

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 461 Session of 2017

INTRODUCED BY KILLION, BOSCOLA, BREWSTER, BROWNE, GREENLEAF, LANGERHOLC, MENSCH, RAFFERTY, SABATINA, SCHWANK, VULAKOVICH, REGAN AND HAYWOOD, FEBRUARY 28, 2017

AS AMENDED ON THIRD CONSIDERATION, JUNE 27, 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 The General Assembly of the Commonwealth of Pennsylvania
14 hereby enacts as follows:

15 Section 1. Sections 2302, 2303, 2311(2), 2312, 2313, 2314,
16 2315 and 2316 of Title 44 of the Pennsylvania Consolidated
17 Statutes are amended to read:

18 § 2302. Policy.

19 The General Assembly finds and declares that:

20 (1) [DNA data banks are] Forensic DNA testing is an
21 important tool in criminal investigations, in [the exclusion
22 of] excluding innocent individuals who are the subject of

1 criminal investigations or prosecutions and in [detering and  
2 detecting recidivist acts] detecting and deterring repeated  
3 crimes by the same individual.

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

7 (3) Moreover, it is the policy of the Commonwealth to  
8 assist Federal, State and local criminal justice and law  
9 enforcement agencies in the identification and detection of  
10 individuals in criminal investigations.

11 (4) It is [therefore] in the best interest of the  
12 Commonwealth to establish a DNA data base and a DNA data bank  
13 containing DNA samples submitted by individuals convicted of,  
14 adjudicated delinquent for or accepted into ARD for felony  
15 sex offenses and other specified offenses.

16 (5) It is in the best interest of the Commonwealth to  
17 authorize the State Police to use DNA analysis and to  
18 identify these individuals to a criminal justice agency in  
19 certain cases.

20 § 2303. Definitions.

21 The following words and phrases when used in this chapter  
22 shall have the meanings given to them in this section unless the  
23 context clearly indicates otherwise:

24 "Accredited forensic DNA laboratory." A forensic DNA  
25 laboratory that has received accreditation by an accrediting  
26 body nationally recognized within the forensic science community  
27 in accordance with the FBI Quality Assurance Standards to  
28 perform forensic DNA testing and is in compliance with FBI  
29 Quality Assurance Standards.

30 "ARD." Accelerated Rehabilitative Disposition.

1 "CODIS." The [term is derived from] Combined DNA Index  
2 System[, the Federal Bureau of Investigation's national DNA  
3 identification index system that allows the storage and exchange  
4 of DNA records submitted by state and local forensic DNA  
5 laboratories.] established and maintained by the Federal Bureau  
6 of Investigation.

7 "Commissioner." The Commissioner of the Pennsylvania State  
8 Police.

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

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

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

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

30 "DNA sample." [A blood or tissue sample provided by any

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

9 "FBI." The Federal Bureau of Investigation.

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

13 18 Pa.C.S. Ch. 31 (relating to sexual offenses).

14 18 Pa.C.S. § 4302 (relating to incest).

15 18 Pa.C.S. § [5902(c)(1)(iii) and (iv)] 5902(c)(1)(iv)  
16 (relating to prostitution and related offenses).

17 18 Pa.C.S. § 5903(a) (relating to obscene and other  
18 sexual materials and performances) where the offense  
19 constitutes a felony.

20 [18 Pa.C.S. § 6312 (relating to sexual abuse of  
21 children).

22 18 Pa.C.S. § 6318 (relating to unlawful contact with  
23 minor) where the most serious underlying offense for which  
24 the defendant contacted the minor is graded as a felony.

25 18 Pa.C.S. § 6320 (relating to sexual exploitation of  
26 children).]

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

30 "Forensic DNA laboratory." A laboratory that performs

1 forensic DNA testing for the purposes of identification.

2 "Forensic DNA profile." The data set derived from forensic  
3 DNA testing.

