

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 764 Session of
2013

INTRODUCED BY WATSON, COHEN, SWANGER, MARSHALL, BIZZARRO, DAVIS,
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DENLINGER, MATZIE, NEILSON, DeLUCA, MILNE, FARRY, MACKENZIE,
GRELL, PEIFER AND ENGLISH, FEBRUARY 25, 2013

AMENDMENTS TO SENATE AMENDMENTS, HOUSE OF REPRESENTATIVES,
OCTOBER 15, 2014

AN ACT

1 ~~Amending Titles 18 (Crimes and Offenses) and 42 (Judiciary and <--~~
2 ~~Judicial Procedure) of the Pennsylvania Consolidated~~
3 ~~Statutes, defining the offense of online impersonation;~~
4 ~~prescribing a penalty; and providing for damages in actions~~
5 ~~for online impersonation.~~
6 ~~AMENDING TITLES TITLE 42 (JUDICIARY AND JUDICIAL PROCEDURE) AND <--~~
7 ~~44 (LAW AND JUSTICE) OF THE PENNSYLVANIA CONSOLIDATED~~
8 ~~STATUTES, IN SENTENCING, PROVIDING FOR SENTENCING FOR~~
9 ~~OFFENSES INVOLVING ONLINE IMPERSONATION; AND, IN DNA DATA AND <--~~
10 ~~TESTING, FURTHER PROVIDING FOR POLICY, FOR DEFINITIONS, FOR~~
11 ~~POWERS AND DUTIES OF STATE POLICE, FOR STATE DNA DATA BASE,~~
12 ~~FOR STATE DNA DATA BANK, FOR STATE POLICE RECOMMENDATION OF~~
13 ~~ADDITIONAL OFFENSES, FOR PROCEDURAL COMPATIBILITY WITH FBI~~
14 ~~AND FOR DNA SAMPLE REQUIRED UPON CONVICTION, DELINQUENCY~~
15 ~~ADJUDICATION AND CERTAIN ARD CASES; PROVIDING FOR COLLECTION~~
16 ~~FROM PERSONS ACCEPTED FROM OTHER JURISDICTIONS; FURTHER~~
17 ~~PROVIDING FOR PROCEDURES FOR WITHDRAWAL, COLLECTION AND~~
18 ~~TRANSMISSION OF DNA SAMPLES, FOR PROCEDURES FOR CONDUCT,~~
19 ~~DISPOSITION AND USE OF DNA ANALYSIS; PROVIDING FOR REQUEST~~
20 ~~FOR MODIFIED DNA SEARCH; AND FURTHER PROVIDING FOR DNA DATA~~
21 ~~BASE EXCHANGE, FOR EXPUNGEMENT AND FOR MANDATORY COST.~~

22 The General Assembly of the Commonwealth of Pennsylvania

23 hereby enacts as follows:

1 Section 1. Title ~~18~~ 42 of the Pennsylvania Consolidated <--

2 Statutes is amended by adding a section to read:

3 ~~§ 4121. Online impersonation.~~ <--

4 ~~(a) Offense defined. A person commits the offense of online~~
5 ~~impersonation if the person:~~

6 ~~(1) uses the name, persona or identifying information of~~
7 ~~another person or of a fictitious person to do any of the~~
8 ~~following:~~

9 ~~(i) create a web page;~~

10 ~~(ii) post one or more messages on a commercial~~
11 ~~social networking site;~~

12 ~~(iii) send an electronic mail, instant message, text~~
13 ~~message or similar communication;~~

14 ~~(iv) open an e mail account; or~~

15 ~~(v) open an account or profile on a commercial~~
16 ~~social networking site; and~~

17 ~~(2) the person engages in activity prohibited under any~~ <--
18 ~~of the following:~~

19 ~~(i) Section 2706 (relating to terroristic threats);~~

20 ~~(ii) Section 2709 (relating to harassment);~~

21 ~~(iii) Section 2709.1 (relating to stalking);~~

22 ~~(iv) Section 4952 (relating to intimidation of~~
23 ~~witnesses or victims);~~

24 ~~(v) Section 4953 (relating to retaliation against~~
25 ~~witness, victim or party).~~

26 ~~(b) Grading. A violation of subsection (a) shall be~~
27 ~~classified as a misdemeanor of the second degree or one degree~~
28 ~~higher in the classification specified in section 106 (relating~~
29 ~~to classes of offenses) than the classification of the~~
30 ~~underlying offense set forth in subsection (a) (2), whichever is~~

