSON ACCEPTED UNDER SUBSECTION (A) IS
29 CONFINED, THE PERSON SHALL PROVIDE THE DNA SAMPLE AND
30 FINGERPRINTS REQUIRED BY THIS CHAPTER WITHIN FIVE CALENDAR

1 DAYS AFTER THE PERSON IS RECEIVED AT A PLACE OF INCARCERATION
2 OR CONFINEMENT.

3 SECTION 3. SECTIONS 2317(A) (1) AND (B) AND 2318(A) AND (C)
4 OF TITLE 44 ARE AMENDED TO READ:

5 § 2317. PROCEDURES FOR [WITHDRAWAL,] COLLECTION AND
6 TRANSMISSION OF DNA SAMPLES.

7 (A) [DRAWING] COLLECTION OF DNA SAMPLES.--

8 (1) EACH DNA SAMPLE REQUIRED TO BE [DRAWN] COLLECTED
9 PURSUANT TO [SECTION] SECTIONS 2316 (RELATING TO DNA SAMPLE
10 REQUIRED [UPON CONVICTION, DELINQUENCY ADJUDICATION AND
11 CERTAIN ARD CASES]) AND 2316.1 (RELATING TO COLLECTION FROM
12 PERSONS ACCEPTED FROM OTHER JURISDICTIONS) FROM PERSONS WHO
13 ARE INCARCERATED OR CONFINED SHALL BE [DRAWN] COLLECTED AT
14 THE PLACE OF INCARCERATION OR CONFINEMENT AS PROVIDED FOR IN
15 SECTION 2316. DNA SAMPLES FROM PERSONS WHO ARE NOT ORDERED OR
16 SENTENCED TO A TERM OF CONFINEMENT SHALL BE [DRAWN] COLLECTED
17 AT A PRISON, JAIL UNIT, JUVENILE FACILITY OR OTHER FACILITY
18 TO BE SPECIFIED BY THE COURT. [ONLY] FOR DNA BLOOD SAMPLES,
19 ONLY THOSE INDIVIDUALS QUALIFIED TO DRAW DNA BLOOD SAMPLES IN
20 A MEDICALLY APPROVED MANNER SHALL DRAW A DNA BLOOD SAMPLE TO
21 BE SUBMITTED FOR DNA ANALYSIS. [SUCH SAMPLE] DNA SAMPLES AND
22 THE SET OF FINGERPRINTS PROVIDED FOR IN PARAGRAPH (2) SHALL
23 BE DELIVERED TO THE STATE POLICE WITHIN 48 HOURS OF [DRAWING]
24 COLLECTING THE SAMPLE.

25 * * *

26 (B) LIMITATION ON LIABILITY.--PERSONS AUTHORIZED TO [DRAW]
27 COLLECT DNA SAMPLES UNDER THIS SECTION SHALL NOT BE CRIMINALLY
28 LIABLE FOR WITHDRAWING A DNA SAMPLE AND TRANSMITTING TEST
29 RESULTS PURSUANT TO THIS CHAPTER IF THEY PERFORM THESE
30 ACTIVITIES IN GOOD FAITH AND SHALL NOT BE CIVILLY LIABLE FOR

1 SUCH ACTIVITIES WHEN THE PERSON ACTED IN A REASONABLE MANNER
2 ACCORDING TO GENERALLY ACCEPTED MEDICAL AND OTHER PROFESSIONAL
3 PRACTICES.

4 § 2318. PROCEDURES FOR CONDUCT, DISPOSITION AND USE OF DNA
5 ANALYSIS.

