

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 852 Session of 2017

INTRODUCED BY MURT, BOBACK, DeLUCA, ENGLISH, A. HARRIS, MILLARD, READSHAW AND WATSON, MARCH 13, 2017

REFERRED TO COMMITTEE ON JUDICIARY, MARCH 13, 2017

AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the
 2 Pennsylvania Consolidated Statutes, in general provisions
 3 relating to criminal proceedings, requiring saliva or tissue
 4 sample for DNA analysis after arrest for violent offense; and
 5 providing for DNA data bank exchange.

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

8 Section 1. Title 42 of the Pennsylvania Consolidated
 9 Statutes is amended by adding sections to read:

10 § 8704. Saliva or tissue sample required for DNA analysis after
 11 arrest for violent offense.

12 (a) Procedure.--

13 (1) A person arrested for a violent offense shall have a
 14 sample of his saliva or tissue taken for DNA
 15 (deoxyribonucleic acid) analysis to determine identification
 16 characteristics specific to the person.

17 (2) After a determination by a court that probable cause
 18 exists for the arrest, a sample shall be taken prior to the
 19 person's release from custody.

1 (3) The analysis shall be performed by the Pennsylvania
2 State Police or other entity designated by the Commissioner
3 of Pennsylvania State Police.

4 (4) The Pennsylvania State Police shall store and
5 maintain the identification characteristics of the profile
6 resulting from the DNA analysis in a DNA data bank and shall
7 make identification characteristics available as provided in
8 section 8705 (relating to DNA data bank exchange).

9 (b) Notice of final disposition of the criminal
10 proceedings.--

11 (1) The clerk of courts shall notify the Pennsylvania
12 State Police of the final disposition of the criminal
13 proceedings involving a person subject to subsection (a). The
14 notice shall occur within 60 days of the final disposition.

15 (2) If the charge for which the sample was taken under
16 subsection (a) is dismissed or the defendant is acquitted at
17 trial, the Pennsylvania State Police shall destroy the sample
18 and all records of the sample, provided there is no other
19 pending arrest or felony conviction that would otherwise
20 require that the sample remain in the data bank.

21 (c) Definition.--As used in this section, "violent offense"
22 means an offense under 18 Pa.C.S. (relating to crimes and
23 offenses), including an attempt, conspiracy or solicitation to
24 commit an offense, which is punishable by imprisonment of more
25 than one year and involves an act dangerous to human life or
26 property.

27 § 8705. DNA data bank exchange.

28 (a) Duties of Pennsylvania State Police.--

29 (1) The Pennsylvania State Police shall receive blood,
30 saliva or tissue samples and shall analyze, classify and file

1 the results of DNA identification characteristics profiles of
2 blood, saliva or tissue samples submitted under section 8704
3 (relating to saliva or tissue sample required for DNA
4 analysis after arrest for violent offense) and shall make the
5 information available as provided in this section.

6 (2) The results of an analysis and comparison of the
7 identification characteristics from two or more blood, saliva
8 or tissue samples shall be made available directly to
9 Federal, State and local law enforcement officers upon
10 request made in furtherance of an official investigation of
11 any criminal offense.

12 (3) (i) The Pennsylvania State Police shall confirm
13 whether there is a DNA profile on file for a specific
14 individual if a Federal, State or local law enforcement
15 officer requests that information in furtherance of an
16 official investigation of any criminal offense.

17 (ii) The request for information may be made by
18 personal contact, mail or electronic means. The name of
19 the requester and the purpose for which the information
20 is requested shall be maintained on file with the
21 Pennsylvania State Police.

22 (4) The Pennsylvania State Police shall specify the
23 positions in that agency which require regular access to the
24 data bank and samples submitted as a necessary function of
25 the job.

26 (5) The Pennsylvania State Police shall create a
27 separate statistical database comprised of DNA profiles of
28 blood, saliva or tissue samples of persons whose identities
29 are unknown.

30 (b) Copy of request for information to be submitted to

1 person charged.--At the person's request, a copy of the request
2 for search shall be furnished to a person identified and charged
3 with an offense as the result of a search of information in the
4 data bank.

5 (c) Fees.--The Pennsylvania State Police may charge a
6 reasonable fee to search and provide a comparative analysis of
7 DNA profiles in the data bank to an authorized law enforcement
8 agency outside this Commonwealth.

9 (d) Regulations.--The Pennsylvania State Police shall
10 promulgate regulations governing:

11 (1) The methods of obtaining information from the data
12 bank in accordance with this section.

13 (2) Procedures for verification of the identity and
14 authority of a requester seeking information under this
15 section.

16 (e) Construction.--Nothing in this section shall be
17 construed to prohibit the Pennsylvania State Police from sharing
18 or otherwise disseminating the information in the statistical
19 database with law enforcement or criminal justice agencies
20 within or without this Commonwealth.

21 Section 2. This act shall take effect in 60 days.