

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1523 Session of 2017

INTRODUCED BY MARSICO, BAKER, O'NEILL, ENGLISH, JOZWIAK, STEPHENS, M. K. KELLER, MILLARD, EVERETT, SACCONI, CORBIN, A. HARRIS, KORTZ, BARBIN, STAATS, DeLUCA, ROTHMAN, KNOWLES, TOPPER, TOOHIL, SCHEMEL, NESBIT, SAYLOR, PYLE, DELOZIER AND D. COSTA, JUNE 9, 2017

AS REPORTED FROM COMMITTEE ON JUDICIARY, HOUSE OF REPRESENTATIVES, AS AMENDED, JUNE 13, 2017

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 and 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, for DNA data base exchange and for expungement.~~

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

25 The General Assembly of the Commonwealth of Pennsylvania
26 hereby enacts as follows:

27 ~~Section 1. Sections 2302, 2303, 2311(2), 2312, 2313, 2314,~~ <--

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

3 ~~§ 2302. Policy.~~

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

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

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

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

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

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

27 ~~§ 2303. Definitions.~~

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

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

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

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

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

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

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

21 ~~"DNA." Deoxyribonucleic acid[. DNA is located in the cells~~
22 ~~and provides an individual's personal genetic blueprint. DNA~~
23 ~~encodes genetic information that is the basis of human heredity~~
24 ~~and forensic identification.] located in the chromosomes or~~
25 ~~mitochondria of a living organism's cells.~~

26 ~~"DNA record." A forensic DNA profile and identification~~
27 ~~information stored in the State DNA Data Base or the Combined~~
28 ~~DNA Index System for the purpose of [generating investigative~~
29 ~~leads] identification or supporting statistical interpretation~~
30 ~~of DNA test results. [The term includes nuclear and~~

1 mitochondrial typing. The DNA record is the result obtained from
2 the DNA typing tests. The DNA record is comprised of the
3 characteristics of a DNA sample which are of value in
4 establishing the identity of individuals. The results of all DNA
5 identification tests on an individual's DNA sample are also
6 collectively referred to as the DNA profile of an individual.]

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

16 "FBI." The Federal Bureau of Investigation.

17 "Felony sex offense." A felony offense or an attempt,
18 conspiracy or solicitation to commit a felony offense under any
19 of the following:

20 18 Pa.C.S. Ch. 31 (relating to sexual offenses).

21 18 Pa.C.S. § 4302 (relating to incest).

22 18 Pa.C.S. § [5902(c)(1)(iii) and (iv)] 5902(c)(1)(iv)
23 (relating to prostitution and related offenses).

24 18 Pa.C.S. § 5903(a) (relating to obscene and other
25 sexual materials and performances) where the offense
26 constitutes a felony.

27 [18 Pa.C.S. § 6312 (relating to sexual abuse of
28 children).

29 18 Pa.C.S. § 6318 (relating to unlawful contact with
30 minor) where the most serious underlying offense for which

1 ~~the defendant contacted the minor is graded as a felony.~~

2 ~~18 Pa.C.S. § 6320 (relating to sexual exploitation of~~
3 ~~children).]~~

4 ~~Any offense graded as a felony requiring registration~~
5 ~~under 42 Pa.C.S. Ch. 97 Subch. H (relating to registration of~~
6 ~~sexual offenders).~~

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

9 ~~"Forensic DNA profile." The data set derived from forensic~~
10 ~~DNA testing.~~

11 ~~"Forensic DNA testing." A test that applies techniques from~~
12 ~~molecular biology to analyze human deoxyribonucleic acid (DNA)~~
13 ~~to identify data which meets the requirements for inclusion in~~
14 ~~CODIS and the national DNA identification index system~~
15 ~~administered by the FBI.~~

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

19 ~~"Fund." The DNA Detection Fund reestablished in section 2335~~
20 ~~(relating to DNA Detection Fund).~~

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

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

28 ~~"Mitochondrial DNA analysis." A method that applies~~
29 ~~techniques from molecular biology to analyze DNA found in the~~
30 ~~mitochondria of cells for the purpose of identification.~~

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

2 ~~(1) A felony offense, other than a felony sex offense.~~

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

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

9 ~~(4) An offense under 18 Pa.C.S. (relating to crimes and~~
10 ~~offenses) or 75 Pa.C.S. (relating to vehicles) that is graded~~
11 ~~as a misdemeanor of the first degree.~~

12 ~~(5) A misdemeanor offense requiring registration under~~
13 ~~42 Pa.C.S. Ch. 97 Subch. H (relating to registration of~~
14 ~~sexual offenders).~~

15 ~~(6) An offense graded as a misdemeanor of the second~~
16 ~~degree under any of the following:~~

17 ~~18 Pa.C.S. § 2701 (relating to simple assault).~~

18 ~~18 Pa.C.S. § 2903 (relating to false imprisonment).~~

19 ~~18 Pa.C.S. § 3127 (relating to indecent exposure).~~

20 ~~18 Pa.C.S. Ch. 39 (relating to theft and related~~
21 ~~offenses).~~

22 ~~18 Pa.C.S. § 4105 (relating to bad checks).~~

23 ~~18 Pa.C.S. § 4106 (relating to access device fraud).~~

24 ~~18 Pa.C.S. § 4952 (relating to intimidation of~~
25 ~~witnesses or victims).~~

26 ~~18 Pa.C.S. § 4953 (relating to retaliation against~~
27 ~~witness, victim or party).~~

28 ~~18 Pa.C.S. § 4958 (relating to intimidation,~~
29 ~~retaliation or obstruction in child abuse cases).~~

30 ~~18 Pa.C.S. § 5121 (relating to escape).~~

1 ~~18 Pa.C.S. § 5126 (relating to flight to avoid~~
2 ~~apprehension, trial or punishment).~~

3 ~~18 Pa.C.S. § 5131 (relating to recruiting criminal~~
4 ~~gang members).~~

5 ~~18 Pa.C.S. § 5510 (relating to abuse of corpse).~~

6 ~~18 Pa.C.S. § 5511 (relating to cruelty to animals).~~

7 ~~18 Pa.C.S. § 5902 (relating to prostitution and~~
8 ~~related offenses).~~

9 ~~"State Police." The Pennsylvania State Police.~~

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

12 ~~§ 2311. Powers and duties of State Police.~~

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

15 ~~* * *~~

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

19 ~~* * *~~

20 ~~§ 2312. State DNA Data Base.~~

21 ~~{The State DNA Data Base is reestablished. It shall be~~
22 ~~administered by the State Police and provide DNA records to the~~
23 ~~FBI for storage and maintenance by CODIS.} A Statewide DNA Data
24 Base is reestablished within the State Police to store forensic
25 DNA profiles and records developed by or submitted to the State
26 Police under the former DNA Act, the former provisions of 42-
27 Pa.C.S. Ch. 47 (relating to DNA data and testing) or to this
28 chapter, and to contribute forensic DNA profiles and records to
29 CODIS and the national DNA identification index system. The
30 State DNA Data Base shall have the capability provided by~~

1 ~~computer software and procedures administered by the State~~
2 ~~Police to store and maintain [DNA records] forensic DNA profiles~~
3 ~~and records related to:~~

4 ~~(1) forensic casework;~~

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

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

10 ~~§ 2313. State DNA Data Bank.~~

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

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

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

24 ~~(b) Annual report. No later than August 1 of each year, the~~
25 ~~commissioner shall submit to the Governor's Office, the~~
26 ~~chairperson and minority chairperson of the Judiciary Committee~~
27 ~~of the Senate and the chairperson and minority chairperson of~~
28 ~~the Judiciary Committee of the House of Representatives, a~~
29 ~~written report containing information regarding the collection~~
30 ~~and testing of DNA samples under the provisions of this chapter.~~