6 (A) PROCEDURES.--

7 (1) THE STATE POLICE SHALL [PRESCRIBE] PROMULGATE, AS
8 NECESSARY, RULES, REGULATIONS AND GUIDELINES TO IMPLEMENT
9 THIS CHAPTER, INCLUDING PROCEDURES TO BE USED IN THE
10 COLLECTION, SUBMISSION, IDENTIFICATION, ANALYSIS, STORAGE AND
11 DISPOSITION OF DNA SAMPLES AND TYPING RESULTS OF DNA SAMPLES
12 SUBMITTED UNDER THE FORMER DNA ACT, FORMER PROVISIONS OF 42
13 PA.C.S. CH. 47 (RELATING TO DNA DATA AND TESTING) OR THIS
14 CHAPTER.

15 (2) THE DNA SAMPLE TYPING RESULTS SHALL BE SECURELY
16 STORED IN THE STATE DNA DATA BASE, AND RECORDS OF TESTING
17 SHALL BE RETAINED ON FILE WITH THE STATE POLICE CONSISTENT
18 WITH THE PROCEDURES ESTABLISHED BY THE FBI QUALITY ASSURANCE
19 STANDARDS FOR FORENSIC DNA TESTING LABORATORIES AND DNA DATA
20 BASING LABORATORIES AND CODIS POLICIES AND PROCEDURES.

21 (3) THESE PROCEDURES SHALL ALSO INCLUDE QUALITY
22 ASSURANCE GUIDELINES TO ENSURE THAT DNA IDENTIFICATION
23 RECORDS MEET STANDARDS FOR ACCREDITED FORENSIC DNA
24 LABORATORIES WHICH SUBMIT DNA RECORDS TO THE STATE DNA DATA
25 BASE.

26 (4) THE RULES, REGULATIONS AND GUIDELINES SHALL ADDRESS
27 THE FOLLOWING:

28 (I) VERIFICATION OF ACCREDITATION.

29 (II) COMPLIANCE WITH FBI QUALITY ASSURANCE STANDARDS
30 INCLUDING CONTINUING EDUCATION REQUIREMENTS FOR THE

1 PERSONNEL OF FORENSICS DNA TESTING LABORATORIES.

2 * * *

3 (C) USE OF TESTS.--

4 (1) EXCEPT AS OTHERWISE PROVIDED IN SECTION 2319(C)
5 (RELATING TO DNA DATA BASE EXCHANGE), THE TESTS TO BE
6 PERFORMED ON EACH DNA SAMPLE SHALL BE USED ONLY FOR LAW
7 ENFORCEMENT IDENTIFICATION PURPOSES OR TO ASSIST IN THE
8 RECOVERY OR IDENTIFICATION OF HUMAN REMAINS FROM DISASTERS OR
9 FOR OTHER HUMANITARIAN IDENTIFICATION PURPOSES, INCLUDING
10 IDENTIFICATION OF MISSING PERSONS.

11 (2) NO DNA SAMPLE OR DNA RECORD ACQUIRED UNDER THIS
12 CHAPTER MAY BE USED FOR HUMAN BEHAVIORAL GENETIC RESEARCH OR
13 FOR NONLAW ENFORCEMENT OR NONHUMANITARIAN IDENTIFICATION
14 PURPOSES.

15 * * *

16 SECTION 4. TITLE 44 IS AMENDED BY ADDING A SECTION TO READ:
17 § 2318.1. REQUEST FOR MODIFIED DNA SEARCH.

18 (A) GENERAL RULE.--

19 (1) A CRIMINAL JUSTICE AGENCY MAY REQUEST IN WRITING
20 THAT THE STATE POLICE PERFORM A MODIFIED DNA SEARCH IN AN
21 UNSOLVED CASE AND SHALL PROVIDE INFORMATION AS REQUIRED BY
22 THE STATE POLICE.

23 (2) THE STATE POLICE MAY GRANT A REQUEST TO CONDUCT A
24 MODIFIED DNA SEARCH IF THE STATE POLICE DETERMINE THAT THE
25 REQUEST COMPLIES WITH SUBSECTION (D) (2).

26 (B) MODIFIED DNA SEARCH.--

27 (1) THE STATE POLICE MAY CONDUCT A MODIFIED DNA SEARCH
28 IF IT GRANTS A REQUEST UNDER SUBSECTION (A) (2).