4 "Forensic DNA testing." A test that applies techniques from  
5 molecular biology to analyze human deoxyribonucleic acid (DNA)  
6 to identify data which meets the requirements for inclusion in  
7 CODIS and the national DNA identification index system  
8 administered by the FBI.

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

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

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

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

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

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

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

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

30 (3) [An offense subject to 42 Pa.C.S. Ch. 97 Subch. H

1 ~~(relating to registration of sexual offenders)]~~ (Reserved).

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

5 (5) A misdemeanor offense requiring registration under  
6 42 Pa.C.S. Ch. 97 Subch. H (relating to registration of  
7 sexual offenders).

8 (6) An offense graded as a misdemeanor of the second  
9 degree under any of the following:

10 18 Pa.C.S. § 2701 (relating to simple assault).

11 18 Pa.C.S. § 2903 (relating to false imprisonment).

12 18 Pa.C.S. § 3127 (relating to indecent exposure).

13 18 Pa.C.S. Ch. 39 (relating to theft and related  
14 offenses).

15 ~~18 Pa.C.S. § 4105 (relating to bad checks).~~ <--

16 ~~18 Pa.C.S. § 4106 (relating to access device fraud).~~

17 18 Pa.C.S. § 4952 (relating to intimidation of  
18 witnesses or victims).

19 18 Pa.C.S. § 4953 (relating to retaliation against  
20 witness, victim or party).

21 18 Pa.C.S. § 4958 (relating to intimidation,  
22 retaliation or obstruction in child abuse cases).

23 18 Pa.C.S. § 5121 (relating to escape).

24 18 Pa.C.S. § 5126 (relating to flight to avoid  
25 apprehension, trial or punishment).

26 18 Pa.C.S. § 5131 (relating to recruiting criminal  
27 gang members).

28 18 Pa.C.S. § 5510 (relating to abuse of corpse).

29 18 Pa.C.S. § 5511 (relating to cruelty to animals).

30 18 Pa.C.S. § 5902 (relating to prostitution and

1           related offenses).

2           "State Police." The Pennsylvania State Police.

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

5 § 2311. Powers and duties of State Police.

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

8           \* \* \*

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

12           \* \* \*

13 § 2312. State DNA Data Base.

14           [The State DNA Data Base is reestablished. It shall be  
15 administered by the State Police and provide DNA records to the  
16 FBI for storage and maintenance by CODIS.] A Statewide DNA Data  
17 Base is reestablished within the State Police to store forensic  
18 DNA profiles and records developed by or submitted to the State  
19 Police under the former DNA Act, the former provisions of 42  
20 Pa.C.S. Ch. 47 (relating to DNA data and testing) or this  
21 chapter, and to contribute forensic DNA profiles and records to  
22 CODIS and the national DNA identification index system. The  
23 State DNA Data Base shall have the capability provided by  
24 computer software and procedures administered by the State  
25 Police to store and maintain [DNA records] forensic DNA profiles  
26 and records related to:

27           (1) forensic casework;

28           (2) convicted or delinquency adjudicated offenders  
29 required to provide a DNA sample under this chapter; and

30           (3) anonymous DNA records used for statistical research

1       [or] on the frequency of DNA genotypes, quality control or  
2       the development of new DNA identification methods.

3   § 2313. State DNA Data Bank.

4       The State DNA Data Bank is reestablished. It shall serve as  
5       the repository of DNA samples collected under this chapter or  
6       under prior law.

7   § 2314. State Police recommendation of additional offenses and  
8       annual report.

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

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

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

28              (2) The fiscal impact on the State Police of collecting  
29              and testing DNA samples from persons convicted of or  
30              adjudicated delinquent for offenses.



1           (3) The average length of time between the receipt of  
2 DNA samples from those convicted of offenses and the  
3 completion of forensic DNA testing of each of those  
4 categories of DNA samples.

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

10 § 2315. Procedural compatibility with FBI.

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

18 § 2316. DNA sample required upon conviction, delinquency  
19           adjudication and certain ARD cases.

