

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

**SENATE BILL**No. **150** Session of  
2013

INTRODUCED BY PILEGGI, GREENLEAF, MENSCH, ERICKSON, SCHWANK,  
RAFFERTY, ALLOWAY, COSTA, YAW, VULAKOVICH, BOSCOLA, WARD,  
SOLOBAY, GORDNER, VANCE, BAKER, DINNIMAN AND BROWNE,  
JANUARY 16, 2013

AS AMENDED ON THIRD CONSIDERATION, JUNE 17, 2013

## 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; providing for request for modified DNA search;  
13 and further providing for DNA data base exchange, for  
14 expungement and for mandatory cost.

15 The General Assembly of the Commonwealth of Pennsylvania  
16 hereby enacts as follows:

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

20 § 2302. Policy.

21 The General Assembly finds and declares that:

22 (1) DNA data banks are an important tool in criminal  
23 investigations, in [the exclusion of] excluding innocent

1 individuals who are the subject of criminal investigations or  
2 prosecutions and in [detering and detecting recidivist acts]  
3 detecting and deterring repeated crimes by the same  
4 individual.

5 (2) Several states have enacted laws requiring persons  
6 arrested, charged or convicted of certain crimes, especially  
7 sex offenses, to provide genetic samples for DNA profiling.

8 (2.1) Several states have authorized the disclosure of  
9 DNA profiles in their state's DNA data base where comparison  
10 of DNA linked to a crime with the known offender DNA profile  
11 in the data base establishes the likelihood of a close  
12 familial relationship between the two.

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

17 (4) It is therefore in the best interest of the  
18 Commonwealth to establish a DNA data base and a DNA data bank  
19 containing DNA samples submitted by individuals arrested for,  
20 charged with, convicted of, adjudicated delinquent for or  
21 accepted into ARD for criminal homicides, felony sex offenses  
22 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 "Arrest." The taking or keeping of a person in custody by  
9 legal authority or proceedings commenced by a police complaint  
10 that is proceeded against by summons or by a petition filed  
11 pursuant to 42 Pa.C.S. § 6321(a)(3) (relating to commencement of  
12 proceedings).

13 "CODIS." The [term is derived from] Combined DNA Index  
14 System[, the Federal Bureau of Investigation's national DNA  
15 identification index system that allows the storage and exchange  
16 of DNA records submitted by state and local forensic DNA  
17 laboratories] established and maintained by the Federal Bureau  
18 of Investigation.

19 "Commissioner." The Commissioner of the Pennsylvania State  
20 Police.

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

24 "Criminal homicide." Any of the following:

25 (1) 18 Pa.C.S. § 2501 (relating to criminal homicide).

26 (2) 18 Pa.C.S. § 2502 (relating to murder).

27 (3) 18 Pa.C.S. § 2503 (relating to voluntary  
28 manslaughter).

29 (4) 18 Pa.C.S. § 2504 (relating to involuntary  
30 manslaughter), when the offense is graded as a felony.

1           (5) 18 Pa.C.S. § 2505 (relating to causing or aiding  
2 suicide), when the offense is graded as a felony.

3           (6) 18 Pa.C.S. § 2506 (relating to drug delivery  
4 resulting in death).

5           (7) 18 Pa.C.S. § 2507 (relating to criminal homicide of  
6 law enforcement officer).

7           (8) 18 Pa.C.S. § 2603 (relating to criminal homicide of  
8 unborn child).

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

11           (10) 18 Pa.C.S. § 2605 (relating to voluntary  
12 manslaughter of unborn child).

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

15       "DNA." Deoxyribonucleic acid[. DNA is located in the cells  
16 and provides an individual's personal genetic blueprint. DNA]  
17 located in the chromosomes or mitochondria of a living  
18 organism's cells which encodes genetic information that is the  
19 basis of human heredity and forensic identification.

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

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

10 "FBI." The Federal Bureau of Investigation.

