

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 683 Session of 2015

INTRODUCED BY PILEGGI, GREENLEAF, RAFFERTY, BOSCOLA, BROWNE, COSTA, MCGARRIGLE, SCHWANK, VULAKOVICH, VANCE, WARD, YAW AND YUDICHAK, MARCH 31, 2015

AS REPORTED FROM COMMITTEE ON JUDICIARY, HOUSE OF REPRESENTATIVES, AS AMENDED, JANUARY 26, 2016

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, AND 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] FORENSIC DNA TESTING IS an <--

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

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

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

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 ~~arrested for,~~ <--  
21 ~~charged with,~~ convicted of, adjudicated delinquent for or  
22 accepted into ARD for ~~criminal homicides,~~ felony sex offenses <--  
23 and other specified offenses.

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

28 § 2303. Definitions.

29 The following words and phrases when used in this chapter  
30 shall have the meanings given to them in this section unless the

1 context clearly indicates otherwise:

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

8 "ARD." Accelerated Rehabilitative Disposition.

9 ~~"Arrest." The taking or keeping of a person in custody by~~ <--  
10 ~~legal authority or proceedings commenced by a police complaint~~  
11 ~~that is proceeded against by summons or by a petition filed~~  
12 ~~pursuant to 42 Pa.C.S. § 6321(a)(3) (relating to commencement of~~  
13 ~~proceedings).~~

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

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

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

25 ~~"Criminal homicide." Any of the following:~~ <--

26 ~~(1) 18 Pa.C.S. § 2501 (relating to criminal homicide).~~

27 ~~(2) 18 Pa.C.S. § 2502 (relating to murder).~~

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

30 ~~(4) 18 Pa.C.S. § 2504 (relating to involuntary~~

1 ~~manslaughter), when the offense is graded as a felony.~~

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

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

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

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

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

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

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

16 "DNA." Deoxyribonucleic acid[. DNA is located in the cells  
17 and provides an individual's personal genetic blueprint. DNA]  
18 located in the chromosomes or mitochondria of a living

19 organism's cells which [encodes genetic information that is the <--  
20 basis of human heredity and forensic identification]. <--

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

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

11 "FBI." The Federal Bureau of Investigation.

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

15 18 Pa.C.S. Ch. 31 (relating to sexual offenses).

16 ~~18 Pa.C.S. § 3130 (relating to conduct relating to sex~~ <--  
17 ~~offenders).~~

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

19 18 Pa.C.S. § [5902(c)(1)(iii) and (iv)] 5902(c)(1)(iv)  
20 (relating to prostitution and related offenses).

21 18 Pa.C.S. § 5903(a) (relating to obscene and other  
22 sexual materials and performances) where the offense  
23 constitutes a felony.

24 [18 Pa.C.S. § 6312 (relating to sexual abuse of  
25 children).

26 18 Pa.C.S. § 6318 (relating to unlawful contact with  
27 minor) where the most serious underlying offense for which  
28 the defendant contacted the minor is graded as a felony.

29 18 Pa.C.S. § 6320 (relating to sexual exploitation of  
30 children).]

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

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

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

9 DATA WHICH MEETS THE REQUIREMENTS FOR INCLUSION IN CODIS AND THE <--  
10 NATIONAL DNA IDENTIFICATION INDEX SYSTEM ADMINISTERED BY THE  
11 FBI.

12 "FORENSIC DNA PROFILE." THE DATA SET DERIVED FROM FORENSIC  
13 DNA TESTING.

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

17 "Fund." The DNA Detection Fund reestablished in section 2335  
18 (relating to DNA Detection Fund).

19 "Human behavioral genetic research." The study of the  
20 possible genetic underpinnings of behaviors, including, but not  
21 limited to, aggression, substance abuse, social attitudes,  
22 mental abilities, sexual activity and eating habits.

23 "Law enforcement identification purposes." Assisting in the  
24 determination of the identity of an individual whose DNA is  
25 contained in a biological sample.

26 "Mitochondrial DNA analysis." A method that applies  
27 techniques from molecular biology to analyze DNA found in the  
28 mitochondria of cells FOR THE PURPOSE OF IDENTIFICATION. <--

29 "Modified DNA search." A search of the State DNA Data Base,  
30 using scientifically valid and reliable methods in accordance

1 with rules, regulations and guidelines promulgated under section  
2 2318 (relating to procedures for conduct, disposition and use of  
3 DNA analysis), to determine that a crime scene DNA profile is  
4 sufficiently likely to have originated from a close relative of  
5 an individual whose DNA profile is recorded in the State DNA  
6 Data Base.

