
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 988 Session of
2024

INTRODUCED BY FARRY, PENNYCUICK, BARTOLOTTA, VOGEL AND CULVER,
MAY 29, 2024

REFERRED TO JUDICIARY, MAY 29, 2024

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 State DNA Data
4 Base, for State Police recommendation of additional offenses
5 and annual report and for DNA sample required upon
6 conviction, delinquency adjudication and certain ARD cases,
7 providing for request for modified DNA search and further
8 providing for DNA data base exchange, for expungement and for
9 mandatory cost; and making an editorial change.

10 The General Assembly of the Commonwealth of Pennsylvania
11 hereby enacts as follows:

12 Section 1. Section 2302(2) and (4) of Title 44 of the
13 Pennsylvania Consolidated Statutes are amended and the section
14 is amended by adding a paragraph to read:

15 § 2302. Policy.

16 The General Assembly finds and declares that:

17 * * *

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

21 (2.1) Several states have authorized the disclosure of

1 DNA profiles in the state's DNA data base where comparison of
2 DNA linked to a crime with a known offender's DNA profile in
3 the data base establishes the likelihood of a close familial
4 relationship.

5 * * *

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 for, charged with,
9 convicted of, adjudicated delinquent for or accepted into ARD
10 for criminal homicide, felony sex offenses and other
11 specified offenses and containing DNA samples collected as
12 part of an investigation into missing persons or unidentified
13 decedents.

14 * * *

15 Section 2. The definition of "other specified offense" in
16 section 2303 of Title 44 is amended and the section is amended
17 by adding definitions 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 "Arrest." The taking or keeping of a person in custody by
24 legal authority or proceedings commenced by a police complaint
25 that is proceeded against by summons or by a petition filed
26 under 42 Pa.C.S. § 6321 (relating to commencement of
27 proceedings).

28 * * *

29 "Criminal homicide." An offense under any of the following:

30 (1) 18 Pa.C.S. § 2501 (relating to criminal homicide).

1 (2) 18 Pa.C.S. § 2502 (relating to murder).

2 (3) 18 Pa.C.S. § 2503 (relating to voluntary
3 manslaughter).

4 (4) 18 Pa.C.S. § 2504 (relating to involuntary
5 manslaughter).

6 (5) 18 Pa.C.S. § 2505 (relating to causing or aiding
7 suicide), if the offense is graded as a felony.

8 (6) 18 Pa.C.S. § 2506 (relating to drug delivery
9 resulting in death).

10 (7) 18 Pa.C.S. § 2507 (relating to criminal homicide of
11 law enforcement officer).

12 * * *

13 "Modified DNA search." A search of the State DNA Data Base,
14 using scientifically valid and reliable methods in accordance
15 with rules, regulations and guidelines promulgated under section
16 2318 (relating to procedures for conduct, disposition and use of
17 DNA analysis), to determine that a crime scene DNA profile is
18 sufficiently likely to have originated from a close relative of
19 an individual whose DNA profile is recorded in the State DNA
20 Data Base.

21 * * *

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

23 (1) A felony offense, other than criminal homicide or a
24 felony sex offense.

25 (2) (Reserved).

26 (3) (Reserved).

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

30 (5) A misdemeanor offense requiring registration under

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

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

5 18 Pa.C.S. § 2701 (relating to simple assault).

6 18 Pa.C.S. § 2903 (relating to false imprisonment).

7 18 Pa.C.S. § 3127 (relating to indecent exposure).

8 18 Pa.C.S. Ch. 39 (relating to theft and related
9 offenses).

10 18 Pa.C.S. § 4105 (relating to bad checks).

11 18 Pa.C.S. § 4106 (relating to access device fraud).

12 18 Pa.C.S. § 4952 (relating to intimidation of
13 witnesses or victims).

14 18 Pa.C.S. § 4953 (relating to retaliation against
15 witness, victim or party).

16 18 Pa.C.S. § 4958 (relating to intimidation,
17 retaliation or obstruction in child abuse cases).

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

19 18 Pa.C.S. § 5126 (relating to flight to avoid
20 apprehension, trial or punishment).

21 18 Pa.C.S. § 5131 (relating to recruiting criminal
22 gang members).

23 18 Pa.C.S. § 5510 (relating to abuse of corpse).

24 18 Pa.C.S. Ch. 55 Subch. B (relating to cruelty to
25 animals).

26 18 Pa.C.S. § 5902 (relating to prostitution and
27 related offenses).

28 * * *

29 Section 3. Sections 2312, 2314(b), 2316 and 2317(a)(1)
30 introductory paragraph of Title 44 are amended to read:

1 § 2312. State DNA Data Base.