1 ~~The report must include, but need not be limited to, the~~
2 ~~following information pertaining to the previous fiscal year:~~

3 ~~(1) The age, race and sex of those convicted from whom~~
4 ~~DNA samples were submitted upon conviction.~~

5 ~~(2) The fiscal impact on the State Police of collecting~~
6 ~~and testing DNA samples from persons convicted of or~~
7 ~~adjudicated delinquent for offenses.~~

8 ~~(3) The average length of time between the receipt of~~
9 ~~DNA samples from those convicted of offenses and the~~
10 ~~completion of forensic DNA testing of each of those~~
11 ~~categories of DNA samples.~~

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

17 ~~§ 2315. Procedural compatibility with FBI.~~

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

25 ~~§ 2316. DNA sample required upon conviction, delinquency~~
26 ~~adjudication and certain ARD cases.~~

27 ~~(a) General rule. A person who is convicted or adjudicated~~
28 ~~delinquent for a felony sex offense or other specified offense~~
29 ~~or who is or remains incarcerated for a felony sex offense or~~
30 ~~other specified offense on or after the effective date of this~~

1 ~~chapter shall have a DNA sample [drawn] collected as 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 a felony sex offense or other specified~~
28 ~~offense and who serves a term of confinement in connection~~
29 ~~therewith after June 18, 2002, shall not be released in any~~
30 ~~manner unless and until a DNA sample has been [withdrawn]~~

1 ~~collected.~~

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

5 ~~(3) [This] The following shall apply:~~

6 ~~(i) Except as provided under subparagraph (ii), this~~
7 ~~chapter shall apply to incarcerated persons and persons~~
8 ~~on probation or parole who were convicted or adjudicated~~
9 ~~delinquent for a felony sex offense or other specified~~
10 ~~offenses prior to the effective date of this paragraph.~~

11 ~~(ii) Subparagraph (i) shall not apply to persons~~
12 ~~convicted or adjudicated delinquent of an offense~~
13 ~~enumerated under paragraph (4) or (6) of the definition~~
14 ~~of "other specified offense" in section 2303 (relating to~~
15 ~~definitions).~~

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

20 ~~(d) Supervision of DNA samples. All DNA samples [taken]~~
21 ~~collected pursuant to this section shall be taken in accordance~~
22 ~~with rules, regulations and guidelines promulgated by the State~~
23 ~~Police in consultation with the Department of Corrections.~~

24 ~~(d.1) Mandatory submission. The requirements of this~~
25 ~~chapter are mandatory and apply regardless of whether a court~~
26 ~~advises a person that a DNA sample must be provided to the State~~
27 ~~DNA Data Base and the State DNA Data Bank as a result of a~~
28 ~~conviction or adjudication of delinquency. A person who has been~~
29 ~~sentenced to death or life imprisonment without the possibility~~
30 ~~of parole or to any term of incarceration is not exempt from the~~

1 ~~requirements of this chapter. Any person subject to this chapter~~
2 ~~who has not provided a DNA sample for any reason, including~~
3 ~~because of an oversight or error, shall provide a DNA sample for~~
4 ~~inclusion in the State DNA Data Base and the State DNA Data Bank~~
5 ~~after being notified by authorized law enforcement or~~
6 ~~corrections personnel. If a person provides a DNA sample which~~
7 ~~is not adequate for any reason, the person shall provide another~~
8 ~~DNA sample for inclusion in the State DNA Data Base and the~~
9 ~~State DNA Data Bank after being notified by authorized law~~
10 ~~enforcement or corrections personnel. The DNA sample may be~~
11 ~~collected under this chapter but shall not be required if the~~
12 ~~authorized law enforcement or corrections official confirms that~~
13 ~~a DNA sample from the person has already been validly collected~~
14 ~~and provided to the State DNA Data Bank and a DNA record for the~~
15 ~~person exists in the State DNA Data Base.~~

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

20 ~~Section 2. Title 44 is amended by adding a section to read:~~
21 ~~§ 2316.1. Collection from persons accepted from other~~
22 ~~jurisdictions.~~

23 ~~(a) Conditional acceptance. When a person is accepted into~~
24 ~~this Commonwealth for supervision from another jurisdiction~~
25 ~~under the Interstate Compact for Supervision of Adult Offenders,~~
26 ~~other reciprocal agreement with a Federal, state or county~~
27 ~~agency, or a provision of law, whether or not the person is~~
28 ~~confined or released, the acceptance shall be conditioned on the~~
29 ~~offender's providing DNA samples under this chapter and~~
30 ~~fingerprints if the offender has a past or present Federal,~~

1 ~~state or military court conviction or adjudication that is~~
2 ~~equivalent to a felony sex offense or other specified offense as~~
3 ~~determined by the Pennsylvania Board of Probation and Parole.~~
4 ~~Additional DNA samples may be collected but shall not be~~
5 ~~required if the supervising agency or place of confinement~~
6 ~~confirms that a DNA sample is currently on file with the State~~
7 ~~DNA Data Bank and a DNA record for the person exists in the~~
8 ~~State DNA Data Base.~~

9 ~~(b) Time period.~~

10 ~~(1) If the person accepted under subsection (a) is not~~
11 ~~confined, the DNA sample and fingerprints required under this~~
12 ~~chapter shall be provided within five calendar days after the~~
13 ~~person reports to the supervising agent or within five~~
14 ~~calendar days of notice to the person, whichever occurs~~
15 ~~first. The person shall appear and the DNA samples shall be~~
16 ~~collected in accordance with the provisions of this chapter.~~

17 ~~(2) If the person accepted under subsection (a) is~~
18 ~~confined, the person shall provide the DNA sample and~~
19 ~~fingerprints required by this chapter within five calendar~~
20 ~~days after the person is received at a place of incarceration~~
21 ~~or confinement.~~

22 Section 3. Sections 2317 heading, (a) and (b), 2318(a) and
23 (c), 2319 and 2321 of Title 44 are amended to read:

24 § 2317. Procedures for [withdrawal,] collection and
25 transmission of DNA samples.

26 (a) [Drawing] Collection of DNA samples.

27 (1) Each DNA sample required to be [drawn] collected
28 pursuant to [section] sections 2316 (relating to DNA sample
29 required upon conviction, delinquency adjudication and
30 certain ARD cases) and 2316.1 (relating to collection from

1 ~~persons accepted from other jurisdictions) [from persons who~~
2 ~~are incarcerated or confined shall be drawn at the place of~~
3 ~~incarceration or confinement as provided for in section 2316.~~
4 ~~DNA samples from persons who are not ordered or sentenced to~~
5 ~~a term of confinement shall be drawn at a prison, jail unit,~~
6 ~~juvenile facility or other facility to be specified by the~~
7 ~~court. Only] shall be 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 2316.1.~~

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 samples and forensic DNA profiles~~
29 ~~and records from accredited forensic DNA laboratories which~~
30 ~~submit DNA records to the State DNA Data Base.~~

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

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

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

7 * * *

8 ~~(c) Use of tests.—~~

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

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

20 * * *

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]:~~

24 ~~(1) Receive and store DNA samples, [to store,] to~~
25 ~~perform [analysis] forensic DNA testing or to contract for~~
26 ~~[DNA typing analysis] testing with [a qualified] an~~
27 ~~accredited forensic DNA laboratory that meets the~~
28 ~~[guidelines] rules, regulations and guidelines under section~~
29 ~~2318 (relating to procedures for conduct, disposition and use~~
30 ~~of DNA analysis) as established by the State Police[, to~~

1 ~~classify and to file the DNA record of identification~~
2 ~~characteristic profiles of].~~

3 ~~(2) Store forensic DNA records from DNA samples~~
4 ~~submitted under the former DNA Act, former provisions of 42-~~
5 ~~Pa.C.S. Ch. 47 (relating to DNA data and testing) or this~~
6 ~~chapter and to make such information available as provided in~~
7 ~~this section.~~