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

8 (1) A felony offense, other than ~~criminal homicide or a~~ <--  
9 felony sex offense.

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

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

16 (4) ~~18 Pa.C.S. § 2701(b)(2) (relating to simple~~ <--  
17 assault).

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

19 ~~(6) 18 Pa.C.S. § 3503(b)(1)(v) (relating to criminal~~  
20 trespass).

21 ~~(7) 18 Pa.C.S. § 4303 (relating to concealing death of~~  
22 child).

23 ~~(8) 18 Pa.C.S. § 4305 (relating to dealing in infant~~  
24 children). AN OFFENSE UNDER 18 PA.C.S. (RELATING TO CRIMES <--  
25 AND OFFENSES) OR 75 PA.C.S. (RELATING TO VEHICLES) THAT IS  
26 GRADED AS A MISDEMEANOR OF THE FIRST DEGREE.

27 ~~(9)~~ (5) A misdemeanor offense requiring registration <--  
28 under 42 Pa.C.S. Ch. 97 Subch. H (relating to registration of  
29 sexual offenders).

30 (6) AN OFFENSE GRADED AS A MISDEMEANOR OF THE SECOND <--

1 DEGREE UNDER ANY OF THE FOLLOWING:

2 18 PA.C.S. § 2701 (RELATING TO SIMPLE ASSAULT).

3 18 PA.C.S. § 2903 (RELATING TO FALSE IMPRISONMENT).

4 18 PA.C.S. § 3127 (RELATING TO INDECENT EXPOSURE).

5 18 PA.C.S. CH. 39 (RELATING TO THEFT AND RELATED  
6 OFFENSES).

7 18 PA.C.S. § 4105 (RELATING TO BAD CHECKS).

8 18 PA.C.S. § 4106 (RELATING TO ACCESS DEVICE FRAUD).

9 18 PA.C.S. § 4952 (RELATING TO INTIMIDATION OF  
10 WITNESSES OR VICTIMS).

11 18 PA.C.S. § 4953 (RELATING TO RETALIATION AGAINST  
12 WITNESS, VICTIM OR PARTY).

13 18 PA.C.S. § 4958 (RELATING TO INTIMIDATION,  
14 RETALIATION OR OBSTRUCTION IN CHILD ABUSE CASES).

15 18 PA.C.S. § 5121 (RELATING TO ESCAPE).

16 18 PA.C.S. § 5126 (RELATING TO FLIGHT TO AVOID  
17 APPREHENSION, TRIAL OR PUNISHMENT).

18 18 PA.C.S. § 5131 (RELATING TO RECRUITING CRIMINAL  
19 GANG MEMBERS).

20 18 PA.C.S. § 5510 (RELATING TO ABUSE OF CORPSE).

21 18 PA.C.S. § 5511 (RELATING TO CRUELTY TO ANIMALS).

22 18 PA.C.S. § 5902 (RELATING TO PROSTITUTION AND  
23 RELATED OFFENSES).

24 "State Police." The Pennsylvania State Police.

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

27 § 2311. Powers and duties of State Police.

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

30 \* \* \*



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

4 \* \* \*

5 § 2312. State DNA Data Base.

6 [The State DNA Data Base is reestablished. It shall be  
7 administered by the State Police and provide DNA records to the  
8 FBI for storage and maintenance by CODIS.] A Statewide DNA Data  
9 Base is ~~established~~ REESTABLISHED within the State Police to <--  
10 store ~~DNA records from DNA samples submitted for analysis and~~ <--  
11 ~~storage~~ FORENSIC DNA PROFILES AND RECORDS DEVELOPED BY OR <--  
12 SUBMITTED to the State Police ~~laboratory~~ under the former DNA <--  
13 Act, the former provisions of 42 Pa.C.S. Ch. 47 (relating to DNA  
14 data and testing) or to this chapter, and to ~~provide DNA~~ <--  
15 CONTRIBUTE FORENSIC DNA PROFILES AND records to CODIS AND THE <--  
16 NATIONAL DNA IDENTIFICATION INDEX SYSTEM. The State DNA Data  
17 Base shall have the capability provided by computer software and  
18 procedures administered by the State Police to store and  
19 maintain [DNA records] FORENSIC DNA PROFILES AND RECORDS related <--  
20 to:

- 21 (1) forensic casework;
- 22 (2) ~~{convicted} arrestees and convicted~~ or delinquency <--  
23 adjudicated offenders required to provide a DNA sample under  
24 this chapter; and
- 25 (3) anonymous DNA records used for statistical research  
26 [or] on the frequency of DNA genotypes, quality control or  
27 the development of new DNA identification methods.