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

14 18 Pa.C.S. Ch. 31 (relating to sexual offenses).

15 18 Pa.C.S. § 3130 (relating to conduct relating to sex  
16 offenders).

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

1 under 42 Pa.C.S. Ch. 97 Subch. H (relating to registration of  
2 sexual offenders).

3 "Forensic DNA laboratory." A laboratory that performs  
4 forensic DNA testing for the purposes of identification.

5 "Forensic DNA testing." A test that applies techniques from  
6 molecular biology to analyze deoxyribonucleic acid (DNA) to  
7 identify characteristics unique to a particular individual.

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

11 "Fund." The DNA Detection Fund reestablished in section 2335  
12 (relating to DNA Detection Fund).

13 "Human behavioral genetic research." The study of the  
14 possible genetic underpinnings of behaviors, including, but not  
15 limited to, aggression, substance abuse, social attitudes,  
16 mental abilities, sexual activity and eating habits.

17 "Law enforcement identification purposes." Assisting in the  
18 determination of the identity of an individual whose DNA is  
19 contained in a biological sample.

20 "Mitochondrial DNA analysis." A method that applies  
21 techniques from molecular biology to analyze DNA found in the  
22 mitochondria of cells.

23 "Modified DNA search." A search of the State DNA Data Base,  
24 using scientifically valid and reliable methods in accordance  
25 with rules, regulations and guidelines promulgated under section  
26 2318 (relating to procedures for conduct, disposition and use of  
27 DNA analysis), to determine that a crime scene DNA profile is  
28 sufficiently likely to have originated from a close relative of  
29 an individual whose DNA profile is recorded in the State DNA  
30 Data Base.

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

2 (1) A felony offense, other than criminal homicide or a  
3 felony sex offense.

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

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

10 (4) 18 Pa.C.S. § 2701(b)(2) (relating to simple  
11 assault).

12 (5) 18 Pa.C.S. § 2902 (relating to unlawful 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 SUBMITTED <--  
15 FROM INDIVIDUALS UPON arrest.

16 ~~(2) The number of DNA samples collected at arrest that~~ <--  
17 ~~contributed to the filing of charges in or the closing of~~  
18 ~~investigations related to previously unsolved offenses.~~

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

22 ~~(4) (2) The age, ethnicity, race and sex of arrestees~~ <--  
23 ~~from whom DNA samples were collected at SUBMITTED UPON arrest~~ <--  
24 ~~and THE AGE, RACE AND SEX OF THOSE CONVICTED FROM WHOM DNA~~ <--  
25 ~~SAMPLES WERE SUBMITTED upon conviction.~~

26 ~~(5) (3) The fiscal impact on the State Police of~~ <--  
27 ~~collecting DNA samples from persons convicted of offenses.~~

28 ~~(6) (4) The fiscal impact on the State Police of~~ <--  
29 ~~collecting DNA samples from arrestees.~~

30 ~~(7) (5) The number of DNA samples collected at arrest~~ <--

1 that were expunged from the Statewide DNA Data Base. by <--  
2 request, by court order, as a result of acquittal, as a  
3 result of charges never having been filed and because charges  
4 filed were dismissed.

5 ~~(8)~~ (6) The average length of time between the <--  
6 collection RECEIPT of DNA samples from arrestees and from <--  
7 those convicted of offenses and the completion of forensic  
8 DNA testing of each of those categories of DNA samples.

9 ~~(9)~~ (7) Recommendations, if any, under this section for <--  
10 the inclusion of additional offenses for which DNA samples  
11 must be collected or recommendations for the removal of  
12 specific offenses from the categories requiring the  
13 collection of DNA samples from arrestees or persons convicted  
14 of crimes.

15 § 2315. Procedural compatibility with FBI.