29 (2) THE STATE POLICE MAY CONDUCT A MODIFIED DNA SEARCH
30 IN UNSOLVED CASES WITHOUT THE REQUEST OF A CRIMINAL JUSTICE

1 AGENCY IF THE STATE POLICE DETERMINE THAT THEY WOULD HAVE
2 GRANTED A REQUEST HAD A REQUEST BEEN MADE BY A CRIMINAL
3 JUSTICE AGENCY.

4 (3) IN ALL CASES, THE STATE POLICE SHALL USE PROCEDURES
5 FOR CONDUCTING A MODIFIED DNA SEARCH THAT ARE CONSISTENT WITH
6 THE RULES, REGULATIONS AND GUIDELINES PROMULGATED UNDER
7 SECTION 2318 (RELATING TO PROCEDURES FOR CONDUCT, DISPOSITION
8 AND USE OF DNA ANALYSIS).

9 (C) RELEASE OF INFORMATION FROM A MODIFIED DNA SEARCH.--THE
10 STATE POLICE SHALL PROVIDE THE REQUESTING CRIMINAL JUSTICE
11 AGENCY WITH PERSONALLY IDENTIFYING INFORMATION ON INDIVIDUALS
12 WHOSE DNA RECORDS WERE IDENTIFIED THROUGH A MODIFIED DNA SEARCH.

13 (D) REQUIREMENTS.--

14 (1) THE STATE POLICE SHALL REQUIRE A CRIMINAL JUSTICE
15 AGENCY TO PROVIDE ASSURANCES AND INFORMATION IN SUPPORT OF
16 ITS REQUEST FOR A MODIFIED DNA SEARCH, INCLUDING:

17 (I) A REPRESENTATION THAT A MODIFIED DNA SEARCH IS
18 NECESSARY FOR LAW ENFORCEMENT IDENTIFICATION PURPOSES IN
19 AN UNSOLVED CASE.

20 (II) A REPRESENTATION THAT ALL OTHER INVESTIGATIVE
21 LEADS HAVE BEEN PURSUED.

22 (III) A COMMITMENT TO FURTHER INVESTIGATE THE CASE
23 IF PERSONAL IDENTIFYING INFORMATION FROM A MODIFIED DNA
24 SEARCH IS PROVIDED.

25 (IV) ANY OTHER INFORMATION THE STATE POLICE DEEM
26 NECESSARY.

27 (2) THE STATE POLICE SHALL GRANT A MODIFIED DNA SEARCH
28 REQUEST IF THE STATE POLICE DETERMINE THAT:

29 (I) THE CRIME SCENE DNA PROFILE HAS SUFFICIENT SIZE,
30 QUALITY AND INTEGRITY.

1 (II) THE CRIME SCENE DNA PROFILE HAS PREVIOUSLY BEEN
2 SUBJECTED TO A ROUTINE DNA SEARCH AGAINST THE STATE DNA
3 DATA BASE.

4 (III) THE MODIFIED DNA SEARCH IS NECESSARY FOR LAW
5 ENFORCEMENT IDENTIFICATION PURPOSES IN AN UNSOLVED CASE.

6 (IV) THE CRIMINAL JUSTICE AGENCY HAS PURSUED ALL
7 OTHER INVESTIGATIVE LEADS.

8 (V) ANY RELEVANT CONSIDERATION, INCLUDING FACTORS OR
9 REQUIREMENTS CONSIDERED BY ANY OTHER JURISDICTION,
10 SUPPORTS GRANTING THE REQUEST.