28 § 2313. State DNA Data Bank.

29 The State DNA Data Bank is reestablished. It shall serve as  
30 the repository of DNA samples collected under this chapter or

1 under prior law.

2 § 2314. State Police recommendation of additional offenses and  
3 annual report.

4 (a) Recommendation.--The State Police may recommend to the  
5 General Assembly that it enact legislation for the inclusion of  
6 additional offenses for which DNA samples shall be taken and  
7 otherwise subjected to the provisions of this chapter. In  
8 determining whether to recommend additional offenses, the State  
9 Police shall consider those offenses for which DNA testing will  
10 have a substantial impact on the detection and identification of  
11 sex offenders and [violent] other offenders.

12 (b) Annual report.--No later than August 1 of each year, the  
13 commissioner shall submit to the Governor's Office, the chairman  
14 and minority chairman of the Judiciary Committee of the Senate  
15 and the chairman and minority chairman of the Judiciary  
16 Committee of the House of Representatives, a written report  
17 containing information regarding the collection and testing of  
18 DNA samples under the provisions of this chapter. The report  
19 must include, but need not be limited to, the following  
20 information pertaining to the previous fiscal year:

21 (1) The number of DNA samples submitted from individuals <--  
22 upon arrest.

23 (2) The age, race and sex of arrestees from whom DNA  
24 samples were submitted upon arrest and the THE age, race and <--  
25 sex of those convicted from whom DNA samples were submitted  
26 upon conviction.

27 (3) (2) The fiscal impact on the State Police of <--  
28 collecting AND TESTING DNA samples from persons convicted of <--  
29 OR ADJUDICATED DELINQUENT FOR offenses. <--

30 (4) The fiscal impact on the State Police of collecting <--

1 ~~DNA samples from arrestees.~~

2 ~~(5) The number of DNA samples collected at arrest that~~  
3 ~~were expunged from the Statewide DNA Data Base.~~

4 ~~(6) (3) The average length of time between the receipt~~ <--  
5 ~~of DNA samples from arrestees and from those convicted of~~ <--  
6 ~~offenses and the completion of forensic DNA testing of each~~  
7 ~~of those categories of DNA samples.~~

8 ~~(7) (4) Recommendations, if any, under this section for~~ <--  
9 ~~the inclusion of additional offenses for which DNA samples~~  
10 ~~must be collected or recommendations for the removal of~~  
11 ~~specific offenses from the categories requiring the~~  
12 ~~collection of DNA samples from arrestees or persons convicted~~  
13 ~~of crimes.~~

14 § 2315. Procedural compatibility with FBI.

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

22 § 2316. DNA sample required ~~upon conviction, delinquency~~ <--  
23 ~~adjudication and certain ARD cases~~. <--

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

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

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

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

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

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

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

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

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

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

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

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

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

28           ~~(4) This subsection shall apply as follows:~~

29           ~~(i) Beginning one year after the effective date of~~  
30 ~~this subsection, any person arrested for criminal~~

~~homicide shall have a DNA sample collected under this subsection upon arrest.~~

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

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

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

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

1 authorized law enforcement or corrections personnel. The  
2 collection of a DNA sample MAY BE COLLECTED under this chapter <--  
3 BUT shall not be required if the authorized law enforcement or <--  
4 corrections official confirms that a DNA sample from the person  
5 has already been validly collected and provided to the State DNA  
6 Data Base and the State DNA Data Bank BANK AND A DNA RECORD FOR <--  
7 THE PERSON EXISTS IN THE STATE DNA DATA BASE.

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 AND <--  
22 FINGERPRINTS if the offender has a past or present Federal,  
23 state or military court conviction or adjudication that is  
24 equivalent to ~~eriminal homicide~~, a felony sex offense or other <--  
25 specified offense as determined by the Pennsylvania Board of  
26 Probation and Parole. Additional DNA samples MAY BE COLLECTED <--  
27 BUT shall not be required if THE SUPERVISING AGENCY OR PLACE OF <--  
28 CONFINEMENT CONFIRMS THAT a DNA sample is currently on file with  
29 the State DNA Data BANK AND A DNA RECORD FOR THE PERSON EXISTS <--  
30 IN THE STATE DNA DATA Base.