16 The DNA identification system [as] established by the State  
17 Police shall be compatible with the procedures [specified]  
18 established by the FBI Quality Assurance Standards for forensic  
19 DNA testing laboratories and DNA data basing laboratories and  
20 CODIS policies and procedures, including use of comparable test  
21 procedures, laboratory equipment, supplies and computer  
22 software.

23 § 2316. DNA sample required [upon conviction, delinquency  
24 adjudication and certain ARD cases].

25 (a) [General rule] Conviction or adjudication.--A person who  
26 is convicted or adjudicated delinquent for criminal homicide, a  
27 felony sex offense or other specified offense or who is or  
28 remains incarcerated for criminal homicide, a felony sex offense  
29 or other specified offense on or after the effective date of  
30 this chapter shall have a DNA sample [drawn] collected as

1 follows:

2 (1) A person who is sentenced or receives a delinquency  
3 disposition to a term of confinement for an offense covered  
4 by this subsection shall have a DNA sample [drawn] collected  
5 upon intake to a prison, jail or juvenile detention facility  
6 or any other detention facility or institution. If the person  
7 is already confined at the time of sentencing or  
8 adjudication, the person shall have a DNA sample [drawn]  
9 collected immediately after the sentencing or adjudication.  
10 If a DNA sample is not timely [drawn] collected in accordance  
11 with this section, the DNA sample may be [drawn] collected  
12 any time thereafter by the prison, jail, juvenile detention  
13 facility, detention facility or institution.

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

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

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

26 (1) A person who has been convicted or adjudicated  
27 delinquent for criminal homicide, a felony sex offense or  
28 other specified offense and who serves a term of confinement  
29 in connection therewith after June 18, 2002, shall not be  
30 released in any manner unless and until a DNA sample has been

1 [withdrawn] collected.

2 (2) This chapter shall apply to incarcerated persons  
3 convicted or adjudicated delinquent for criminal homicide, a  
4 felony sex offense or other specified offense prior to June  
5 19, 2002.

6 (3) This chapter shall apply to incarcerated persons and  
7 persons on probation or parole who were convicted or  
8 adjudicated delinquent for criminal homicide, a felony sex  
9 offense or other specified offenses prior to the effective  
10 date of this paragraph.

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

15 (c.1) Arrest.--A person who is arrested in this Commonwealth  
16 for criminal homicide, felony sex offenses or other specified  
17 offenses shall have a DNA sample collected as follows:

18 (1) A person who is arrested for an offense covered  
19 under this subsection shall have a DNA sample collected no  
20 later than five days after the date of the arrest.

21 (2) If a DNA sample is not timely collected in  
22 accordance with this subsection, the DNA sample may be  
23 collected any time thereafter by a law enforcement official,  
24 prison, jail, juvenile detention facility, detention facility  
25 or institution.

26 (3) A person who is arrested for an offense covered  
27 under this subsection may not be released unless and until a  
28 DNA sample and fingerprints have been collected.

29 (4) This subsection shall apply as follows:

30 (i) Beginning one year after the effective date of

1 this subsection, any person arrested for criminal  
2 homicide shall have a DNA sample collected under this  
3 subsection upon arrest.

4 (ii) Beginning two years after the effective date of  
5 this subsection, any person arrested for a felony sex  
6 offense shall have a DNA sample collected under this  
7 subsection upon arrest.

8 (iii) Beginning three years after the effective date  
9 of this subsection, any person arrested for any other  
10 specified offense shall have a DNA sample collected under  
11 this subsection upon arrest.

12 (d) Supervision of DNA samples.--All DNA samples taken  
13 pursuant to this section shall be taken in accordance with  
14 rules, regulations and guidelines promulgated by the State  
15 Police in consultation with the Department of Corrections.