11 (3) THE STATE POLICE PROCEDURES, PROMULGATED UNDER
12 SECTION 2318, TO CONDUCT MODIFIED DNA SEARCHES SHALL BE BASED
13 ON SCIENTIFICALLY VALID AND RELIABLE METHODS TO DETERMINE
14 THAT A CRIME SCENE DNA PROFILE IS SUFFICIENTLY LIKELY TO HAVE
15 ORIGINATED FROM A CLOSE RELATIVE OF AN INDIVIDUAL WHOSE DNA
16 PROFILE IS RECORDED IN THE STATE DNA DATA BASE. THE STATE
17 POLICE MAY REQUIRE THE FOLLOWING:

18 (I) AN ANALYSIS OF THE RARITY IN THE RELEVANT
19 POPULATION OF EACH SHARED DNA CHARACTERISTIC.

20 (II) AN ANALYSIS OF THE PATTERN OF SHARED DNA
21 CHARACTERISTICS.

22 (III) Y CHROMOSOME ANALYSIS.

23 (IV) MITOCHONDRIAL DNA ANALYSIS.

24 (V) ANY OTHER SUITABLE METHOD DESIGNED TO DETERMINE
25 THAT A CRIME SCENE DNA PROFILE ORIGINATED FROM A CLOSE
26 RELATIVE OF AN INDIVIDUAL IN THE STATE DNA DATA BASE.

27 SECTION 5. SECTIONS 2319, 2321 AND 2322 OF TITLE 44 ARE
28 AMENDED TO READ:

29 § 2319. DNA DATA BASE EXCHANGE.

30 (A) RECEIPT OF DNA SAMPLES BY STATE POLICE.--IT SHALL BE THE

1 DUTY OF THE STATE POLICE TO RECEIVE DNA SAMPLES, TO STORE, TO
2 PERFORM ANALYSIS OR TO CONTRACT FOR DNA TYPING ANALYSIS WITH [A
3 QUALIFIED] AN ACCREDITED FORENSIC DNA LABORATORY THAT MEETS THE
4 [GUIDELINES] RULES, REGULATIONS AND GUIDELINES UNDER SECTION
5 2318 (RELATING TO PROCEDURES FOR CONDUCT, DISPOSITION AND USE OF
6 DNA ANALYSIS) AS ESTABLISHED BY THE STATE POLICE, TO CLASSIFY
7 AND TO FILE THE DNA RECORD OF IDENTIFICATION CHARACTERISTIC
8 PROFILES OF DNA SAMPLES SUBMITTED UNDER THE FORMER DNA ACT,
9 FORMER PROVISIONS OF 42 PA.C.S. CH. 47 (RELATING TO DNA DATA AND
10 TESTING) OR THIS CHAPTER AND TO MAKE SUCH INFORMATION AVAILABLE
11 AS PROVIDED IN THIS SECTION. THE STATE POLICE MAY CONTRACT [OUT]
12 FOR THE STORAGE OF DNA TYPING ANALYSIS [AND MAY CONTRACT OUT] OR
13 DNA TYPING ANALYSIS TO [A QUALIFIED] AN ACCREDITED FORENSIC DNA
14 LABORATORY THAT MEETS THE RULES, REGULATIONS AND GUIDELINES AS
15 ESTABLISHED BY THE STATE POLICE UNDER SECTION 2318. THE RESULTS
16 OF THE DNA PROFILE OF INDIVIDUALS IN THE STATE DNA DATA BASE
17 SHALL BE MADE AVAILABLE:

18 (1) TO CRIMINAL JUSTICE AGENCIES OR [APPROVED CRIME]
19 CODIS-PARTICIPATING DNA LABORATORIES WHICH SERVE THESE
20 AGENCIES; OR

21 (2) UPON WRITTEN OR ELECTRONIC REQUEST AND IN
22 FURTHERANCE OF AN OFFICIAL INVESTIGATION OF A CRIMINAL
23 OFFENSE OR OFFENDER OR SUSPECTED OFFENDER.