8 ~~(a.1) Contracts.~~ The State Police may contract [out the
9 storage of DNA typing analysis and may contract out] ~~for~~ DNA
10 [typing analysis] ~~testing~~ to [a qualified] ~~an accredited~~
11 ~~forensic~~ DNA laboratory that meets ~~the rules, regulations and~~
12 ~~guidelines as established by the State Police under section~~
13 ~~2318.~~ [The results of the DNA profile of individuals] ~~DNA~~
14 ~~records~~ in the State DNA Data Base shall be made available:

15 ~~(1) to criminal justice agencies or [approved crime]~~
16 ~~CODIS participating DNA laboratories which serve these~~
17 ~~agencies; or~~

18 ~~(2) upon written or electronic request and in~~
19 ~~furtherance of an official investigation of a criminal~~
20 ~~offense or offender or suspected offender.~~

21 ~~(b) Methods of obtaining information.~~ The State Police
22 shall [adopt] ~~promulgate, as necessary, rules, regulations and~~
23 ~~guidelines governing the methods of obtaining information from~~
24 ~~the State DNA Data Base and CODIS and procedures for~~
25 ~~verification of the identity and authority of the requester.~~

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

27 ~~(1) The State Police may establish a separate population~~
28 ~~data base comprised of forensic DNA [samples] profiles~~
29 ~~obtained under this chapter after all personal identification~~
30 ~~is removed.~~

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

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

8 ~~§ 2321. Expungement.~~

9 ~~[(a) General rule. A person whose DNA sample, record or~~
10 ~~profile has been included in the State DNA Data Bank or the~~
11 ~~State DNA Data Base pursuant to the former DNA Act, former 42-~~
12 ~~Pa.C.S. Ch. 47 (relating to DNA data and testing) or this~~
13 ~~chapter may request expungement on the grounds that the~~
14 ~~conviction or delinquency adjudication on which the authority~~
15 ~~for including that person's DNA sample, record or profile was~~
16 ~~based has been reversed and the case dismissed or that the DNA-~~
17 ~~sample, record or profile was included in the State DNA Data~~
18 ~~Bank or the State DNA Data Base by mistake.~~

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

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

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

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 under the former DNA Act, former provisions~~

1 ~~of 42 Pa.C.S. Ch. 47 (relating to DNA data and testing) or this~~
2 ~~chapter may have the DNA sample, record or profile expunged in~~
3 ~~accordance with this section.~~

4 ~~(b) Removal by request. A person whose DNA sample, record~~
5 ~~or profile has been included in the State DNA Data Bank or the~~
6 ~~State DNA Data Base under the former DNA Act, former provisions~~
7 ~~of 42 Pa.C.S. Ch. 47 or this chapter may file a written request~~
8 ~~with the State Police that the DNA sample, record or profile be~~
9 ~~removed on the grounds that the DNA sample, record or profile~~
10 ~~was included in the State DNA Data Bank or the State DNA Data~~
11 ~~Base by mistake. If the State Police grants the request, the~~
12 ~~request shall be processed at no cost and the State Police shall~~
13 ~~provide written notice of the removal to the person and his~~
14 ~~attorney of record, if any, within 60 days after destroying the~~
15 ~~DNA sample, record and profile. If the State Police denies the~~
16 ~~request, the person may request expungement of the DNA sample,~~
17 ~~record or profile under subsection (b.1).~~

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

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

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

29 ~~(ii) the person was granted an unconditional pardon~~
30 ~~for the crime for which the DNA sample was taken; or~~

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

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

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

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

~~(b.2) Expungement reporting. The court shall forward a certified copy of an expungement order issued under subsection (b.1) to the State Police.~~

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

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

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

~~(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 publish information regarding~~
5 ~~the eligibility requirements for expungement under this~~
6 ~~section and the steps necessary to obtain an expungement~~
7 ~~under this section on the State Police's publicly accessible~~
8 ~~Internet website. The State Police shall publish the~~
9 ~~information in at least two commonly accessible formats, such~~
10 ~~as HyperText Markup Language and Portable Document Format.~~

11 ~~(c) Limitations.—~~

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

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

21 ~~(d) Effect of expungement. The expungement of a DNA sample,~~
22 ~~record or profile pursuant to this section shall have no effect~~
23 ~~on any data bank or data base match or partial match occurring~~
24 ~~prior to the expungement of the sample, record or profile.~~

25 ~~Section 4. This act shall take effect as follows:~~

26 ~~(1) This section shall take effect in 180 days.~~

27 ~~(2) The addition of paragraphs (4) and (6) of the~~
28 ~~definition of "other specified offense" in 44 Pa.C.S. § 2303~~
29 ~~shall take effect December 1, 2019.~~

30 ~~(3) The remainder of this act shall take effect in 180~~

1 ~~days.~~

2 SECTION 1. SECTIONS 2302, 2303, 2311(2), 2312, 2313, 2314, <--
3 2315 AND 2316 OF TITLE 44 OF THE PENNSYLVANIA CONSOLIDATED
4 STATUTES ARE AMENDED TO READ:

5 § 2302. POLICY.

6 THE GENERAL ASSEMBLY FINDS AND DECLARES THAT:

7 (1) [DNA DATA BANKS ARE] FORENSIC DNA TESTING IS AN
8 IMPORTANT TOOL IN CRIMINAL INVESTIGATIONS, IN [THE EXCLUSION
9 OF] EXCLUDING INNOCENT INDIVIDUALS WHO ARE THE SUBJECT OF
10 CRIMINAL INVESTIGATIONS OR PROSECUTIONS AND IN [DETECTING AND
11 DETECTING RECIDIVIST ACTS] DETECTING AND DETERRING REPEATED
12 CRIMES BY THE SAME INDIVIDUAL.

13 (2) SEVERAL STATES HAVE ENACTED LAWS REQUIRING PERSONS
14 CONVICTED OF CERTAIN CRIMES, ESPECIALLY SEX OFFENSES, TO
15 PROVIDE GENETIC SAMPLES FOR DNA PROFILING.

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

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

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

29 § 2303. DEFINITIONS.

30 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS CHAPTER

1 SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE
2 CONTEXT CLEARLY INDICATES OTHERWISE:

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

9 "ARD." ACCELERATED REHABILITATIVE DISPOSITION.

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

16 "COMMISSIONER." THE COMMISSIONER OF THE PENNSYLVANIA STATE
17 POLICE.

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

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

23 "DNA." DEOXYRIBONUCLEIC ACID[. DNA IS LOCATED IN THE CELLS
24 AND PROVIDES AN INDIVIDUAL'S PERSONAL GENETIC BLUEPRINT. DNA
25 ENCODES GENETIC INFORMATION THAT IS THE BASIS OF HUMAN HEREDITY
26 AND FORENSIC IDENTIFICATION] LOCATED IN THE CHROMOSOMES OR
27 MITOCHONDRIA OF A LIVING ORGANISM'S CELLS.

28 "DNA RECORD." A FORENSIC DNA PROFILE AND IDENTIFICATION
29 INFORMATION STORED IN THE STATE DNA DATA BASE OR THE COMBINED
30 DNA INDEX SYSTEM FOR THE PURPOSE OF [GENERATING INVESTIGATIVE

1 **LEADS]** IDENTIFICATION OR SUPPORTING STATISTICAL INTERPRETATION
2 OF DNA TEST RESULTS. [THE TERM INCLUDES NUCLEAR AND
3 MITOCHONDRIAL TYPING. THE DNA RECORD IS THE RESULT OBTAINED FROM
4 THE DNA TYPING TESTS. THE DNA RECORD IS COMPRISED OF THE
5 CHARACTERISTICS OF A DNA SAMPLE WHICH ARE OF VALUE IN
6 ESTABLISHING THE IDENTITY OF INDIVIDUALS. THE RESULTS OF ALL DNA
7 IDENTIFICATION TESTS ON AN INDIVIDUAL'S DNA SAMPLE ARE ALSO
8 COLLECTIVELY REFERRED TO AS THE DNA PROFILE OF AN INDIVIDUAL.]