1 (b) Time period.--

2 (1) If the person accepted under subsection (a) is not  
3 confined, the DNA sample and fingerprints required under this  
4 chapter shall be provided within five calendar days after the  
5 person reports to the supervising agent or within five  
6 calendar days of notice to the person, whichever occurs  
7 first. The person shall appear and the DNA samples shall be  
8 collected in accordance with the provisions of this chapter.

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

14 Section 3. Sections 2317 heading and (a) (1) and (b) and  
15 2318(a) and (c) of Title 44 are amended to read:

16 § 2317. Procedures for [withdrawal,] collection and  
17 transmission of DNA samples.

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

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



1 ~~a medically approved manner shall draw a DNA blood sample to~~  
2 ~~be submitted for DNA analysis. [Such sample] DNA samples and~~  
3 ~~the set of fingerprints provided for in paragraph (2) shall~~  
4 ~~be delivered to the State Police within 48 hours of [drawing]~~  
5 ~~collecting the sample.~~

6 \* \* \* TO BE SPECIFIED BY THE COURT. ONLY] SHALL BE <--  
7 COLLECTED AS FOLLOWS:

8 (I) FROM PERSONS WHO ARE INCARCERATED OR CONFINED,  
9 THE DNA SAMPLE SHALL BE COLLECTED AT THE PLACE OF  
10 INCARCERATION OR CONFINEMENT AS PROVIDED IN SECTION 2316  
11 OR 2346.1.

12 (II) DNA SAMPLES FROM PERSONS WHO ARE NOT ORDERED TO  
13 BE OR ARE NOT CURRENTLY INCARCERATED OR CONFINED SHALL BE  
14 COLLECTED AS PROVIDED IN SECTIONS 2316 AND 2316.1 OR AT A  
15 PRISON, JAIL UNIT, JUVENILE FACILITY OR OTHER FACILITY  
16 SPECIFIED BY THE COURT OR SUPERVISING AGENCY.

17 (III) FOR DNA BLOOD SAMPLES, ONLY THOSE INDIVIDUALS  
18 QUALIFIED TO DRAW DNA BLOOD SAMPLES IN A MEDICALLY  
19 APPROVED MANNER SHALL DRAW A DNA BLOOD SAMPLE TO BE  
20 SUBMITTED FOR DNA ANALYSIS. [SUCH SAMPLE]

21 (IV) DNA SAMPLES AND THE SET OF FINGERPRINTS  
22 PROVIDED FOR IN PARAGRAPH (2) SHALL BE DELIVERED TO THE  
23 STATE POLICE WITHIN 48 HOURS OF [DRAWING] COLLECTING THE  
24 SAMPLE.

25 (2) IN ADDITION TO THE DNA SAMPLE, A FULL SET OF  
26 FINGERPRINTS SHALL BE TAKEN FROM THE PERSON FROM WHOM THE DNA  
27 SAMPLE IS BEING [DRAWN] COLLECTED FOR THE EXCLUSIVE PURPOSE  
28 OF VERIFYING THE IDENTITY OF SUCH PERSON.

29 (b) Limitation on liability.--Persons authorized to [draw]  
30 collect DNA samples under this section shall not be criminally

1 liable for withdrawing a DNA sample and transmitting test  
2 results pursuant to this chapter if they perform these  
3 activities in good faith and shall not be civilly liable for  
4 such activities when the person acted in a reasonable manner  
5 according to generally accepted medical and other professional  
6 practices.

7 \* \* \*

8 § 2318. Procedures for conduct, disposition and use of DNA  
9 analysis.

10 (a) Procedures.--

11 (1) The State Police shall [prescribe] promulgate, as  
12 necessary, rules, regulations and guidelines to implement  
13 this chapter, including procedures to be used in the  
14 collection, submission, identification, analysis, storage and  
15 disposition of DNA samples and [typing results of] FORENSIC <--  
16 DNA PROFILES AND RECORDS FROM DNA samples submitted under the  
17 former DNA Act, former provisions of 42 Pa.C.S. Ch. 47  
18 (relating to DNA data and testing) or this chapter.