16 (d.1) Mandatory submission.--The requirements of this  
17 chapter are mandatory and apply regardless of whether a court  
18 advises a person that a DNA sample must be provided to the State  
19 DNA Data Base and the State DNA Data Bank as a result of [a] an  
20 arrest, conviction or adjudication of delinquency. A person who  
21 has been sentenced to death or life imprisonment without the  
22 possibility of parole or to any term of incarceration is not  
23 exempt from the requirements of this chapter. Any person subject  
24 to this chapter who has not provided a DNA sample for any  
25 reason, including because of an oversight or error, shall  
26 provide a DNA sample for inclusion in the State DNA Data Base  
27 and the State DNA Data Bank after being notified by authorized  
28 law enforcement or corrections personnel. If a person provides a  
29 DNA sample which is not adequate for any reason, the person  
30 shall provide another DNA sample for inclusion in the State DNA

1 Data Base and the State DNA Data Bank after being notified by  
2 authorized law enforcement or corrections personnel. The  
3 collection of a DNA sample under this chapter shall not be  
4 required if the authorized law enforcement or corrections  
5 official confirms that a DNA sample from the person has already  
6 been validly collected and provided to the State DNA Data Base  
7 and the State DNA Data Bank.

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

12 Section 2. Title 44 is amended by adding a section to read:  
13 § 2316.1. Collection from persons accepted from other  
14 jurisdictions.

15 (a) Conditional acceptance.--When a person is accepted into  
16 this Commonwealth for supervision from another jurisdiction  
17 under the Interstate Compact for Supervision of Adult Offenders,  
18 other reciprocal agreement with a Federal, state or county  
19 agency, or a provision of law, whether or not the person is  
20 confined or released, the acceptance shall be conditioned on the  
21 offender's providing DNA samples under this chapter if the  
22 offender has a past or present Federal, state or military court  
23 conviction or adjudication that is equivalent to criminal  
24 homicide, a felony sex offense or other specified offense as  
25 determined by the Pennsylvania Board of Probation and Parole.  
26 Additional DNA samples shall not be required if a DNA sample is  
27 currently on file with the State DNA Data Base.

28 (b) Time period.--

29 (1) If the person accepted under subsection (a) is not  
30 confined, the DNA sample and fingerprints required under this

1 chapter shall be provided within five calendar days after the  
2 person reports to the supervising agent or within five  
3 calendar days of notice to the person, whichever occurs  
4 first. The person shall appear and the DNA samples shall be  
5 collected in accordance with the provisions of this chapter.

6 (2) If the person accepted under subsection (a) is  
7 confined, the person shall provide the DNA sample and  
8 fingerprints required by this chapter within five calendar  
9 days after the person is received at a place of incarceration  
10 or confinement.

11 Section 3. Sections 2317 heading and (a) (1) and (b) and  
12 2318(a) and (c) of Title 44 are amended to read:

13 § 2317. Procedures for [withdrawal,] collection and  
14 transmission of DNA samples.

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

16 (1) Each DNA sample required to be [drawn] collected  
17 pursuant to [section] sections 2316 (relating to DNA sample  
18 required [upon conviction, delinquency adjudication and  
19 certain ARD cases]) and 2316.1 (relating to collection from  
20 persons accepted from other jurisdictions) from persons who  
21 are incarcerated or confined shall be [drawn] collected at  
22 the place of incarceration or confinement as provided for in  
23 section 2316. DNA samples from persons who are not ordered or  
24 sentenced to a term of confinement shall be [drawn] collected  
25 at a prison, jail unit, juvenile facility or other facility  
26 to be specified by the court. [Only] For DNA blood samples,  
27 only those individuals qualified to draw DNA blood samples in  
28 a medically approved manner shall draw a DNA blood sample to  
29 be submitted for DNA analysis. [Such sample] DNA samples and  
30 the set of fingerprints provided for in paragraph (2) shall

1 be delivered to the State Police within 48 hours of [drawing]  
2 collecting the sample.

