
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 461 Session of
2017

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

REFERRED TO JUDICIARY, FEBRUARY 28, 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 filed after June 18, 2002, [may] shall be conditioned
12 upon the [giving] collection of a DNA sample.

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

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

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

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

14 Section 2. Title 44 is amended by adding a section to read:
15 § 2316.1. Collection from persons accepted from other
16 jurisdictions.

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

1 DNA Data Bank and a DNA record for the person exists in the
2 State DNA Data Base.

3 (b) Time period.--

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

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

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

18 § 2317. Procedures for [withdrawal,] collection and
19 transmission of DNA samples.

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

21 (1) Each DNA sample required to be [drawn] collected
22 pursuant to [section] sections 2316 (relating to DNA sample
23 required upon conviction, delinquency adjudication and
24 certain ARD cases) [from persons who are incarcerated or
25 confined shall be drawn at the place of incarceration or
26 confinement as provided for in section 2316. DNA samples from
27 persons who are not ordered or sentenced to a term of
28 confinement shall be drawn at a prison, jail unit, juvenile
29 facility or other facility to be specified by the court.
30 Only] and 2316.1 (relating to collection from persons

1 accepted from other jurisdictions) shall be collected as
2 follows:

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

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

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

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

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

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

1 * * *

2 § 2318. Procedures for conduct, disposition and use of DNA
3 analysis.

4 (a) Procedures.--

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

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

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

26 (4) The rules, regulations and guidelines shall address
27 the following:

28 (i) Verification of accreditation.

29 (ii) Compliance with FBI Quality Assurance
30 Standards, including continuing education requirements

1 for the personnel of forensics DNA testing laboratories.

2 * * *

3 (c) Use of tests.--

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

11 (2) A DNA sample or DNA record acquired under this
12 chapter may not be used for human behavioral genetic research
13 or for non-law enforcement or nonhumanitarian identification
14 purposes.

15 * * *

16 § 2319. DNA data base exchange.

17 (a) Receipt of DNA samples by State Police.--It shall be the
18 duty of the State Police to [receive]:

19 (1) Receive and store DNA samples, [to store,] to
20 perform [analysis] forensic DNA testing or to contract for
21 [DNA typing analysis] testing with [a qualified] an
22 accredited forensic DNA laboratory that meets the
23 [guidelines] rules, regulations and guidelines under section
24 2318 (relating to procedures for conduct, disposition and use
25 of DNA analysis) as established by the State Police[, to
26 classify and to file the DNA record of identification
27 characteristic PROFILES OF].

28 (2) Store forensic DNA records from DNA samples
29 submitted under the former DNA Act, former provisions of 42
30 Pa.C.S. Ch. 47 (relating to DNA data and testing) or this

1 chapter and to make such information available as provided in
2 this section.

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

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

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

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

21 (c) Population data base.--

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

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

30 (3) The population data base may be made available to

1 and searched by other agencies participating in the CODIS
2 system.

3 § 2321. Expungement.

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

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

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

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

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

29 (b) Removal by request.--A person whose DNA sample, record
30 or profile has been included in the State DNA Data Bank or the

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

13 (b.1) Expungement by court order.--The following shall
14 apply:

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

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

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

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

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

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

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

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

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

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

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

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

29 (4) The State Police shall publish information regarding
30 the eligibility requirements for expungement under this

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

6 (c) Limitations.--

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

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

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

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

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

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

25 (3) The remainder of this act shall take effect in 180
26 days.