9 "DNA SAMPLE." [A BLOOD OR TISSUE SAMPLE PROVIDED BY ANY
10 PERSON WITH RESPECT TO OFFENSES COVERED BY THIS CHAPTER OR
11 SUBMITTED TO THE PENNSYLVANIA STATE POLICE LABORATORY PURSUANT
12 TO THE FORMER ACT OF MAY 28, 1995 (1ST SP.SESS., P.L.1009,
13 NO.14), KNOWN AS THE DNA DETECTION OF SEXUAL AND VIOLENT
14 OFFENDERS ACT, TO THE FORMER 42 PA.C.S. CH. 47 (RELATING TO DNA
15 DATA AND TESTING) OR TO THIS CHAPTER FOR ANALYSIS OR STORAGE, OR
16 BOTH.] A SAMPLE OF BIOLOGICAL MATERIAL SUITABLE FOR FORENSIC DNA
17 TESTING.

18 "FBI." THE FEDERAL BUREAU OF INVESTIGATION.

19 "FELONY SEX OFFENSE." A FELONY OFFENSE OR AN ATTEMPT,
20 CONSPIRACY OR SOLICITATION TO COMMIT A FELONY OFFENSE UNDER ANY
21 OF THE FOLLOWING:

22 18 PA.C.S. CH. 31 (RELATING TO SEXUAL OFFENSES) .

23 18 PA.C.S. § 4302 (RELATING TO INCEST) .

24 18 PA.C.S. § [5902(C)(1)(III) AND (IV)] 5902(C)(1)(IV)
25 (RELATING TO PROSTITUTION AND RELATED OFFENSES) .

26 18 PA.C.S. § 5903(A) (RELATING TO OBSCENE AND OTHER
27 SEXUAL MATERIALS AND PERFORMANCES) WHERE THE OFFENSE
28 CONSTITUTES A FELONY.

29 [18 PA.C.S. § 6312 (RELATING TO SEXUAL ABUSE OF
30 **CHILDREN)** .

1 18 PA.C.S. § 6318 (RELATING TO UNLAWFUL CONTACT WITH
2 MINOR) WHERE THE MOST SERIOUS UNDERLYING OFFENSE FOR WHICH
3 THE DEFENDANT CONTACTED THE MINOR IS GRADED AS A FELONY.

4 18 PA.C.S. § 6320 (RELATING TO SEXUAL EXPLOITATION OF
5 CHILDREN).]

6 ANY OFFENSE GRADED AS A FELONY REQUIRING REGISTRATION
7 UNDER 42 PA.C.S. CH. 97 SUBCH. H (RELATING TO REGISTRATION OF
8 SEXUAL OFFENDERS).

9 "FORENSIC DNA LABORATORY." A LABORATORY THAT PERFORMS
10 FORENSIC DNA TESTING FOR THE PURPOSES OF IDENTIFICATION.

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

13 "FORENSIC DNA TESTING." A TEST THAT APPLIES TECHNIQUES FROM
14 MOLECULAR BIOLOGY TO ANALYZE HUMAN DEOXYRIBONUCLEIC ACID (DNA)
15 TO IDENTIFY DATA WHICH MEETS THE REQUIREMENTS FOR INCLUSION IN
16 CODIS AND THE NATIONAL DNA IDENTIFICATION INDEX SYSTEM
17 ADMINISTERED BY THE FBI.

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

21 "FUND." THE DNA DETECTION FUND REESTABLISHED IN SECTION 2335
22 (RELATING TO DNA DETECTION FUND).

23 "HUMAN BEHAVIORAL GENETIC RESEARCH." THE STUDY OF THE
24 POSSIBLE GENETIC UNDERPINNINGS OF BEHAVIORS, INCLUDING, BUT NOT
25 LIMITED TO, AGGRESSION, SUBSTANCE ABUSE, SOCIAL ATTITUDES,
26 MENTAL ABILITIES, SEXUAL ACTIVITY AND EATING HABITS.

27 "LAW ENFORCEMENT IDENTIFICATION PURPOSES." ASSISTING IN THE
28 DETERMINATION OF THE IDENTITY OF AN INDIVIDUAL WHOSE DNA IS
29 CONTAINED IN A BIOLOGICAL SAMPLE.

30 "MITOCHONDRIAL DNA ANALYSIS." A METHOD THAT APPLIES

1 TECHNIQUES FROM MOLECULAR BIOLOGY TO ANALYZE DNA FOUND IN THE
2 MITOCHONDRIA OF CELLS FOR THE PURPOSE OF IDENTIFICATION.

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

4 (1) A FELONY OFFENSE, OTHER THAN A FELONY SEX OFFENSE.

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

9 (3) [AN OFFENSE SUBJECT TO 42 PA.C.S. CH. 97 SUBCH. H
10 (RELATING TO REGISTRATION OF SEXUAL OFFENDERS)] (RESERVED).

11 (4) AN OFFENSE UNDER 18 PA.C.S. (RELATING TO CRIMES AND
12 OFFENSES) OR 75 PA.C.S. (RELATING TO VEHICLES) THAT IS GRADED
13 AS A MISDEMEANOR OF THE FIRST DEGREE.

14 (5) A MISDEMEANOR OFFENSE REQUIRING REGISTRATION UNDER
15 42 PA.C.S. CH. 97 SUBCH. H (RELATING TO REGISTRATION OF
16 SEXUAL OFFENDERS).

17 (6) AN OFFENSE GRADED AS A MISDEMEANOR OF THE SECOND
18 DEGREE UNDER ANY OF THE FOLLOWING:

19 18 PA.C.S. § 2701 (RELATING TO SIMPLE ASSAULT).

20 18 PA.C.S. § 2903 (RELATING TO FALSE IMPRISONMENT).

21 18 PA.C.S. § 3127 (RELATING TO INDECENT EXPOSURE).

22 18 PA.C.S. CH. 39 (RELATING TO THEFT AND RELATED
23 OFFENSES).

24 18 PA.C.S. § 4105 (RELATING TO BAD CHECKS).

25 18 PA.C.S. § 4106 (RELATING TO ACCESS DEVICE FRAUD).

26 18 PA.C.S. § 4952 (RELATING TO INTIMIDATION OF
27 WITNESSES OR VICTIMS).

28 18 PA.C.S. § 4953 (RELATING TO RETALIATION AGAINST
29 WITNESS, VICTIM OR PARTY).

30 18 PA.C.S. § 4958 (RELATING TO INTIMIDATION,

1 RETALIATION OR OBSTRUCTION IN CHILD ABUSE CASES).

2 18 PA.C.S. § 5121 (RELATING TO ESCAPE).

3 18 PA.C.S. § 5126 (RELATING TO FLIGHT TO AVOID
4 APPREHENSION, TRIAL OR PUNISHMENT).

5 18 PA.C.S. § 5131 (RELATING TO RECRUITING CRIMINAL
6 GANG MEMBERS).

7 18 PA.C.S. § 5510 (RELATING TO ABUSE OF CORPSE).

8 18 PA.C.S. § 5511 (RELATING TO CRUELTY TO ANIMALS).

9 18 PA.C.S. § 5902 (RELATING TO PROSTITUTION AND
10 RELATED OFFENSES).

11 "STATE POLICE." THE PENNSYLVANIA STATE POLICE.

12 "Y CHROMOSOME ANALYSIS." A METHOD THAT APPLIES TECHNIQUES
13 FROM MOLECULAR BIOLOGY TO EXAMINE DNA FOUND ON THE Y CHROMOSOME.