2 A Statewide DNA Data Base is reestablished within the State
3 Police to store forensic DNA profiles and records developed by
4 or submitted to the State Police under the former DNA Act, the
5 former provisions of 42 Pa.C.S. Ch. 47 (relating to DNA data and
6 testing) or this chapter, and to contribute forensic DNA
7 profiles and records to CODIS, the National Missing and
8 Unidentified Persons System and the national DNA identification
9 index system. The State DNA Data Base shall have the capability
10 provided by computer software and procedures administered by the
11 State Police to store and maintain forensic DNA profiles and
12 records related to:

13 (1) forensic casework;

14 (2) arrested and convicted or delinquency adjudicated
15 offenders required to provide a DNA sample under this
16 chapter;

17 (3) anonymous DNA records used for statistical research
18 on the frequency of DNA genotypes, quality control and bias
19 or the development of new DNA identification methods; and

20 (4) missing persons and unidentified decedents.

21 § 2314. State Police recommendation of additional offenses and
22 annual report.

23 * * *

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] under this
5 chapter.

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

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

13 (3.1) The number of DNA samples expunged from the State
14 DNA Data Base.

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

20 § 2316. DNA sample required [upon conviction, delinquency
21 adjudication and certain ARD cases].

22 (a) General rule.--A person who is convicted or adjudicated
23 delinquent for criminal homicide, a felony sex offense or other
24 specified offense or who is or remains incarcerated for a felony
25 sex offense or other specified offense on or after the effective
26 date of this chapter shall have a DNA sample collected as
27 follows:

28 (1) A person who is sentenced or receives a delinquency
29 disposition to a term of confinement for an offense covered
30 by this subsection shall have a DNA sample collected upon

1 intake to a prison, jail or juvenile detention facility or
2 any other detention facility or institution. If the person is
3 already confined at the time of sentencing or adjudication,
4 the person shall have a DNA sample collected immediately
5 after the sentencing or adjudication. If a DNA sample is not
6 timely collected in accordance with this section, the DNA
7 sample may be collected any time thereafter by the prison,
8 jail, juvenile detention facility, detention facility or
9 institution.

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

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

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

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

28 (2) This chapter shall apply to incarcerated persons
29 convicted or adjudicated delinquent for criminal homicide, a
30 felony sex offense or other specified offense prior to June

1 19, 2002.

2 (3) The following shall apply:

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

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 criminal homicide, a felony sex offense or
16 other specified offense, other than an offense enumerated under
17 paragraph (4) or (6) of the definition of "other specified
18 offense" in section 2303 filed after June 18, 2002, [may] shall
19 be conditioned upon the collection of a DNA sample.

20 (c.1) Arrest.--A person who is arrested in this Commonwealth
21 for criminal homicide, a felony sex offense or other specified
22 offense shall have a DNA sample collected as follows:

23 (1) The person shall have a DNA sample collected at the
24 time fingerprints are collected under 18 Pa.C.S. § 9112
25 (relating to mandatory fingerprinting). DNA collected shall
26 be submitted to the State Police within 48 hours in a manner
27 prescribed by rules, regulations and guidelines promulgated
28 under section 2318 (relating to procedures for conduct,
29 disposition and use of DNA analysis).

30 (2) The person may not be released until a DNA sample

1 and fingerprints are collected.

2 (3) If a DNA sample is not timely collected in
3 accordance with this subsection, the DNA sample may be
4 collected any time thereafter by a law enforcement official,
5 prison, jail, juvenile detention facility, detention facility
6 or institution.

7 (d) Supervision of DNA samples.--All DNA samples collected
8 pursuant to this section shall be collected in accordance with
9 rules, regulations and guidelines promulgated by the State
10 Police in consultation with the Department of Corrections.

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

1 been validly collected and provided to the State DNA Data Bank
2 and a DNA record for the person exists in the State DNA Data
3 Base.

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

8 § 2317. Procedures for collection and transmission of DNA
9 samples.

10 (a) Collection of DNA samples.--

11 (1) Each DNA sample required to be collected pursuant to
12 sections 2316 (relating to DNA sample required [upon
13 conviction, delinquency adjudication and certain ARD cases])
14 and 2316.1 (relating to collection from persons accepted from
15 other jurisdictions) shall be collected as follows:

16 * * *

17 Section 4. Title 44 is amended by adding a section to read:

18 § 2318.1. Request for modified DNA search.

19 (a) Procedure.--

20 (1) A criminal justice agency may request in writing
21 that the State Police perform a modified DNA search in an
22 unsolved case and shall provide information as required by
23 the State Police.