1 ~~greater. Each violation constitutes a separate offense.~~

2 ~~(c) Construction. Nothing in this section shall be~~
3 ~~construed to apply to works of public interest, including~~
4 ~~commentary, satire and parody.~~

5 ~~(d) Territorial applicability. A person may be convicted~~
6 ~~under the provisions of this section if the victim or the~~
7 ~~offender is located within this Commonwealth.~~

8 ~~(e) Concurrent jurisdiction to prosecute. In addition to~~
9 ~~the authority conferred upon the Attorney General by the act of~~
10 ~~October 15, 1980 (P.L.950, No.164), known as the Commonwealth~~
11 ~~Attorneys Act, the Attorney General shall have the authority to~~
12 ~~investigate and to institute criminal proceedings for any~~
13 ~~violation of this section or any series of violations involving~~
14 ~~more than one county of this Commonwealth or another state. No~~
15 ~~person charged with a violation of this section by the Attorney~~
16 ~~General shall have standing to challenge the authority of the~~
17 ~~Attorney General to investigate or prosecute the case, and if a~~
18 ~~challenge is made, the challenge shall be dismissed, and no~~
19 ~~relief shall be made available in the courts of this~~
20 ~~Commonwealth to the person making the challenge.~~

21 § 9720.7. SENTENCING FOR OFFENSES INVOLVING ONLINE

<--

22 IMPERSONATION.

23 (A) SENTENCE ENHANCEMENT.--THE PENNSYLVANIA COMMISSION ON
24 SENTENCING, IN ACCORDANCE WITH SECTION 2154 (RELATING TO
25 ADOPTION OF GUIDELINES FOR SENTENCING), SHALL PROVIDE FOR A
26 SENTENCE ENHANCEMENT WITHIN ITS GUIDELINES FOR EACH OF THE
27 FOLLOWING OFFENSES, IF THE OFFENSE INVOLVED ONLINE
28 IMPERSONATION:

29 (1) 18 PA.C.S. § 2706 (RELATING TO TERRORISTIC THREATS).

30 (2) 18 PA.C.S. § 2709 (RELATING TO HARASSMENT).

1 (3) 18 PA.C.S. § 2709.1 (RELATING TO STALKING).

2 (4) 18 PA.C.S. § 4952 (RELATING TO INTIMIDATION OF
3 WITNESSES OR VICTIMS).

4 (5) 18 PA.C.S. § 4953 (RELATING TO RETALIATION AGAINST
5 WITNESS, VICTIM OR PARTY).

6 ~~(f)~~ (B) Definitions.--As used in this section, the following <--
7 words and phrases shall have the meanings given to them in this
8 subsection unless the context clearly indicates otherwise:

9 "Commercial social networking site." A business,
10 organization or other similar entity that operates an Internet
11 website and permits persons to become registered users for the
12 purpose of establishing personal relationships with other users
13 through direct or real-time communication with other users or
14 the creation of web pages or profiles available to the public or
15 to other users. The term does not include an electronic mail
16 program or a message board program.

17 "Document." Any writing, including, but not limited to, a
18 birth certificate, Social Security card, driver's license,
19 nondriver government-issued identification card, baptismal
20 certificate, access device card, employee identification card,
21 school identification card or other identifying information
22 recorded by any other method, including, but not limited to,
23 information stored on a computer, computer disc, computer
24 printout, computer system, or part thereof, or by any other
25 mechanical or electronic means.

26 "Identifying information." Any document, photographic,
27 pictorial or computer image of another person or any fact used
28 to establish identity, including, but not limited to, a name, e- <--
29 mail ELECTRONIC MAIL address, birth date, Social Security <--
30 number, driver's license number, nondriver governmental

1 identification number, telephone number, checking account
2 number, savings account number, student identification number,
3 employee or payroll number or electronic signature. The term
4 includes a document, photographic, pictorial or computer image
5 of a fictitious person or any fact used to establish identity as
6 provided in this definition in the case of a fictitious person.