14 § 2311. POWERS AND DUTIES OF STATE POLICE.

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

17 * * *

18 (2) PROMULGATE [RULES AND REGULATIONS], AS NECESSARY,
19 RULES, REGULATIONS AND GUIDELINES TO CARRY OUT THE PROVISIONS
20 OF THIS CHAPTER.

21 * * *

22 § 2312. STATE DNA DATA BASE.

23 [THE STATE DNA DATA BASE IS REESTABLISHED. IT SHALL BE
24 ADMINISTERED BY THE STATE POLICE AND PROVIDE DNA RECORDS TO THE
25 FBI FOR STORAGE AND MAINTENANCE BY CODIS.] A STATEWIDE DNA DATA
26 BASE IS REESTABLISHED WITHIN THE STATE POLICE TO STORE FORENSIC
27 DNA PROFILES AND RECORDS DEVELOPED BY OR SUBMITTED TO THE STATE
28 POLICE UNDER THE FORMER DNA ACT, THE FORMER PROVISIONS OF 42
29 PA.C.S. CH. 47 (RELATING TO DNA DATA AND TESTING) OR THIS
30 CHAPTER, AND TO CONTRIBUTE FORENSIC DNA PROFILES AND RECORDS TO

1 CODIS AND THE NATIONAL DNA IDENTIFICATION INDEX SYSTEM. THE
2 STATE DNA DATA BASE SHALL HAVE THE CAPABILITY PROVIDED BY
3 COMPUTER SOFTWARE AND PROCEDURES ADMINISTERED BY THE STATE
4 POLICE TO STORE AND MAINTAIN [DNA RECORDS] FORENSIC DNA PROFILES
5 AND RECORDS RELATED TO:

6 (1) FORENSIC CASEWORK;

7 (2) CONVICTED OR DELINQUENCY ADJUDICATED OFFENDERS
8 REQUIRED TO PROVIDE A DNA SAMPLE UNDER THIS CHAPTER; AND

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

12 § 2313. STATE DNA DATA BANK.

13 THE STATE DNA DATA BANK IS REESTABLISHED. IT SHALL SERVE AS
14 THE REPOSITORY OF DNA SAMPLES COLLECTED UNDER THIS CHAPTER OR
15 UNDER PRIOR LAW.

16 § 2314. STATE POLICE RECOMMENDATION OF ADDITIONAL OFFENSES AND
17 ANNUAL REPORT.

18 (A) RECOMMENDATION.--THE STATE POLICE MAY RECOMMEND TO THE
19 GENERAL ASSEMBLY THAT IT ENACT LEGISLATION FOR THE INCLUSION OF
20 ADDITIONAL OFFENSES FOR WHICH DNA SAMPLES SHALL BE TAKEN AND
21 OTHERWISE SUBJECTED TO THE PROVISIONS OF THIS CHAPTER. IN
22 DETERMINING WHETHER TO RECOMMEND ADDITIONAL OFFENSES, THE STATE
23 POLICE SHALL CONSIDER THOSE OFFENSES FOR WHICH DNA TESTING WILL
24 HAVE A SUBSTANTIAL IMPACT ON THE DETECTION AND IDENTIFICATION OF
25 SEX OFFENDERS AND [VIOLENT] OTHER OFFENDERS.

26 (B) ANNUAL REPORT.--NO LATER THAN AUGUST 1 OF EACH YEAR, THE
27 COMMISSIONER SHALL SUBMIT TO THE GOVERNOR'S OFFICE, THE
28 CHAIRPERSON AND MINORITY CHAIRPERSON OF THE JUDICIARY COMMITTEE
29 OF THE SENATE AND THE CHAIRPERSON AND MINORITY CHAIRPERSON OF
30 THE JUDICIARY COMMITTEE OF THE HOUSE OF REPRESENTATIVES, A

1 WRITTEN REPORT CONTAINING INFORMATION REGARDING THE COLLECTION
2 AND TESTING OF DNA SAMPLES UNDER THE PROVISIONS OF THIS CHAPTER.
3 THE REPORT MUST INCLUDE, BUT NEED NOT BE LIMITED TO, THE
4 FOLLOWING INFORMATION PERTAINING TO THE PREVIOUS FISCAL YEAR:

5 (1) THE AGE, RACE AND SEX OF THOSE CONVICTED FROM WHOM
6 DNA SAMPLES WERE SUBMITTED UPON CONVICTION.

7 (2) THE FISCAL IMPACT ON THE STATE POLICE OF COLLECTING
8 AND TESTING DNA SAMPLES FROM PERSONS CONVICTED OF OR
9 ADJUDICATED DELINQUENT FOR OFFENSES.

10 (3) THE AVERAGE LENGTH OF TIME BETWEEN THE RECEIPT OF
11 DNA SAMPLES FROM THOSE CONVICTED OF OFFENSES AND THE
12 COMPLETION OF FORENSIC DNA TESTING OF EACH OF THOSE
13 CATEGORIES OF DNA SAMPLES.

14 (4) RECOMMENDATIONS, IF ANY, UNDER THIS SECTION FOR THE
15 INCLUSION OF ADDITIONAL OFFENSES FOR WHICH DNA SAMPLES MUST
16 BE COLLECTED OR RECOMMENDATIONS FOR THE REMOVAL OF SPECIFIC
17 OFFENSES FROM THE CATEGORIES REQUIRING THE COLLECTION OF DNA
18 SAMPLES FROM ARRESTEES OR PERSONS CONVICTED OF CRIMES.

19 § 2315. PROCEDURAL COMPATIBILITY WITH FBI.

20 THE DNA IDENTIFICATION SYSTEM [AS] ESTABLISHED BY THE STATE
21 POLICE SHALL [BE COMPATIBLE] COMPLY WITH [THE PROCEDURES
22 SPECIFIED BY] THE FBI QUALITY ASSURANCE STANDARDS FOR FORENSIC
23 DNA TESTING LABORATORIES AND DNA DATA BASING LABORATORIES AND
24 CODIS POLICIES AND PROCEDURES, INCLUDING USE OF COMPARABLE TEST
25 PROCEDURES, LABORATORY EQUIPMENT, SUPPLIES AND COMPUTER
26 SOFTWARE.

27 § 2316. DNA SAMPLE REQUIRED UPON CONVICTION, DELINQUENCY
28 ADJUDICATION AND CERTAIN ARD CASES.

29 (A) GENERAL RULE.--A PERSON WHO IS CONVICTED OR ADJUDICATED
30 DELINQUENT FOR A FELONY SEX OFFENSE OR OTHER SPECIFIED OFFENSE

1 OR WHO IS OR REMAINS INCARCERATED FOR A FELONY SEX OFFENSE OR
2 OTHER SPECIFIED OFFENSE ON OR AFTER THE EFFECTIVE DATE OF THIS
3 CHAPTER SHALL HAVE A DNA SAMPLE [DRAWN] COLLECTED AS FOLLOWS:

4 (1) A PERSON WHO IS SENTENCED OR RECEIVES A DELINQUENCY
5 DISPOSITION TO A TERM OF CONFINEMENT FOR AN OFFENSE COVERED
6 BY THIS SUBSECTION SHALL HAVE A DNA SAMPLE [DRAWN] COLLECTED
7 UPON INTAKE TO A PRISON, JAIL OR JUVENILE DETENTION FACILITY
8 OR ANY OTHER DETENTION FACILITY OR INSTITUTION. IF THE PERSON
9 IS ALREADY CONFINED AT THE TIME OF SENTENCING OR
10 ADJUDICATION, THE PERSON SHALL HAVE A DNA SAMPLE [DRAWN]
11 COLLECTED IMMEDIATELY AFTER THE SENTENCING OR ADJUDICATION.
12 IF A DNA SAMPLE IS NOT TIMELY [DRAWN] COLLECTED IN ACCORDANCE
13 WITH THIS SECTION, THE DNA SAMPLE MAY BE [DRAWN] COLLECTED
14 ANY TIME THEREAFTER BY THE PRISON, JAIL, JUVENILE DETENTION
15 FACILITY, DETENTION FACILITY OR INSTITUTION.