24 (2) The State Police may grant a request to conduct a
25 modified DNA search if the State Police determine that the
26 request complies with subsection (d) (2).

27 (b) Modified DNA search.--

28 (1) The State Police may conduct a modified DNA search
29 after the State Police grants a request under subsection (a)
30 (2).

1 (2) The State Police may conduct a modified DNA search
2 in unsolved cases without the request of a criminal justice
3 agency if the State Police determine that it would have
4 granted a request had a request been made by a criminal
5 justice agency.

6 (3) In all cases, the State Police shall use procedures
7 for conducting a modified DNA search that are consistent with
8 the rules, regulations and guidelines promulgated under
9 section 2318 (relating to procedures for conduct, disposition
10 and use of DNA analysis).

11 (c) Release of information.--The State Police shall provide
12 the requesting criminal justice agency with personally
13 identifying information of individuals whose DNA records were
14 identified through a modified DNA search.

15 (d) Requirements.--

16 (1) The State Police shall require a criminal justice
17 agency to provide assurances and information in support of
18 the request for a modified DNA search, including:

19 (i) A representation that a modified DNA search is
20 necessary for law enforcement identification purposes in
21 an unsolved case.

22 (ii) A representation that all other investigative
23 leads have been pursued.

24 (iii) A commitment to further investigate the case
25 if personal identifying information from a modified DNA
26 search is provided.

27 (iv) Any other information the State Police deem
28 necessary.

29 (2) The State Police may grant a modified DNA search
30 request if the State Police determine that:

1 (i) The crime scene DNA profile has sufficient size,
2 quality and integrity.

3 (ii) The crime scene DNA profile has previously been
4 subjected to a routine DNA search against the State DNA
5 Data Base and the National DNA Index System.

6 (iii) The modified DNA search is necessary for law
7 enforcement identification purposes in an unsolved case.

8 (iv) The criminal justice agency has pursued all
9 other investigative leads.

10 (v) Any relevant consideration, including factors or
11 requirements considered by any other jurisdiction,
12 supports granting the request.

13 (3) The State Police procedures, promulgated under
14 section 2318, to conduct modified DNA searches shall be based
15 on scientifically valid and reliable methods to determine
16 that a crime scene DNA profile is sufficiently likely to have
17 originated from a close relative of an individual whose DNA
18 profile is recorded in the State DNA Data Base or the
19 National DNA Index System. The State Police may require the
20 following:

21 (i) An analysis of the rarity in the relevant
22 population of each shared DNA characteristic.

23 (ii) An analysis of the pattern of shared DNA
24 characteristics.

25 (iii) Y chromosome analysis.

26 (iv) Mitochondrial DNA analysis.

27 (v) Any other suitable method designed to determine
28 that a crime scene DNA profile originated from a close
29 relative of an individual in the State DNA Data Base or
30 the National DNA Index System.

1 Section 5. Section 2319 of Title 44 is amended by adding a
2 subsection to read:

3 § 2319. DNA data base exchange.

4 * * *

5 (d) Separate category.--The State Police shall create a
6 separate category within the State DNA Data Base to store DNA
7 samples and records collected upon arrest under section
8 2316(c.1) (relating to DNA sample required).

9 Section 6. Sections 2321(b.1) (1) and 2322 of Title 44 are
10 amended to read:

11 § 2321. Expungement.

12 * * *

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 or an arrest was made to issue an
18 order directing the expungement of the DNA sample, record or
19 profile pertaining to the person in the State DNA Data Bank
20 or the State DNA 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 (i.1) the charge for which the DNA sample was taken
25 has been dismissed, no appeal is pending and the
26 prosecuting authority is barred from further prosecution;

27 (i.2) there has been a judgment of acquittal on the
28 charge for which the DNA sample was taken and no further
29 appeal is pending;

30 (i.3) the person from whom the DNA sample was taken

1 was not charged with a crime for which a DNA sample is
2 authorized to be taken under this chapter;

3 (i.4) the prosecuting authority has expressly
4 declined to prosecute the charge for which the DNA sample
5 was taken;

6 (i.5) the charge for which the DNA sample was taken
7 was not filed within the statute of limitations;

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

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

14 (b).

15 * * *

16 § 2322. Mandatory cost.

17 Unless the court finds that undue hardship would result, a
18 mandatory cost of \$250, which shall be in addition to any other
19 costs imposed pursuant to statutory authority, shall
20 automatically be assessed on any person convicted, adjudicated
21 delinquent or granted ARD for criminal homicide, a felony sex
22 offense or other specified offense, and all proceeds derived
23 from this section shall be transmitted to the fund.

24 Section 7. This act shall take effect in 60 days.