3 \* \* \*

4 (b) Limitation on liability.--Persons authorized to [draw]  
5 collect DNA samples under this section shall not be criminally  
6 liable for withdrawing a DNA sample and transmitting test  
7 results pursuant to this chapter if they perform these  
8 activities in good faith and shall not be civilly liable for  
9 such activities when the person acted in a reasonable manner  
10 according to generally accepted medical and other professional  
11 practices.

12 \* \* \*

13 § 2318. Procedures for conduct, disposition and use of DNA  
14 analysis.

15 (a) Procedures.--

16 (1) The State Police shall [prescribe] promulgate, as  
17 necessary, rules, regulations and guidelines to implement  
18 this chapter, including procedures to be used in the  
19 collection, submission, identification, analysis, storage and  
20 disposition of DNA samples and typing results of DNA samples  
21 submitted under the former DNA Act, former provisions of 42  
22 Pa.C.S. Ch. 47 (relating to DNA data and testing) or this  
23 chapter.

24 (2) The DNA sample typing results shall be securely  
25 stored in the State DNA Data Base, and records of testing  
26 shall be retained on file with the State Police consistent  
27 with the procedures established by the FBI Quality Assurance  
28 Standards for forensic DNA testing laboratories and DNA data  
29 basing laboratories and CODIS policies and procedures.

30 (3) These procedures shall also include quality

1 assurance guidelines to ensure that DNA identification  
2 records meet standards for accredited forensic DNA  
3 laboratories which submit DNA records to the State DNA Data  
4 Base.

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

7 (i) Verification of accreditation.

8 (ii) Compliance with FBI Quality Assurance  
9 Standards, including continuing education requirements  
10 for the personnel of forensics DNA testing laboratories.

11 \* \* \*

12 (c) Use of tests.--

13 (1) Except as otherwise provided in section 2319(c)  
14 (relating to DNA data base exchange), the tests to be  
15 performed on each DNA sample shall be used only for law  
16 enforcement identification purposes or to assist in the  
17 recovery or identification of human remains from disasters or  
18 for other humanitarian identification purposes, including  
19 identification of missing persons.

20 (2) No DNA sample or DNA record acquired under this  
21 chapter may be used for human behavioral genetic research or  
22 for nonlaw enforcement or nonhumanitarian identification  
23 purposes.

24 \* \* \*

25 Section 4. Title 44 is amended by adding a section to read:

26 § 2318.1. Request for modified DNA search.

27 (a) General rule.--

28 (1) A criminal justice agency may request in writing  
29 that the State Police perform a modified DNA search in an  
30 unsolved case and shall provide information as required by

1 the State Police.

2 (2) The State Police may grant a request to conduct a  
3 modified DNA search if the State Police determine that the  
4 request complies with subsection (d) (2).

5 (b) Modified DNA search.--

6 (1) The State Police may conduct a modified DNA search  
7 if it grants a request under subsection (a) (2).

8 (2) The State Police may conduct a modified DNA search  
9 in unsolved cases without the request of a criminal justice  
10 agency if the State Police determine that they would have  
11 granted a request had a request been made by a criminal  
12 justice agency.

13 (3) In all cases, the State Police shall use procedures  
14 for conducting a modified DNA search that are consistent with  
15 the rules, regulations and guidelines promulgated under  
16 section 2318 (relating to procedures for conduct, disposition  
17 and use of DNA analysis).

18 (c) Release of information from a modified DNA search.--The  
19 State Police shall provide the requesting criminal justice  
20 agency with personally identifying information on individuals  
21 whose DNA records were identified through a modified DNA search.

22 (d) Requirements.--

23 (1) The State Police shall require a criminal justice  
24 agency to provide assurances and information in support of  
25 its request for a modified DNA search, including:

26 (i) A representation that a modified DNA search is  
27 necessary for law enforcement identification purposes in  
28 an unsolved case.

29 (ii) A representation that all other investigative  
30 leads have been pursued.

1           (iii) A commitment to further investigate the case  
2 if personal identifying information from a modified DNA  
3 search is provided.