16 (2) A PERSON WHO IS CONVICTED OR ADJUDICATED DELINQUENT
17 FOR AN OFFENSE COVERED BY THIS SUBSECTION SHALL HAVE A DNA
18 SAMPLE [DRAWN] COLLECTED AS A CONDITION FOR ANY SENTENCE OR
19 ADJUDICATION WHICH DISPOSITION WILL NOT INVOLVE AN INTAKE
20 INTO A PRISON, JAIL, JUVENILE DETENTION FACILITY OR ANY OTHER
21 DETENTION FACILITY OR INSTITUTION.

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

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

28 (1) A PERSON WHO HAS BEEN CONVICTED OR ADJUDICATED
29 DELINQUENT FOR A FELONY SEX OFFENSE OR OTHER SPECIFIED
30 OFFENSE AND WHO SERVES A TERM OF CONFINEMENT IN CONNECTION

1 THEREWITH AFTER JUNE 18, 2002, SHALL NOT BE RELEASED IN ANY
2 MANNER UNLESS AND UNTIL A DNA SAMPLE HAS BEEN [WITHDRAWN]
3 COLLECTED.

4 (2) THIS CHAPTER SHALL APPLY TO INCARCERATED PERSONS
5 CONVICTED OR ADJUDICATED DELINQUENT FOR A FELONY SEX OFFENSE
6 OR OTHER SPECIFIED OFFENSE PRIOR TO JUNE 19, 2002.

7 (3) [THIS] THE FOLLOWING SHALL APPLY:

8 (I) EXCEPT AS PROVIDED UNDER SUBPARAGRAPH (II), THIS
9 CHAPTER SHALL APPLY TO INCARCERATED PERSONS AND PERSONS
10 ON PROBATION OR PAROLE WHO WERE CONVICTED OR ADJUDICATED
11 DELINQUENT FOR A FELONY SEX OFFENSE OR OTHER SPECIFIED
12 OFFENSES PRIOR TO THE EFFECTIVE DATE OF THIS PARAGRAPH.

13 (II) SUBPARAGRAPH (I) SHALL NOT APPLY TO PERSONS
14 CONVICTED OR ADJUDICATED DELINQUENT OF AN OFFENSE
15 ENUMERATED UNDER PARAGRAPH (4) OR (6) OF THE DEFINITION
16 OF "OTHER SPECIFIED OFFENSE" IN SECTION 2303 (RELATING TO
17 DEFINITIONS).

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

22 (D) SUPERVISION OF DNA SAMPLES.--ALL DNA SAMPLES [TAKEN]
23 COLLECTED PURSUANT TO THIS SECTION SHALL BE [TAKEN] COLLECTED IN
24 ACCORDANCE WITH RULES, REGULATIONS AND GUIDELINES PROMULGATED BY
25 THE STATE POLICE IN CONSULTATION WITH THE DEPARTMENT OF
26 CORRECTIONS.

27 (D.1) MANDATORY SUBMISSION.--THE REQUIREMENTS OF THIS
28 CHAPTER ARE MANDATORY AND APPLY REGARDLESS OF WHETHER A COURT
29 ADVISES A PERSON THAT A DNA SAMPLE MUST BE PROVIDED TO THE STATE
30 DNA DATA BASE AND THE STATE DNA DATA BANK AS A RESULT OF A

1 CONVICTION OR ADJUDICATION OF DELINQUENCY. A PERSON WHO HAS BEEN
2 SENTENCED TO DEATH OR LIFE IMPRISONMENT WITHOUT THE POSSIBILITY
3 OF PAROLE OR TO ANY TERM OF INCARCERATION IS NOT EXEMPT FROM THE
4 REQUIREMENTS OF THIS CHAPTER. ANY PERSON SUBJECT TO THIS CHAPTER
5 WHO HAS NOT PROVIDED A DNA SAMPLE FOR ANY REASON, INCLUDING
6 BECAUSE OF AN OVERSIGHT OR ERROR, SHALL PROVIDE A DNA SAMPLE FOR
7 INCLUSION IN THE STATE DNA DATA BASE AND THE STATE DNA DATA BANK
8 AFTER BEING NOTIFIED BY AUTHORIZED LAW ENFORCEMENT OR
9 CORRECTIONS PERSONNEL. IF A PERSON PROVIDES A DNA SAMPLE WHICH
10 IS NOT ADEQUATE FOR ANY REASON, THE PERSON SHALL PROVIDE ANOTHER
11 DNA SAMPLE FOR INCLUSION IN THE STATE DNA DATA BASE AND THE
12 STATE DNA DATA BANK AFTER BEING NOTIFIED BY AUTHORIZED LAW
13 ENFORCEMENT OR CORRECTIONS PERSONNEL. THE DNA SAMPLE MAY BE
14 COLLECTED UNDER THIS CHAPTER BUT SHALL NOT BE REQUIRED IF THE
15 AUTHORIZED LAW ENFORCEMENT OR CORRECTIONS OFFICIAL CONFIRMS THAT
16 A DNA SAMPLE FROM THE PERSON HAS ALREADY BEEN VALIDLY COLLECTED
17 AND PROVIDED TO THE STATE DNA DATA BANK AND A DNA RECORD FOR THE
18 PERSON EXISTS IN THE STATE DNA DATA BASE.

19 (E) DEFINITION.--AS USED IN THIS SECTION, THE TERM
20 "RELEASED" MEANS ANY RELEASE, PAROLE, FURLOUGH, WORK RELEASE,
21 PRERELEASE OR RELEASE IN ANY OTHER MANNER FROM A PRISON, JAIL,
22 JUVENILE DETENTION FACILITY OR ANY OTHER PLACE OF CONFINEMENT.

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

24 § 2316.1. COLLECTION FROM PERSONS ACCEPTED FROM OTHER
25 JURISDICTIONS.

26 (A) CONDITIONAL ACCEPTANCE.--WHEN A PERSON IS ACCEPTED INTO
27 THIS COMMONWEALTH FOR SUPERVISION FROM ANOTHER JURISDICTION
28 UNDER THE INTERSTATE COMPACT FOR SUPERVISION OF ADULT OFFENDERS,
29 OTHER RECIPROCAL AGREEMENT WITH A FEDERAL, STATE OR COUNTY
30 AGENCY, OR A PROVISION OF LAW, WHETHER OR NOT THE PERSON IS

1 CONFINED OR RELEASED, THE ACCEPTANCE SHALL BE CONDITIONED ON THE
2 OFFENDER PROVIDING A DNA SAMPLE UNDER THIS CHAPTER AND
3 FINGERPRINTS IF THE OFFENDER HAS A PAST OR PRESENT FEDERAL,
4 STATE OR MILITARY COURT CONVICTION OR ADJUDICATION THAT IS
5 EQUIVALENT TO A FELONY SEX OFFENSE OR OTHER SPECIFIED OFFENSE AS
6 DETERMINED BY THE PENNSYLVANIA BOARD OF PROBATION AND PAROLE.
7 ADDITIONAL DNA SAMPLES MAY BE COLLECTED BUT SHALL NOT BE
8 REQUIRED IF THE SUPERVISING AGENCY OR PLACE OF CONFINEMENT
9 CONFIRMS THAT A DNA SAMPLE IS CURRENTLY ON FILE WITH THE STATE
10 DNA DATA BANK AND A DNA RECORD FOR THE PERSON EXISTS IN THE
11 STATE DNA DATA BASE.