19 (2) The [DNA sample typing] results OF FORENSIC DNA <--  
20 TESTING shall be securely stored in the State DNA Data Base,  
21 and records of testing shall be retained on file with the  
22 State Police consistent with the procedures established by  
23 the FBI[.] Quality Assurance Standards for forensic DNA  
24 testing laboratories and DNA data basing laboratories and  
25 CODIS policies and procedures.

26 (3) These procedures shall also include quality  
27 assurance guidelines [to ensure that DNA identification <--  
28 records meet standards for] FOR SAMPLES AND FORENSIC DNA <--  
29 PROFILES AND RECORDS FROM accredited forensic DNA  
30 laboratories which submit DNA records to the State DNA Data

1 Base.

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

4 (i) Verification of accreditation.

5 (ii) Compliance with FBI Quality Assurance  
6 Standards, including continuing education requirements  
7 for the personnel of forensics DNA testing laboratories.

8 \* \* \*

9 (c) Use of tests.--

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

17 (2) A DNA sample or DNA record acquired under this  
18 chapter may not be used for human behavioral genetic research  
19 or for nonlaw enforcement or nonhumanitarian identification  
20 purposes.

21 \* \* \*

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

23 § 2318.1. Request for modified DNA search.

24 (a) General rule.--

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

29 (2) The State Police may grant a request to conduct a  
30 modified DNA search if the State Police determine that the

1 request complies with subsection (d)(2).

2 (b) Modified DNA search.--

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

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

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

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

19 (d) Requirements.--

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

23 (i) ~~A representation~~ INFORMATION DEMONSTRATING that <--  
24 a modified DNA search ~~is necessary for~~ COULD MATERIALLY <--  
25 ASSIST law enforcement ~~identification purposes~~ TO <--  
26 IDENTIFY THE PERPETRATOR in an unsolved ~~case~~ FELONY CRIME <--  
27 OF VIOLENCE AS DEFINED IN 42 PA.C.S. § 9714(G) (RELATING  
28 TO SENTENCES FOR SECOND AND SUBSEQUENT OFFENSES).

29 (ii) A representation that all other REASONABLE <--  
30 investigative 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~~ SAMPLE IS OF <--  
9 sufficient size, quality and integrity TO PERMIT <--  
10 ADDITIONAL FORENSIC DNA TESTING IF NECESSARY.

11           (ii) The crime scene FORENSIC DNA profile has <--  
12 previously been subjected to a routine DNA search against  
13 the State DNA Data Base AND THE NATIONAL DNA <--  
14 IDENTIFICATION INDEX SYSTEM IN CODIS AND DOES NOT HAVE A  
15 MATCH TO AN IDENTIFIABLE INDIVIDUAL.

16           (iii) The modified DNA search ~~is necessary for~~ COULD <--  
17 MATERIALLY ASSIST law enforcement ~~identification purposes~~ <--  
18 TO IDENTIFY THE PERPETRATOR in ~~an~~ A QUALIFYING unsolved <--  
19 case.

20           (iv) The criminal justice agency has pursued all  
21 other REASONABLE investigative leads. <--

22           (v) Any relevant consideration, including factors or  
23 requirements considered by any other jurisdiction,  
24 supports granting the request.

25           (3) The State Police GUIDELINES AND procedures, <--  
26 promulgated under section 2318, to conduct modified DNA  
27 searches shall be based on scientifically valid and reliable  
28 methods to determine that a crime scene DNA profile is  
29 sufficiently likely to have originated from a close relative  
30 of an individual whose DNA profile is recorded in the State

1 DNA Data Base. The State Police GUIDELINES OR PROCEDURES may <--  
2 require the following:

3 (i) An analysis of the rarity in the relevant  
4 population of each shared DNA characteristic ALLELE. <--

5 (ii) An analysis of the pattern of shared DNA  
6 characteristics ALLELE. <--

7 (iii) Y chromosome analysis.

8 (iv) Mitochondrial DNA analysis.

9 (v) Any other suitable method REQUIREMENTS designed <--  
10 to determine that a crime scene DNA profile originated  
11 from a close relative of an individual in the State DNA  
12 Data Base.

13 (E) VALIDITY.--A PERSON MAY NOT CHALLENGE THE VALIDITY OF A <--  
14 CONVICTION, ARREST, SEARCH OR OTHER INVESTIGATIVE MEASURES TAKEN  
15 IN THE INVESTIGATION OF THE CRIME FOR WHICH THE PERSON WAS  
16 ARRESTED, CHARGED OR CONVICTED, ON THE ASSERTION THAT A MODIFIED  
17 DNA SEARCH DID NOT MEET THE REQUIREMENTS OF THIS SECTION OR WAS  
18 IMPROPERLY CONDUCTED.