20       (a) General rule.--A person who is convicted or adjudicated  
21 delinquent for a felony sex offense or other specified offense  
22 or who is or remains incarcerated for a felony sex offense or  
23 other specified offense on or after the effective date of this  
24 chapter shall have a DNA sample [drawn] collected as follows:

25           (1) A person who is sentenced or receives a delinquency  
26 disposition to a term of confinement for an offense covered  
27 by this subsection shall have a DNA sample [drawn] collected  
28 upon intake to a prison, jail or juvenile detention facility  
29 or any other detention facility or institution. If the person  
30 is already confined at the time of sentencing or

1 adjudication, the person shall have a DNA sample [drawn]  
2 collected immediately after the sentencing or adjudication.  
3 If a DNA sample is not timely [drawn] collected in accordance  
4 with this section, the DNA sample may be [drawn] collected  
5 any time thereafter by the prison, jail, juvenile detention  
6 facility, detention facility or institution.

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

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

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

19 (1) A person who has been convicted or adjudicated  
20 delinquent for a felony sex offense or other specified  
21 offense and who serves a term of confinement in connection  
22 therewith after June 18, 2002, shall not be released in any  
23 manner unless and until a DNA sample has been [withdrawn]  
24 collected.

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

28 (3) [This] The following shall apply:

29 (i) Except as provided under subparagraph (ii), this  
30 chapter shall apply to incarcerated persons and persons

1 on probation or parole who were convicted or adjudicated  
2 delinquent for a felony sex offense or other specified  
3 offenses prior to the effective date of this paragraph.

4 (ii) Subparagraph (i) shall not apply to persons  
5 convicted or adjudicated delinquent of an offense  
6 enumerated under paragraph (4) or (6) of the definition  
7 of "other specified offense" in section 2303 (relating to  
8 definitions).

9 (c) Certain ARD cases.--Acceptance into ARD as a result of a  
10 criminal charge for a felony sex offense or other specified  
11 offense, OTHER THAN AN OFFENSE ENUMERATED UNDER PARAGRAPH (4) OR <--  
12 (6) OF THE DEFINITION OF "OTHER SPECIFIED OFFENSE" IN SECTION  
13 2303, filed after June 18, 2002, ~~[may]~~ ~~shall~~ be conditioned upon <--  
14 the [giving] collection of a DNA sample.

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

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

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

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

16 Section 2. Title 44 is amended by adding a section to read:  
17 § 2316.1. Collection from persons accepted from other  
18 jurisdictions.

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

1 required if the supervising agency or place of confinement  
2 confirms that a DNA sample is currently on file with the State  
3 DNA Data Bank and a DNA record for the person exists in the  
4 State DNA Data Base.

5 (b) Time period.--

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

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

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

20 § 2317. Procedures for [withdrawal,] collection and  
21 transmission of DNA samples.

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

23 (1) Each DNA sample required to be [drawn] collected  
24 pursuant to [section] sections 2316 (relating to DNA sample  
25 required upon conviction, delinquency adjudication and  
26 certain ARD cases) [from persons who are incarcerated or  
27 confined shall be drawn at the place of incarceration or  
28 confinement as provided for in section 2316. DNA samples from  
29 persons who are not ordered or sentenced to a term of  
30 confinement shall be drawn at a prison, jail unit, juvenile

1 facility or other facility to be specified by the court.

2 Only] and 2316.1 (relating to collection from persons  
3 accepted from other jurisdictions) shall be collected as  
4 follows:

5 (i) DNA samples from persons who are incarcerated or  
6 confined shall be collected at the place of incarceration  
7 or confinement as provided in section 2316 or 2316.1.

8 (ii) DNA samples from persons who are not ordered to  
9 be or are not currently incarcerated or confined shall be  
10 collected as provided in sections 2316 or 2316.1 or at a  
11 prison, jail unit, juvenile facility or other facility  
12 specified by the court or supervising agency.

