
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 363 Session of
2019

INTRODUCED BY BOSCOLA, BROWNE, BREWSTER, DINNIMAN, HAYWOOD AND
KILLION, MARCH 4, 2019

REFERRED TO JUDICIARY, MARCH 4, 2019

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 and for DNA sample
4 required upon conviction, delinquency adjudication and
5 certain ARD cases.

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

8 Section 1. Section 2302 of Title 44 of the Pennsylvania
9 Consolidated Statutes, amended October 24, 2018 (P.L.896,
10 No.147), is amended to read:

11 § 2302. Policy.

12 The General Assembly finds and declares that:

13 (1) Forensic DNA testing is an important tool in
14 criminal investigations, in excluding innocent individuals
15 who are the subject of criminal investigations or
16 prosecutions and in detecting and deterring repeated crimes
17 by the same individual.

18 (2) Several states have enacted laws requiring persons
19 arrested, charged or convicted of certain crimes, especially

1 sex offenses, to provide genetic samples for DNA profiling.

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

6 (4) It is in the best interest of the Commonwealth to
7 establish a DNA data base and a DNA data bank containing DNA
8 samples submitted by individuals arrested, charged, convicted
9 of, adjudicated delinquent for or accepted into ARD for
10 felony [sex] offenses and other specified offenses.

11 (5) It is in the best interest of the Commonwealth to
12 authorize the State Police to use DNA analysis and to
13 identify these individuals to a criminal justice agency in
14 certain cases.

15 Section 2. The definition of "felony sex offense" in section
16 2303 of Title 44, amended October 24, 2018 (P.L.896, No.147), is
17 amended to read:

18 § 2303. Definitions.

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

22 * * *

23 ["Felony sex offense." A felony offense or an attempt,
24 conspiracy or solicitation to commit a felony offense under any
25 of the following:

26 18 Pa.C.S. Ch. 31 (relating to sexual offenses).

27 18 Pa.C.S. § 4302 (relating to incest).

28 18 Pa.C.S. § 5902(c)(1)(iv) (relating to prostitution and
29 related offenses).

30 18 Pa.C.S. § 5903(a) (relating to obscene and other

1 sexual materials and performances) where the offense
2 constitutes a felony.

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

6 * * *

7 Section 3. Section 2316(a) introductory paragraph, (b) and
8 (c) of Title 44, amended October 24, 2018 (P.L.896, No.147), are
9 amended and the section is amended by adding a subsection to
10 read:

11 § 2316. DNA sample required upon arrest, conviction,
12 delinquency adjudication and certain ARD cases.

13 (a) [General rule] Conviction or adjudication.--A person who
14 is convicted or adjudicated delinquent for a felony [sex]
15 offense or other specified offense or who is or remains
16 incarcerated for a felony [sex] offense or other specified
17 offense on or after the effective date of this chapter shall
18 have a DNA sample collected as follows:

19 * * *

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

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

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

29 (3) The following shall apply:

30 (i) Except as provided under subparagraph (ii), this

1 chapter shall apply to incarcerated persons and persons
2 on probation or parole who were convicted or adjudicated
3 delinquent for a felony [sex] offense or other specified
4 offenses prior to the effective date of this paragraph[.]
5 whether or not the offense for which the person is
6 currently imprisoned or under probation or parole
7 supervision is a felony offense or other specified
8 offense.

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

14 (c) Certain ARD cases.--Acceptance into ARD as a result of a
15 criminal charge for a felony [sex] offense or other specified
16 offense, other than an offense enumerated under paragraph (4) or
17 (6) of the definition of "other specified offense" in section
18 2303 filed after June 18, 2002, may be conditioned upon the
19 collection of a DNA sample.

20 (c.1) Criminal charge or arrest.--A person who is charged or
21 arrested as an adult for a felony offense or other specified
22 offense shall have a DNA sample drawn as follows:

23 (1) An adult person arrested for a felony offense or
24 other specified felony shall provide a DNA sample and
25 fingerprints as required under this chapter immediately
26 following arrest, during booking or intake or as soon as
27 administratively practical after arrest, but no later than
28 prior to release on bail or pending trial or any other
29 physical release from confinement or custody.

30 (2) If for any reason a person subject to this chapter

1 did not have DNA samples and fingerprints taken under
2 paragraph (1) or otherwise bypasses the State or county
3 prison system, the court shall order the person to report
4 within five calendar days to a prison, jail unit, juvenile
5 facility or other facility to be specified by the court to
6 provide DNA samples and fingerprints in accordance with this
7 chapter.

8 * * *

9 Section 4. This act shall take effect in 60 days.