19 Section 5. Sections 2319~~7~~ AND 2321 and ~~2322~~ of Title 44 are <--  
20 amended to read:

21 § 2319. DNA data base exchange.

22 ~~(a) Receipt of DNA samples by State Police. It shall be the~~ <--  
23 ~~duty of the State Police to receive DNA samples, to store, to~~  
24 ~~perform analysis or to contract for DNA typing analysis with [a~~  
25 ~~qualified] an accredited forensic DNA laboratory that meets the~~  
26 ~~[guidelines] rules, regulations and guidelines under section~~  
27 ~~2318 (relating to procedures for conduct, disposition and use of~~  
28 ~~DNA analysis) as established by the State Police, to classify~~  
29 ~~and to file the DNA record of identification characteristic~~  
30 ~~profiles of DNA samples submitted under the former DNA Act,~~

1 (A) RECEIPT OF DNA SAMPLES BY STATE POLICE.--IT SHALL BE THE <--  
2 DUTY OF THE STATE POLICE TO: [RECEIVE]

3 (1) RECEIVE AND STORE DNA SAMPLES, [TO STORE,] TO  
4 PERFORM [ANALYSIS] FORENSIC DNA TESTING OR TO CONTRACT FOR  
5 [DNA TYPING ANALYSIS] TESTING WITH [A QUALIFIED] AN  
6 ACCREDITED FORENSIC DNA LABORATORY THAT MEETS THE  
7 [GUIDELINES] RULES, REGULATIONS AND GUIDELINES UNDER SECTION  
8 2318 (RELATING TO PROCEDURES FOR CONDUCT, DISPOSITION AND USE  
9 OF DNA ANALYSIS) AS ESTABLISHED BY THE STATE POLICE[, TO  
10 CLASSIFY AND TO FILE THE DNA RECORD OF IDENTIFICATION  
11 CHARACTERISTIC PROFILES OF].

12 (2) STORE FORENSIC DNA RECORDS FROM DNA SAMPLES  
13 SUBMITTED UNDER THE FORMER DNA ACT, former provisions of 42  
14 Pa.C.S. Ch. 47 (relating to DNA data and testing) or this  
15 chapter and to make such information available as ~~provided in~~ <--  
16 ~~this section. The State Police may contract [out] for the~~  
17 ~~storage of DNA typing analysis [and may contract out] or DNA~~  
18 ~~typing analysis to [a qualified] an accredited forensic DNA~~  
19 ~~laboratory that meets the rules, regulations and guidelines~~  
20 ~~as established by the State Police under section 2318. The~~  
21 ~~results of the DNA profile of individuals in the State DNA~~  
22 ~~Data Base shall be made available:~~ PROVIDED IN THIS SECTION. <--

23 (A.1) CONTRACTS.--THE STATE POLICE MAY CONTRACT [OUT]  
24 FOR [THE STORAGE OF DNA TYPING ANALYSIS AND MAY CONTRACT OUT]  
25 DNA [TYPING ANALYSIS] TESTING TO [A QUALIFIED] AN ACCREDITED  
26 FORENSIC DNA LABORATORY THAT MEETS THE RULES, REGULATIONS AND  
27 GUIDELINES AS ESTABLISHED BY THE STATE POLICE UNDER SECTION  
28 2318. [THE RESULTS OF THE DNA PROFILE OF INDIVIDUALS] DNA  
29 RECORDS IN THE STATE DNA DATA BASE SHALL BE MADE AVAILABLE:

30 (1) to criminal justice agencies or [approved crime]

1 CODIS-participating DNA laboratories which serve these  
2 agencies; or

3 (2) upon written or electronic request and in  
4 furtherance of an official investigation of a criminal  
5 offense or offender or suspected offender.

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

11 (c) Population data base.--

12 (1) The State Police may establish a separate population  
13 data base comprised of FORENSIC DNA [samples] PROFILES <--  
14 obtained under this chapter after all personal identification  
15 is removed.

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

20 (3) The population data base may be made available to  
21 and searched by other agencies participating in the CODIS  
22 system.

