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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 374 Session of  
2021

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INTRODUCED BY BOSCOLA, MARCH 10, 2021

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REFERRED TO JUDICIARY, MARCH 10, 2021

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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 is amended to read:

10 § 2302. Policy.

11 The General Assembly finds and declares that:

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

17 (2) Several states have enacted laws requiring persons  
18 arrested, charged or convicted of certain crimes, especially  
19 sex offenses, to provide genetic samples for DNA profiling.

20 (3) Moreover, it is the policy of the Commonwealth to

1 assist Federal, State and local criminal justice and law  
2 enforcement agencies in the identification and detection of  
3 individuals in criminal investigations.

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

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

13 Section 2. The definition of "felony sex offense" in section  
14 2303 of Title 44 is amended to read:

15 § 2303. Definitions.

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

19 \* \* \*

20 ["Felony sex offense." A felony offense or an attempt,  
21 conspiracy or solicitation to commit a felony offense under any  
22 of the following:

23 18 Pa.C.S. Ch. 31 (relating to sexual offenses).

24 18 Pa.C.S. § 4302 (relating to incest).

25 18 Pa.C.S. § 5902(c)(1)(iv) (relating to prostitution and  
26 related offenses).

27 18 Pa.C.S. § 5903(a) (relating to obscene and other  
28 sexual materials and performances) where the offense  
29 constitutes a felony.

30 Any offense graded as a felony requiring registration

1 under 42 Pa.C.S. Ch. 97 Subch. H (relating to registration of  
2 sexual offenders).]

3 \* \* \*

4 Section 3. Section 2316(a) heading and introductory  
5 paragraph, (b) and (c) of Title 44 are amended and the section  
6 is amended by adding a subsection to read:

7 § 2316. DNA sample required upon arrest, conviction,  
8 delinquency adjudication and certain ARD cases.

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

15 \* \* \*

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

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

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

25 (3) The following shall apply:

26 (i) Except as provided under subparagraph (ii), this  
27 chapter shall apply to incarcerated persons and persons  
28 on probation or parole who were convicted or adjudicated  
29 delinquent for a felony [sex] offense or other specified  
30 offenses prior to the effective date of this paragraph[.]

1 whether or not the offense for which the person is  
2 currently imprisoned or under probation or parole  
3 supervision is a felony offense or other specified  
4 offense.

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

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

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

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

26 (2) If for any reason a person subject to this chapter  
27 did not have DNA samples and fingerprints taken under  
28 paragraph (1) or otherwise bypasses the State or county  
29 prison system, the court shall order the person to report  
30 within five calendar days to a prison, jail unit, juvenile

1 facility or other facility to be specified by the court to  
2 provide DNA samples and fingerprints in accordance with this  
3 chapter.

4 \* \* \*

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