12 (B) TIME PERIOD.--

13 (1) IF THE PERSON ACCEPTED UNDER SUBSECTION (A) IS NOT
14 CONFINED, THE DNA SAMPLE AND FINGERPRINTS REQUIRED UNDER THIS
15 CHAPTER SHALL BE PROVIDED WITHIN FIVE CALENDAR DAYS AFTER THE
16 PERSON REPORTS TO THE SUPERVISING AGENT OR WITHIN FIVE
17 CALENDAR DAYS OF NOTICE TO THE PERSON, WHICHEVER OCCURS
18 FIRST. THE PERSON SHALL APPEAR AND THE DNA SAMPLE SHALL BE
19 COLLECTED IN ACCORDANCE WITH THE PROVISIONS OF THIS CHAPTER.

20 (2) IF THE PERSON ACCEPTED UNDER SUBSECTION (A) IS
21 CONFINED, THE PERSON SHALL PROVIDE THE DNA SAMPLE AND
22 FINGERPRINTS REQUIRED BY THIS CHAPTER WITHIN FIVE CALENDAR
23 DAYS AFTER THE PERSON IS RECEIVED AT A PLACE OF INCARCERATION
24 OR CONFINEMENT.

25 SECTION 3. SECTIONS 2317 HEADING AND (A) AND (B), 2318(A)
26 AND (C), 2319 AND 2321 OF TITLE 44 ARE AMENDED TO READ:

27 § 2317. PROCEDURES FOR [WITHDRAWAL,] COLLECTION AND
28 TRANSMISSION OF DNA SAMPLES.

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

30 (1) EACH DNA SAMPLE REQUIRED TO BE [DRAWN] COLLECTED

1 PURSUANT TO [SECTION] SECTIONS 2316 (RELATING TO DNA SAMPLE
2 REQUIRED UPON CONVICTION, DELINQUENCY ADJUDICATION AND
3 CERTAIN ARD CASES) [FROM PERSONS WHO ARE INCARCERATED OR
4 CONFINED SHALL BE DRAWN AT THE PLACE OF INCARCERATION OR
5 CONFINEMENT AS PROVIDED FOR IN SECTION 2316. DNA SAMPLES FROM
6 PERSONS WHO ARE NOT ORDERED OR SENTENCED TO A TERM OF
7 CONFINEMENT SHALL BE DRAWN AT A PRISON, JAIL UNIT, JUVENILE
8 FACILITY OR OTHER FACILITY TO BE SPECIFIED BY THE COURT.
9 ONLY] AND 2316.1 (RELATING TO COLLECTION FROM PERSONS
10 ACCEPTED FROM OTHER JURISDICTIONS) SHALL BE COLLECTED AS
11 FOLLOWS:

12 (I) DNA SAMPLES FROM PERSONS WHO ARE INCARCERATED OR
13 CONFINED SHALL BE COLLECTED AT THE PLACE OF INCARCERATION
14 OR CONFINEMENT AS PROVIDED IN SECTION 2316 OR 2316.1.

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

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

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

28 (2) IN ADDITION TO THE DNA SAMPLE, A FULL SET OF
29 FINGERPRINTS SHALL BE TAKEN FROM THE PERSON FROM WHOM THE DNA
30 SAMPLE IS BEING [DRAWN] COLLECTED FOR THE EXCLUSIVE PURPOSE

1 OF VERIFYING THE IDENTITY OF SUCH PERSON.

2 (B) LIMITATION ON LIABILITY.--PERSONS AUTHORIZED TO [DRAW]
3 COLLECT DNA SAMPLES UNDER THIS SECTION SHALL NOT BE CRIMINALLY
4 LIABLE FOR WITHDRAWING A DNA SAMPLE AND TRANSMITTING TEST
5 RESULTS PURSUANT TO THIS CHAPTER IF THEY PERFORM THESE
6 ACTIVITIES IN GOOD FAITH AND SHALL NOT BE CIVILLY LIABLE FOR
7 SUCH ACTIVITIES WHEN THE PERSON ACTED IN A REASONABLE MANNER
8 ACCORDING TO GENERALLY ACCEPTED MEDICAL AND OTHER PROFESSIONAL
9 PRACTICES.

10 * * *

11 § 2318. PROCEDURES FOR CONDUCT, DISPOSITION AND USE OF DNA
12 ANALYSIS.

13 (A) PROCEDURES.--

14 (1) THE STATE POLICE SHALL [PRESCRIBE] PROMULGATE, AS
15 NECESSARY, RULES, REGULATIONS AND GUIDELINES TO IMPLEMENT
16 THIS CHAPTER, INCLUDING PROCEDURES TO BE USED IN THE
17 COLLECTION, SUBMISSION, IDENTIFICATION, ANALYSIS, STORAGE AND
18 DISPOSITION OF DNA SAMPLES AND [TYPING RESULTS OF] FORENSIC
19 DNA PROFILES AND RECORDS FROM DNA SAMPLES SUBMITTED UNDER THE
20 FORMER DNA ACT, FORMER PROVISIONS OF 42 PA.C.S. CH. 47
21 (RELATING TO DNA DATA AND TESTING) OR THIS CHAPTER.

22 (2) THE [DNA SAMPLE TYPING] RESULTS OF FORENSIC DNA
23 TESTING SHALL BE SECURELY STORED IN THE STATE DNA DATA BASE,
24 AND RECORDS OF TESTING SHALL BE RETAINED ON FILE WITH THE
25 STATE POLICE CONSISTENT WITH THE PROCEDURES ESTABLISHED BY
26 THE FBI[.] QUALITY ASSURANCE STANDARDS FOR FORENSIC DNA
27 TESTING LABORATORIES AND DNA DATA BASING LABORATORIES AND
28 CODIS POLICIES AND PROCEDURES.

29 (3) THESE PROCEDURES SHALL ALSO INCLUDE QUALITY
30 ASSURANCE GUIDELINES [TO ENSURE THAT DNA IDENTIFICATION

1 RECORDS MEET STANDARDS FOR] FOR SAMPLES AND FORENSIC DNA
2 PROFILES AND RECORDS FROM 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) A DNA SAMPLE OR DNA RECORD ACQUIRED UNDER THIS
21 CHAPTER MAY NOT BE USED FOR HUMAN BEHAVIORAL GENETIC RESEARCH
22 OR FOR NON-LAW ENFORCEMENT OR NONHUMANITARIAN IDENTIFICATION
23 PURPOSES.

24 * * *

25 § 2319. DNA DATA BASE EXCHANGE.

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

28 (1) RECEIVE AND STORE DNA SAMPLES, [TO STORE,] TO
29 PERFORM [ANALYSIS] FORENSIC DNA TESTING OR TO CONTRACT FOR
30 [DNA TYPING ANALYSIS] TESTING WITH [A QUALIFIED] AN

1 ACCREDITED FORENSIC DNA LABORATORY THAT MEETS THE
2 [GUIDELINES] RULES, REGULATIONS AND GUIDELINES UNDER SECTION
3 2318 (RELATING TO PROCEDURES FOR CONDUCT, DISPOSITION AND USE
4 OF DNA ANALYSIS) AS ESTABLISHED BY THE STATE POLICE[, TO
5 CLASSIFY AND TO FILE THE DNA RECORD OF IDENTIFICATION
6 CHARACTERISTIC PROFILES OF].

7 (2) STORE FORENSIC DNA RECORDS FROM DNA SAMPLES
8 SUBMITTED UNDER THE FORMER DNA ACT, FORMER PROVISIONS OF 42
9 PA.C.S. CH. 47 (RELATING TO DNA DATA AND TESTING) OR THIS
10 CHAPTER AND TO MAKE SUCH INFORMATION AVAILABLE AS PROVIDED IN
11 THIS SECTION.