4           (iv) Any other information the State Police deem  
5 necessary.

6           (2) The State Police may grant a modified DNA search  
7 request if the State Police determine that:

8           (i) The crime scene DNA profile has sufficient size,  
9 quality and integrity.

10           (ii) The crime scene DNA profile has previously been  
11 subjected to a routine DNA search against the State DNA  
12 Data Base.

13           (iii) The modified DNA search is necessary for law  
14 enforcement identification purposes in an unsolved case.

15           (iv) The criminal justice agency has pursued all  
16 other investigative leads.

17           (v) Any relevant consideration, including factors or  
18 requirements considered by any other jurisdiction,  
19 supports granting the request.

20           (3) The State Police procedures, promulgated under  
21 section 2318, to conduct modified DNA searches shall be based  
22 on scientifically valid and reliable methods to determine  
23 that a crime scene DNA profile is sufficiently likely to have  
24 originated from a close relative of an individual whose DNA  
25 profile is recorded in the State DNA Data Base. The State  
26 Police may require the following:

27           (i) An analysis of the rarity in the relevant  
28 population of each shared DNA characteristic.

29           (ii) An analysis of the pattern of shared DNA  
30 characteristics.

- 1           (iii) Y chromosome analysis.  
2           (iv) Mitochondrial DNA analysis.  
3           (v) Any other suitable method designed to determine  
4           that a crime scene DNA profile originated from a close  
5           relative of an individual in the State DNA Data Base.

6           Section 5. Sections 2319, 2321 and 2322 of Title 44 are  
7 amended to read:

8           § 2319. DNA data base exchange.

9           (a) Receipt of DNA samples by State Police.--It shall be the  
10 duty of the State Police to receive DNA samples, to store, to  
11 perform analysis or to contract for DNA typing analysis with [a  
12 qualified] an accredited forensic DNA laboratory that meets the  
13 [guidelines] rules, regulations and guidelines under section  
14 2318 (relating to procedures for conduct, disposition and use of  
15 DNA analysis) as established by the State Police, to classify  
16 and to file the DNA record of identification characteristic  
17 profiles of DNA samples submitted under the former DNA Act,  
18 former provisions of 42 Pa.C.S. Ch. 47 (relating to DNA data and  
19 testing) or this chapter and to make such information available  
20 as provided in this section. The State Police may contract [out]  
21 for the storage of DNA typing analysis [and may contract out] or  
22 DNA typing analysis to [a qualified] an accredited forensic DNA  
23 laboratory that meets the rules, regulations and guidelines as  
24 established by the State Police under section 2318. The results  
25 of the DNA profile of individuals in the State DNA Data Base  
26 shall be made available:

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

30           (2) upon written or electronic request and in

1 furtherance of an official investigation of a criminal  
2 offense or offender or suspected offender.

3 (b) Methods of obtaining information.--The State Police  
4 shall [adopt] promulgate, as necessary, rules, regulations and  
5 guidelines governing the methods of obtaining information from  
6 the State DNA Data Base and CODIS and procedures for  
7 verification of the identity and authority of the requester.

8 (c) Population data base.--

9 (1) The State Police may establish a separate population  
10 data base comprised of DNA samples obtained under this  
11 chapter after all personal identification is removed.

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

16 (3) The population data base may be made available to  
17 and searched by other agencies participating in the CODIS  
18 system.

19 (d) Separate category.--The State Police shall create a  
20 separate category within the data base to store DNA samples and  
21 records collected upon arrest under section 2316(c.1) (relating  
22 to DNA sample required).

23 § 2321. Expungement.

24 [(a) General rule.--A person whose DNA sample, record or  
25 profile has been included in the State DNA Data Bank or the  
26 State DNA Data Base pursuant to the former DNA Act, former 42  
27 Pa.C.S. Ch. 47 (relating to DNA data and testing) or this  
28 chapter may request expungement on the grounds that the  
29 conviction or delinquency adjudication on which the authority  
30 for including that person's DNA sample, record or profile was

1 based has been reversed and the case dismissed or that the DNA  
2 sample, record or profile was included in the State DNA Data  
3 Bank or the State DNA Data Base by mistake.