23 ~~(d) Separate category. The State Police shall create a~~ <--  
24 ~~separate category within the data base to store DNA samples and~~  
25 ~~records collected upon arrest under section 2316(c.1) (relating~~  
26 ~~to DNA sample required).~~

27 § 2321. Expungement.

28 [(a) General rule.--A person whose DNA sample, record or  
29 profile has been included in the State DNA Data Bank or the  
30 State DNA Data Base pursuant to the former DNA Act, former 42



1 Pa.C.S. Ch. 47 (relating to DNA data and testing) or this  
2 chapter may request expungement on the grounds that the  
3 conviction or delinquency adjudication on which the authority  
4 for including that person's DNA sample, record or profile was  
5 based has been reversed and the case dismissed or that the DNA  
6 sample, record or profile was included in the State DNA Data  
7 Bank or the State DNA Data Base by mistake.

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

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

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

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

23 (b) Removal by request.--A person whose DNA sample, record  
24 or profile has been included in the State DNA Data Bank or the  
25 State DNA Data Base under the former DNA Act, former provisions  
26 of 42 Pa.C.S. Ch. 47 or this chapter may file a written request  
27 with the State Police ~~on the grounds~~ that the DNA sample, record <--  
28 or profile be removed on the grounds that the DNA sample, record  
29 or profile was included in the State DNA Data Bank or the State  
30 DNA Data Base by mistake. If the State Police grants the

1 request, the request shall be processed at no cost and the State  
2 Police shall provide written notice of the removal to the person  
3 and his attorney of record, if any, within 60 days after  
4 destroying the DNA sample, record and profile. If the State  
5 Police erroneously denies the request, the person may request <--  
6 expungement of the DNA sample, record or profile under  
7 subsection (b.1).

8 (b.1) Expungement by court order.--The following shall  
9 apply:

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

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

19 ~~(ii) the charge for which the DNA sample was taken~~ <--  
20 ~~has been dismissed, no appeal is pending and the~~  
21 ~~prosecuting authority is barred from seeking a retrial;~~

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

24 ~~(iv) the person from whom the DNA sample was taken~~  
25 ~~was not charged with a crime for which a DNA sample is~~  
26 ~~authorized to be taken under this chapter;~~

27 ~~(v) the prosecuting authority has expressly declined~~  
28 ~~to prosecute the charge for which the DNA sample was~~  
29 ~~taken;~~

30 ~~(vi) the charge for which the DNA sample was taken~~

1 ~~was not filed within the statute of limitations;~~

2 ~~(vii) (II) the person was granted an unconditional~~ <--  
3 ~~pardon for the crime for which the DNA sample was taken;~~

4 ~~or~~

5 ~~(viii) (III) the DNA sample, record or profile was~~ <--  
6 ~~included in the State DNA Data Bank or State DNA Data~~  
7 ~~Base by mistake and the State Police has erroneously~~  
8 ~~refused to grant the person's request for removal under~~  
9 ~~subsection (b).~~

10 ~~(2) Paragraph (1) shall not apply if the person has been~~  
11 ~~arrested, charged, convicted or adjudicated delinquent for~~ <--  
12 ~~any other crime for which a DNA sample is required to be~~  
13 ~~collected under this chapter.~~

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

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

23 ~~(b.2) Expungement reporting.--A person whose DNA sample,~~ <--  
24 ~~record or profile has been expunged under subsection (b.1) THE~~ <--  
25 ~~COURT shall forward a certified copy of an expungement order~~  
26 ~~issued under subsection (b.1) to the State Police.~~

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

28 ~~(1) Upon receipt of an expungement order issued under~~  
29 ~~subsection (b.1), the State Police shall destroy the DNA~~  
30 ~~sample, record and profile in the State DNA Data Bank and the~~

1 State DNA Data Base pertaining to a person identified in an  
2 expungement order.

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

5 (3) The State Police shall provide written notice of the  
6 expungement to the person and his attorney of record, if any,  
7 within 60 days after destroying the DNA sample, record and  
8 profile.

9 (4) The State Police shall publish information regarding  
10 the eligibility requirements for expungement under this  
11 section and the steps necessary to obtain an expungement  
12 under this section on the State Police's publicly available  
13 Internet website. The State Police shall publish the  
14 information in at least two commonly accessible formats, such  
15 as HyperText Markup Language and Portable Document Format.

16 (c) Limitations.--

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

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

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

30 ~~§ 2322. Mandatory cost.~~

<--

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

8       Section 6. This act shall take effect in ~~60~~ 180 days.

<--