
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1128 Session of
2017

INTRODUCED BY MATZIE, DeLUCA, FRANKEL, READSHAW, MILLARD, DAVIS
AND SCHLOSSBERG, APRIL 10, 2017

REFERRED TO COMMITTEE ON JUDICIARY, APRIL 10, 2017

AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania
2 Consolidated Statutes, providing for crime labs, for
3 procedure, for remedies, for standards and training and for
4 centralized tracking.

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

7 Section 1. Title 18 of the Pennsylvania Consolidated
8 Statutes is amended by adding a chapter to read:

9 CHAPTER 96

10 CRIME LABS

11 Sec.

12 9601. Definitions.

13 9602. Procedure.

14 9603. Remedies.

15 9604. Standards and training.

16 9605. Centralized tracking.

17 § 9601. Definitions.

18 The following words and phrases when used in this chapter

19 shall have the meanings given to them in this section unless the

1 context clearly indicates otherwise:

2 "Biological evidence." Evidence collected in connection with
3 a criminal investigation which may contain biological material
4 from a victim, suspect or crime scene in an offense that was the
5 subject of a criminal investigation, or may reasonably be used
6 to incriminate or exculpate a person for the offense.

7 "Custody." Actual or constructive control of:

8 (1) a person under sentence of imprisonment;

9 (2) a probationer, parolee or person on extended
10 supervision of the Department of Corrections; or

11 (3) a person under a dispositional order, in
12 institutional care, on conditional release or on supervised
13 release under a commitment order.

14 "DNA." Deoxyribonucleic acid.

15 "Inmate." A person convicted, on probation or parole,
16 civily committed or subject to registration as a sex offender
17 in connection with a case.

18 "Profile." A unique identifier of an individual derived from
19 DNA.

20 "State." A governmental or public entity within the
21 Commonwealth, its officials or employees, including:

22 (1) Law enforcement agencies.

23 (2) Prosecutor's offices.

24 (3) Courts.

25 (4) Public hospitals.

26 (5) Crime laboratories.

27 (6) Other entities or individuals charged with the
28 collection, storage or retrieval of biological evidence.

29 § 9602. Procedure.

30 (a) Duty.--The State shall preserve biological evidence

1 secured in relation to an investigation or prosecution of a
2 felony for the period of time an inmate remains under State
3 jurisdiction. This includes evidence:

4 (1) In possession of the State during the investigation
5 and prosecution of the case.

6 (2) Likely to contain biological material at the time of
7 conviction.

8 (b) Prohibition.--The State may not destroy biological
9 evidence so long as a codefendant is an inmate in connection
10 with the case.

11 (c) Retention of evidence.--The State shall retain evidence
12 in an amount and manner sufficient to develop a DNA profile from
13 the biological material contained in or included on the
14 evidence.

15 (d) Inventory.--The State shall prepare an inventory of the
16 biological evidence that has been preserved in connection with
17 the case.

18 (e) Destruction of evidence.--The State may destroy evidence
19 before the expiration of the time specified in subsection (a) if
20 all of the following apply:

21 (1) No other provision of Federal or State law requires
22 the State to preserve the evidence.

23 (2) The State sends a notice of an intent to destroy,
24 with an affidavit of service, to:

25 (i) The inmate.

26 (ii) The attorney of record for each inmate.

27 (iii) The public defender.

28 (iv) The district attorney.

29 (v) The Attorney General.

30 (3) No person notified under paragraph (2) does either

1 of the following within 180 days of the date of service:

2 (i) files a motion for testing of the evidence under
3 42 Pa.C.S. § 9543.1 (relating to postconviction DNA
4 testing); or

5 (ii) submits a written request for retention of
6 evidence to the State.

7 (f) Duty to retain evidence.--If, after providing a notice
8 of intent to destroy under subsection (e) (2), the State receives
9 a written request for retention of the evidence, the State shall
10 retain the evidence until the inmate is no longer in custody.

11 (g) Evidence to be returned to its owner.--The State may not
12 be required to preserve evidence that must be returned to its
13 rightful owner, or is of a size, bulk or physical character as
14 to render retention impracticable, if practical. The State shall
15 remove and preserve portions of this material evidence
16 sufficient to permit future DNA testing before returning or
17 disposing of it.

18 (h) Missing biological evidence.--If the State is called
19 upon to produce biological evidence that could not be located,
20 and whose preservation was required under the provisions of this
21 chapter, the chief evidence custodian assigned to the entity
22 charged with the preservation of the evidence shall provide an
23 affidavit in which the chief evidence custodian stipulates,
24 under penalty of perjury, the efforts taken to locate the
25 evidence and that the evidence could not be located.

26 § 9603. Remedies.

27 The court may impose appropriate sanctions or remedies, such
28 as contempt, granting a new trial, dismissal of charges,
29 sentence reduction or sentence modification if the court
30 determines that evidence was destroyed in violation of the

1 provisions of this chapter.

2 § 9604. Standards and training.

3 (a) Standards.--The State shall devise standards for the
4 proper collection and retention of biological evidence.

5 (b) Training programs.--The Attorney General shall
6 administer and conduct training programs for law enforcement
7 officers and other relevant employees who are charged with
8 preserving biological evidence regarding the methods and
9 procedures referenced in this chapter.

10 § 9605. Centralized tracking.

11 (a) Duty to develop.--The State shall develop a method to
12 centrally track biological evidence in its control.

13 (b) Functioning.--The State shall allow evidence connected
14 to either open cases or postconviction DNA testing cases to be
15 located expeditiously.

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