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

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

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

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

19 (b) Removal by request.--A person whose DNA sample, record  
20 or profile has been included in the State DNA Data Bank or the  
21 State DNA Data Base under the former DNA Act, former provisions  
22 of 42 Pa.C.S. Ch. 47 or this chapter may file a written request  
23 with the State Police on the grounds that the DNA sample, record  
24 or profile be removed on the grounds that the DNA sample, record  
25 or profile was included in the State DNA Data Bank or the State  
26 DNA Data Base by mistake. If the State Police grants the  
27 request, the request shall be processed at no cost and the State  
28 Police shall provide written notice of the removal to the person  
29 and his attorney of record, if any, within 60 days after  
30 destroying the DNA sample, record and profile. If the State

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

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

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

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

15 (ii) the charge for which the DNA sample was taken  
16 has been dismissed, no appeal is pending and the  
17 prosecuting authority is barred from seeking a retrial;

18 (iii) there has been a judgment of acquittal on the  
19 charge for which the DNA sample was taken;

20 (iv) the person from whom the DNA sample was taken  
21 was not charged with a crime for which a DNA sample is  
22 authorized to be taken under this chapter;

23 (v) the prosecuting authority has expressly declined  
24 to prosecute the charge for which the DNA sample was  
25 taken;

26 (vi) the charge for which the DNA sample was taken  
27 was not filed within the statute of limitations;

28 (vii) the person was granted an unconditional pardon  
29 for the crime for which the DNA sample was taken; or

30 (viii) the DNA sample, record or profile was

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

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

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

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

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

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

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

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

30 (3) The State Police shall provide written notice of the

1 expungement to the person and his attorney of record, if any,  
2 within 60 days after destroying the DNA sample, record and  
3 profile.

4 ~~(4) The State Police shall create and provide an~~ <--  
5 ~~expungement procedure informational pamphlet to any person~~  
6 ~~whose DNA sample, record or profile has been taken or created~~  
7 ~~under this chapter.~~

8 (4) THE STATE POLICE SHALL PUBLISH INFORMATION REGARDING <--  
9 THE ELIGIBILITY REQUIREMENTS FOR EXPUNGEMENT UNDER THIS  
10 SECTION AND THE STEPS NECESSARY TO OBTAIN AN EXPUNGEMENT  
11 UNDER THIS SECTION ON THE STATE POLICE'S PUBLICLY AVAILABLE  
12 INTERNET WEBSITE. THE STATE POLICE SHALL PUBLISH THE  
13 INFORMATION IN AT LEAST TWO COMMONLY ACCESSIBLE FORMATS, SUCH  
14 AS HYPERTEXT MARKUP LANGUAGE AND PORTABLE DOCUMENT FORMAT.

15 (c) Limitations.--

16 (1) An incarcerated or previously incarcerated person  
17 may not seek expungement of a DNA sample, record or profile  
18 on the ground that that person was convicted or adjudicated  
19 delinquent for a felony sex offense prior to July 27, 1995.

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

25 (d) Effect of expungement.--The expungement of a DNA sample,  
26 record or profile pursuant to this section shall have no effect  
27 on any data bank or data base match or partial match occurring  
28 prior to the expungement of the sample, record or profile.

29 § 2322. Mandatory cost.

30 Unless the court finds that undue hardship would result, a

1 mandatory cost of \$250, which shall be in addition to any other  
2 costs imposed pursuant to statutory authority, shall  
3 automatically be assessed on any person convicted, adjudicated  
4 delinquent or granted ARD for criminal homicide, a felony sex  
5 offense or other specified offense, and all proceeds derived  
6 from this section shall be transmitted to the fund.

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