24 (B) METHODS OF OBTAINING INFORMATION.--THE STATE POLICE
25 SHALL [ADOPT] PROMULGATE, AS NECESSARY, RULES, REGULATIONS AND
26 GUIDELINES GOVERNING THE METHODS OF OBTAINING INFORMATION FROM
27 THE STATE DNA DATA BASE AND CODIS AND PROCEDURES FOR
28 VERIFICATION OF THE IDENTITY AND AUTHORITY OF THE REQUESTER.

29 (C) POPULATION DATA BASE.--

30 (1) THE STATE POLICE MAY ESTABLISH A SEPARATE POPULATION

1 DATA BASE COMPRISED OF DNA SAMPLES OBTAINED UNDER THIS
2 CHAPTER AFTER ALL PERSONAL IDENTIFICATION IS REMOVED.

3 (2) THE STATE POLICE MAY SHARE OR DISSEMINATE THE
4 POPULATION DATA BASE WITH OTHER CRIMINAL JUSTICE AGENCIES OR
5 [CRIME] CODIS-PARTICIPATING DNA LABORATORIES THAT SERVE TO
6 ASSIST THE STATE POLICE WITH STATISTICAL DATA BASES.

7 (3) THE POPULATION DATA BASE MAY BE MADE AVAILABLE TO
8 AND SEARCHED BY OTHER AGENCIES PARTICIPATING IN THE CODIS
9 SYSTEM.

10 (D) SEPARATE CATEGORY.--THE STATE POLICE SHALL CREATE A
11 SEPARATE CATEGORY WITHIN THE DATA BASE TO STORE DNA SAMPLES AND
12 RECORDS COLLECTED UPON ARREST UNDER SECTION 2316(C.1) (RELATING
13 TO DNA SAMPLE REQUIRED).

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

1 COURT ORDER REVERSING AND DISMISSING THE CONVICTION; OR
2 (2) CLEAR AND CONVINCING PROOF THAT THE SAMPLE RECORD OR
3 PROFILE WAS INCLUDED BY MISTAKE.]

4 (A) GENERAL RULE.--A PERSON WHOSE DNA SAMPLE, RECORD OR
5 PROFILE HAS BEEN INCLUDED IN THE STATE DNA DATA BANK OR THE
6 STATE DNA DATA BASE UNDER THE FORMER DNA ACT, FORMER PROVISIONS
7 OF 42 PA.C.S. CH. 47 (RELATING TO DNA DATA AND TESTING) OR THIS
8 CHAPTER MAY HAVE THE DNA SAMPLE, RECORD OR PROFILE EXPUNGED IN
9 ACCORDANCE WITH THIS SECTION.

10 (B) REMOVAL BY REQUEST.--A PERSON WHOSE DNA SAMPLE, RECORD
11 OR PROFILE HAS BEEN INCLUDED IN THE STATE DNA DATA BANK OR THE
12 STATE DNA DATE BASE UNDER THE FORMER DNA ACT, FORMER PROVISIONS
13 OF 42 PA.C.S. CH. 47 (RELATING TO DNA DATA AND TESTING) OR THIS
14 CHAPTER MAY FILE A WRITTEN REQUEST WITH THE STATE POLICE ON THE
15 GROUND THAT THE DNA SAMPLE, RECORD OR PROFILE BE REMOVED ON THE
16 GROUND THAT THE DNA SAMPLE, RECORD OR PROFILE WAS INCLUDED IN
17 THE STATE DNA DATA BANK OR THE STATE DNA DATA BASE BY MISTAKE.
18 IF THE STATE POLICE GRANTS THE REQUEST, THE REQUEST SHALL BE
19 PROCESSED AT NO COST AND THE STATE POLICE SHALL PROVIDE WRITTEN
20 NOTICE OF THE REMOVAL TO THE PERSON AND HIS ATTORNEY OF RECORD,
21 IF ANY, WITHIN 60 DAYS AFTER DESTROYING THE DNA SAMPLE, RECORD
22 AND PROFILE. IF THE STATE POLICE ERRONEOUSLY DENIES THE REQUEST,
23 THE PERSON MAY REQUEST EXPUNGEMENT OF THE DNA SAMPLE, RECORD OR
24 PROFILE UNDER SUBSECTION (C).