13 (iii) For DNA blood samples, only those individuals  
14 qualified to draw DNA blood samples in a medically  
15 approved manner shall draw a DNA blood sample to be  
16 submitted for DNA analysis. [Such sample]

17 (iv) DNA samples and the set of fingerprints  
18 provided for in paragraph (2) shall be delivered to the  
19 State Police within 48 hours of [drawing] collecting the  
20 sample.

21 (2) In addition to the DNA sample, a full set of  
22 fingerprints shall be taken from the person from whom the DNA  
23 sample is being [drawn] collected for the exclusive purpose  
24 of verifying the identity of such person.

25 (b) Limitation on liability.--Persons authorized to [draw]  
26 collect DNA samples under this section shall not be criminally  
27 liable for withdrawing a DNA sample and transmitting test  
28 results pursuant to this chapter if they perform these  
29 activities in good faith and shall not be civilly liable for  
30 such activities when the person acted in a reasonable manner

1 according to generally accepted medical and other professional  
2 practices.

3 \* \* \*

4 § 2318. Procedures for conduct, disposition and use of DNA  
5 analysis.

6 (a) Procedures.--

7 (1) The State Police shall [prescribe] promulgate, as  
8 necessary, rules, regulations and guidelines to implement  
9 this chapter, including procedures to be used in the  
10 collection, submission, identification, analysis, storage and  
11 disposition of DNA samples and [typing results of] forensic  
12 DNA profiles and records from DNA samples submitted under the  
13 former DNA Act, former provisions of 42 Pa.C.S. Ch. 47  
14 (relating to DNA data and testing) or this chapter.

15 (2) The [DNA sample typing] results of forensic DNA  
16 testing shall be securely stored in the State DNA Data Base,  
17 and records of testing shall be retained on file with the  
18 State Police consistent with the procedures established by  
19 the FBI[.] Quality Assurance Standards for forensic DNA  
20 testing laboratories and DNA data basing laboratories and  
21 CODIS policies and procedures.

22 (3) These procedures shall also include quality  
23 assurance guidelines [to ensure that DNA identification  
24 records meet standards for] for samples and forensic DNA  
25 profiles and records from accredited forensic DNA  
26 laboratories which submit DNA records to the State DNA Data  
27 Base.

28 (4) The rules, regulations and guidelines shall address  
29 the following:

30 (i) Verification of accreditation.





1 submitted under the former DNA Act, former provisions of 42  
2 Pa.C.S. Ch. 47 (relating to DNA data and testing) or this  
3 chapter and to make such information available as provided in  
4 this section.

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

12 (1) to criminal justice agencies or [approved crime]  
13 CODIS-participating DNA laboratories which serve these  
14 agencies; or

15 (2) upon written or electronic request and in  
16 furtherance of an official investigation of a criminal  
17 offense or offender or suspected offender.

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

23 (c) Population data base.--

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

28 (2) The State Police may share or disseminate the  
29 population data base with other criminal justice agencies or  
30 [crime] CODIS-participating DNA laboratories that serve to

1 assist the State Police with statistical data bases.

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

5 § 2321. Expungement.

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

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

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

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

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

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

15     (b.1) Expungement by court order.--The following shall  
16 apply:

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

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

26             (ii) the person was granted an unconditional pardon  
27 for the crime for which the DNA sample was taken; or

28             (iii) the DNA sample, record or profile was included  
29 in the State DNA Data Bank or State DNA Data Base by  
30 mistake and the State Police has erroneously refused to

1 grant the person's request for removal under subsection  
2 (b).

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

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

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

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

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

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

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

27 (3) The State Police shall provide written notice of the  
28 expungement to the person and his attorney of record, if any,  
29 within 60 days after destroying the DNA sample, record or  
30 profile.

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

8           (c) Limitations.--

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

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

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

22           Section 4. This act shall take effect as follows:

23           (1) This section shall take effect ~~in 180 days~~ <--  
24 IMMEDIATELY. <--

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

28           (3) The remainder of this act shall take effect in ~~180~~ <--  
29 270 days. <--