12 (A.1) CONTRACTS.--THE STATE POLICE MAY CONTRACT [OUT THE
13 STORAGE OF DNA TYPING ANALYSIS AND MAY CONTRACT OUT] FOR DNA
14 [TYPING ANALYSIS] TESTING TO [A QUALIFIED] AN ACCREDITED
15 FORENSIC DNA LABORATORY THAT MEETS THE RULES, REGULATIONS AND
16 GUIDELINES AS ESTABLISHED BY THE STATE POLICE UNDER SECTION
17 2318. [THE RESULTS OF THE DNA PROFILE OF INDIVIDUALS] DNA
18 RECORDS IN THE STATE DNA DATA BASE SHALL BE MADE AVAILABLE:

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

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

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

30 (C) POPULATION DATA BASE.--

1 (1) THE STATE POLICE MAY ESTABLISH A SEPARATE POPULATION
2 DATA BASE COMPRISED OF FORENSIC DNA [SAMPLES] PROFILES
3 OBTAINED UNDER THIS CHAPTER AFTER ALL PERSONAL IDENTIFICATION
4 IS REMOVED.

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

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

12 § 2321. EXPUNGEMENT.

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 PURSUANT TO THE FORMER DNA ACT, FORMER 42
16 PA.C.S. CH. 47 (RELATING TO DNA DATA AND TESTING) OR THIS
17 CHAPTER MAY REQUEST EXPUNGEMENT ON THE GROUNDS THAT THE
18 CONVICTION OR DELINQUENCY ADJUDICATION ON WHICH THE AUTHORITY
19 FOR INCLUDING THAT PERSON'S DNA SAMPLE, RECORD OR PROFILE WAS
20 BASED HAS BEEN REVERSED AND THE CASE DISMISSED OR THAT THE DNA
21 SAMPLE, RECORD OR PROFILE WAS INCLUDED IN THE STATE DNA DATA
22 BANK OR THE STATE DNA DATA BASE BY MISTAKE.]

23 (B) DUTY OF STATE POLICE.--THE STATE POLICE SHALL PURGE ALL
24 RECORDS AND IDENTIFIABLE INFORMATION IN THE STATE DNA DATA BANK
25 OR STATE DNA DATA BASE PERTAINING TO THE PERSON AND DESTROY EACH
26 SAMPLE, RECORD AND PROFILE FROM THE PERSON UPON:

27 (1) RECEIPT OF A WRITTEN REQUEST FOR EXPUNGEMENT
28 PURSUANT TO THIS SECTION AND A CERTIFIED COPY OF THE FINAL
29 COURT ORDER REVERSING AND DISMISSING THE CONVICTION; OR

30 (2) CLEAR AND CONVINCING PROOF THAT THE SAMPLE RECORD OR

1 PROFILE WAS INCLUDED BY MISTAKE.]

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

8 (B) REMOVAL BY REQUEST.--A PERSON WHOSE DNA SAMPLE, RECORD
9 OR PROFILE HAS BEEN INCLUDED IN THE STATE DNA DATA BANK OR THE
10 STATE DNA DATA BASE UNDER THE FORMER DNA ACT, FORMER PROVISIONS
11 OF 42 PA.C.S. CH. 47 OR THIS CHAPTER MAY FILE A WRITTEN REQUEST
12 WITH THE STATE POLICE THAT THE DNA SAMPLE, RECORD OR PROFILE BE
13 REMOVED ON THE GROUNDS THAT THE DNA SAMPLE, RECORD OR PROFILE
14 WAS INCLUDED IN THE STATE DNA DATA BANK OR THE STATE DNA DATA
15 BASE BY MISTAKE. IF THE STATE POLICE GRANTS THE REQUEST, THE
16 REQUEST SHALL BE PROCESSED AT NO COST AND THE STATE POLICE SHALL
17 PROVIDE WRITTEN NOTICE OF THE REMOVAL TO THE PERSON AND HIS
18 ATTORNEY OF RECORD, IF ANY, WITHIN 60 DAYS AFTER DESTROYING THE
19 DNA SAMPLE, RECORD OR PROFILE. IF THE STATE POLICE DENIES THE
20 REQUEST, THE PERSON MAY REQUEST EXPUNGEMENT OF THE DNA SAMPLE,
21 RECORD OR PROFILE UNDER SUBSECTION (B.1).

22 (B.1) EXPUNGEMENT BY COURT ORDER.--THE FOLLOWING SHALL
23 APPLY:

24 (1) EXCEPT AS PROVIDED UNDER PARAGRAPH (2), A PERSON MAY
25 REQUEST THE COURT OF COMMON PLEAS OF THE COUNTY WHERE THE
26 ORIGINAL CHARGES WERE FILED TO ISSUE AN ORDER DIRECTING THE
27 EXPUNGEMENT OF THE DNA SAMPLE, RECORD OR PROFILE PERTAINING
28 TO THE PERSON IN THE STATE DNA DATA BANK OR THE STATE DNA
29 DATA BASE IN THE FOLLOWING INSTANCES:

30 (I) THE CONVICTION OR DELINQUENCY ADJUDICATION FOR

1 WHICH THE PERSON'S DNA SAMPLE WAS COLLECTED HAS BEEN
2 REVERSED AND NO APPEAL IS PENDING;

3 (II) THE PERSON WAS GRANTED AN UNCONDITIONAL PARDON
4 FOR THE CRIME FOR WHICH THE DNA SAMPLE WAS TAKEN; OR

5 (III) THE DNA SAMPLE, RECORD OR PROFILE WAS INCLUDED
6 IN THE STATE DNA DATA BANK OR STATE DNA DATA BASE BY
7 MISTAKE AND THE STATE POLICE HAS ERRONEOUSLY REFUSED TO
8 GRANT THE PERSON'S REQUEST FOR REMOVAL UNDER SUBSECTION
9 (B).

10 (2) PARAGRAPH (1) SHALL NOT APPLY IF THE PERSON HAS BEEN
11 CONVICTED OR ADJUDICATED DELINQUENT FOR ANY OTHER CRIME FOR
12 WHICH A DNA SAMPLE IS REQUIRED TO BE COLLECTED UNDER THIS
13 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 AN 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 A
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.--THE COURT SHALL FORWARD A
24 CERTIFIED COPY OF AN EXPUNGEMENT ORDER ISSUED UNDER SUBSECTION
25 (B.1) TO THE STATE POLICE.

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

27 (1) UPON RECEIPT OF AN EXPUNGEMENT ORDER ISSUED UNDER
28 SUBSECTION (B.1), THE STATE POLICE SHALL DESTROY THE DNA
29 SAMPLE, RECORD OR PROFILE IN THE STATE DNA DATA BANK AND THE
30 STATE DNA DATA BASE PERTAINING TO A PERSON IDENTIFIED IN AN

1 EXPUNGEMENT ORDER.

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

4 (3) THE STATE POLICE SHALL PROVIDE WRITTEN NOTICE OF THE
5 EXPUNGEMENT TO THE PERSON AND HIS ATTORNEY OF RECORD, IF ANY,
6 WITHIN 60 DAYS AFTER DESTROYING THE DNA SAMPLE, RECORD OR
7 PROFILE.

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 ACCESSIBLE
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 SECTION 4. THIS ACT SHALL TAKE EFFECT AS FOLLOWS:

30 (1) THIS SECTION SHALL TAKE EFFECT IN 180 DAYS.

1 (2) THE ADDITION OF PARAGRAPHS (4) AND (6) OF THE
2 DEFINITION OF "OTHER SPECIFIED OFFENSE" IN 44 PA.C.S. § 2303
3 SHALL TAKE EFFECT DECEMBER 1, 2019.

4 (3) THE REMAINDER OF THIS ACT SHALL TAKE EFFECT IN 180
5 DAYS.