25 (B.1) EXPUNGEMENT BY COURT ORDER.--THE FOLLOWING SHALL
26 APPLY:

27 (1) EXCEPT AS PROVIDED UNDER PARAGRAPH (2), A PERSON MAY
28 REQUEST THE COURT OF COMMON PLEAS OF THE COUNTY WHERE THE
29 ORIGINAL CHARGES WERE FILED TO ISSUE AN ORDER DIRECTING THE
30 EXPUNGEMENT OF THE DNA SAMPLE, RECORD OR PROFILE PERTAINING

1 TO THE PERSON IN THE STATE DNA DATA BANK OR THE STATE DNA
2 DATA BASE IN THE FOLLOWING INSTANCES:

3 (I) THE CONVICTION OR DELINQUENCY ADJUDICATION FOR
4 WHICH THE PERSON'S DNA SAMPLE WAS COLLECTED HAS BEEN
5 REVERSED AND NO APPEAL IS PENDING;

6 (II) THE CHARGE FOR WHICH THE DNA SAMPLE WAS TAKEN
7 HAS BEEN DISMISSED, NO APPEAL IS PENDING AND THE
8 PROSECUTING AUTHORITY IS BARRED FROM SEEKING A RETRIAL;

9 (III) THERE HAS BEEN A JUDGMENT OF ACQUITTAL ON THE
10 CHARGE FOR WHICH THE DNA SAMPLE WAS TAKEN;

11 (IV) THE PERSON FROM WHOM THE DNA SAMPLE WAS TAKEN
12 WAS NOT CHARGED WITH A CRIME FOR WHICH A DNA SAMPLE IS
13 AUTHORIZED TO BE TAKEN UNDER THIS CHAPTER;

14 (V) THE PROSECUTING AUTHORITY HAS EXPRESSLY DECLINED
15 TO PROSECUTE THE CHARGE FOR WHICH THE DNA SAMPLE WAS
16 TAKEN;

17 (VI) THE CHARGE FOR WHICH THE DNA SAMPLE WAS TAKEN
18 WAS NOT FILED WITHIN THE STATUTE OF LIMITATIONS;

19 (VII) THE PERSON WAS GRANTED AN UNCONDITIONAL PARDON
20 FOR THE CRIME FOR WHICH THE DNA SAMPLE WAS TAKEN; OR

21 (VIII) THE DNA SAMPLE, RECORD OR PROFILE WAS
22 INCLUDED IN THE STATE DNA DATA BANK OR STATE DNA DATA
23 BASE BY MISTAKE AND THE STATE POLICE HAS ERRONEOUSLY
24 REFUSED TO GRANT THE PERSON'S REQUEST FOR REMOVAL UNDER
25 SUBSECTION (B).

26 (2) PARAGRAPH (1) SHALL NOT APPLY IF THE PERSON HAS BEEN
27 ARRESTED, CHARGED, CONVICTED OR ADJUDICATED DELINQUENT FOR
28 ANY OTHER CRIME FOR WHICH A DNA SAMPLE IS REQUIRED TO BE
29 COLLECTED UNDER THIS CHAPTER.

30 (3) THE COURT SHALL GIVE TEN DAYS' PRIOR NOTICE TO THE

1 DISTRICT ATTORNEY OF THE COUNTY WHERE THE ORIGINAL CHARGES
2 WERE FILED OF ANY APPLICATION FOR EXPUNGEMENT UNDER
3 SUBSECTION (C) (1).

4 (4) NOTWITHSTANDING ANY OTHER LAW OR RULE OF COURT, THE
5 COURT SHALL HAVE NO AUTHORITY TO ORDER THE EXPUNGEMENT OF ANY
6 DNA SAMPLE, RECORD OR PROFILE IN THE STATE DNA DATA BANK OR
7 THE STATE DNA DATA BASE EXCEPT AS PROVIDED UNDER THIS
8 SUBSECTION.

9 (B.2) EXPUNGEMENT REPORTING.--A PERSON WHOSE DNA SAMPLE,
10 RECORD OR PROFILE HAS BEEN EXPUNGED UNDER SUBSECTION (C) SHALL
11 FORWARD A CERTIFIED COPY OF AN EXPUNGEMENT ORDER ISSUED UNDER
12 SUBSECTION (C) TO THE STATE POLICE.

13 (B.3) DUTIES OF STATE POLICE.--THE FOLLOWING SHALL APPLY:

14 (1) UPON RECEIPT OF AN EXPUNGEMENT ORDER ISSUED UNDER
15 SUBSECTION (C), THE STATE POLICE SHALL DESTROY THE DNA
16 SAMPLE, RECORD AND PROFILE IN THE STATE DNA DATA BANK AND THE
17 STATE DNA DATA BASE PERTAINING TO A PERSON IDENTIFIED IN AN
18 EXPUNGEMENT ORDER.

19 (2) THE EXPUNGEMENT SHALL BE PROCESSED AT NO COST TO THE
20 PERSON FROM WHOM THE DNA SAMPLE WAS TAKEN.

21 (3) THE STATE POLICE SHALL PROVIDE WRITTEN NOTICE OF THE
22 EXPUNGEMENT TO THE PERSON AND HIS ATTORNEY OF RECORD, IF ANY,
23 WITHIN 60 DAYS AFTER DESTROYING THE DNA SAMPLE, RECORD AND
24 PROFILE.

25 (C) LIMITATIONS.--

26 (1) AN INCARCERATED OR PREVIOUSLY INCARCERATED PERSON
27 MAY NOT SEEK EXPUNGEMENT OF A DNA SAMPLE, RECORD OR PROFILE
28 ON THE GROUND THAT THAT PERSON WAS CONVICTED OR ADJUDICATED
29 DELINQUENT FOR A FELONY SEX OFFENSE PRIOR TO JULY 27, 1995.

30 (2) A PERSON MAY NOT SEEK EXPUNGEMENT OF A DNA SAMPLE,

1 RECORD OR PROFILE ON THE GROUND THAT THAT PERSON WAS CONVICTED
2 OR ADJUDICATED DELINQUENT FOR ONE OF THE OTHER SPECIFIED
3 OFFENSES PRIOR TO THE EFFECTIVE DATE OF THE FORMER DNA ACT OR
4 THIS CHAPTER.

5 (D) EFFECT OF EXPUNGEMENT.--THE EXPUNGEMENT OF A DNA SAMPLE,
6 RECORD OR PROFILE PURSUANT TO THIS SECTION SHALL HAVE NO EFFECT
7 ON ANY DATA BANK OR DATA BASE MATCH OR PARTIAL MATCH OCCURRING
8 PRIOR TO THE EXPUNGEMENT OF THE SAMPLE, RECORD OR PROFILE.

9 § 2322. MANDATORY COST.

10 UNLESS THE COURT FINDS THAT UNDUE HARDSHIP WOULD RESULT, A
11 MANDATORY COST OF \$250, WHICH SHALL BE IN ADDITION TO ANY OTHER
12 COSTS IMPOSED PURSUANT TO STATUTORY AUTHORITY, SHALL
13 AUTOMATICALLY BE ASSESSED ON ANY PERSON CONVICTED, ADJUDICATED
14 DELINQUENT OR GRANTED ARD FOR CRIMINAL HOMICIDE, A FELONY SEX
15 OFFENSE OR OTHER SPECIFIED OFFENSE, AND ALL PROCEEDS DERIVED
16 FROM THIS SECTION SHALL BE TRANSMITTED TO THE FUND.

17 SECTION 6. THIS ACT SHALL TAKE EFFECT IN 270 DAYS.