7 Section 2. Title 42 is amended by adding a section to read: <--

8 ~~§ 8316.1. Damages in actions for online impersonation.~~

9 ~~(a) Cause of action established. A person may bring a civil~~
10 ~~cause of action based upon online impersonation as defined in 18-~~
11 ~~Pa.C.S. § 4121 (relating to online impersonation) in order to~~
12 ~~recover damages for any loss or injury sustained as a result of~~
13 ~~the violation.~~

14 ~~(b) Parties authorized to bring action. An action may be~~
15 ~~brought by:~~

16 ~~(1) A natural person.~~

17 ~~(2) A parent or guardian of a natural person, if the~~
18 ~~natural person is incompetent or is an individual under 18-~~
19 ~~years of age.~~

20 ~~(3) A corporation, partnership, limited liability~~
21 ~~company, business trust, other association, estate, trust or~~
22 ~~foundation.~~

23 ~~(c) Damages. A court of competent jurisdiction may award~~
24 ~~damages as follows:~~

25 ~~(1) Actual damages arising from the incident or \$500,~~
26 ~~whichever is greater. Damages include loss of money,~~
27 ~~reputation or property, whether real or personal. The court~~
28 ~~may, in its discretion, award up to three times the actual~~
29 ~~damages sustained, but not less than \$500.~~

30 ~~(2) Reasonable attorney fees and court costs.~~

1 ~~(3) Additional relief the court deems necessary and~~
2 ~~proper.~~

3 ~~(d) Other remedies preserved. Nothing in this section shall~~
4 ~~be construed to limit the ability of a person to receive~~
5 ~~restitution pursuant to 18 Pa.C.S. § 1106 (relating to~~
6 ~~restitution for injuries to person or property).~~

7 ~~(e) Nonapplicability. The provisions of this section shall~~
8 ~~not be applicable to:~~

9 ~~(1) A law enforcement officer acting in the course and~~
10 ~~legitimate scope of the law enforcement officer's duties.~~

11 ~~(2) A person who acts within the course and legitimate~~
12 ~~scope of the person's employment in order to obtain evidence~~
13 ~~of unlawful activity.~~

14 ~~Section 3. This act shall take effect in 60 days.~~

15 ~~"ONLINE IMPERSONATION." THE USE OF THE NAME, PERSONA OR~~ <--
16 ~~IDENTIFYING INFORMATION OF ANOTHER PERSON OR OF A FICTITIOUS~~
17 ~~PERSON TO DO ANY OF THE FOLLOWING:~~

18 ~~(1) CREATE AN INTERNET WEBSITE.~~

19 ~~(2) POST ONE OR MORE MESSAGES ON A COMMERCIAL SOCIAL~~
20 ~~NETWORKING SITE.~~

21 ~~(3) SEND AN ELECTRONIC MAIL, INSTANT MESSAGE, TEXT~~
22 ~~MESSAGE OR SIMILAR COMMUNICATION.~~

23 ~~(4) OPEN AN ELECTRONIC MAIL ACCOUNT.~~

24 ~~(5) OPEN AN ACCOUNT OR PROFILE ON A COMMERCIAL~~
25 ~~NETWORKING SITE.~~

26 ~~THE TERM DOES NOT INCLUDE A WORK OF PUBLIC INTEREST, INCLUDING~~
27 ~~COMMENTARY, SATIRE AND PARODY.~~

28 ~~SECTION 1.1. SECTIONS 2302, 2303, 2311(2), 2312, 2313, 2314, <--~~
29 ~~2315 AND 2316 OF TITLE 44 ARE AMENDED TO READ:~~

30 ~~§ 2302. POLICY.~~

1 ~~THE GENERAL ASSEMBLY FINDS AND DECLARES THAT:~~

2 ~~(1) DNA DATA BANKS ARE AN IMPORTANT TOOL IN CRIMINAL~~
3 ~~INVESTIGATIONS, IN [THE EXCLUSION OF] EXCLUDING INNOCENT~~
4 ~~INDIVIDUALS WHO ARE THE SUBJECT OF CRIMINAL INVESTIGATIONS OR~~
5 ~~PROSECUTIONS AND IN [DETECTING AND DETERRING RECIDIVIST ACTS]~~
6 ~~DETECTING AND DETERRING REPEATED CRIMES BY THE SAME~~
7 ~~INDIVIDUAL.~~

8 ~~(2) SEVERAL STATES HAVE ENACTED LAWS REQUIRING PERSONS~~
9 ~~ARRESTED, CHARGED OR CONVICTED OF CERTAIN CRIMES, ESPECIALLY~~
10 ~~SEX OFFENSES, TO PROVIDE GENETIC SAMPLES FOR DNA PROFILING.~~

11 ~~(2.1) SEVERAL STATES HAVE AUTHORIZED THE DISCLOSURE OF~~
12 ~~DNA PROFILES IN THEIR STATE'S DNA DATA BASE WHERE COMPARISON~~
13 ~~OF DNA LINKED TO A CRIME WITH THE KNOWN OFFENDER DNA PROFILE~~
14 ~~IN THE DATA BASE ESTABLISHES THE LIKELIHOOD OF A CLOSE~~
15 ~~FAMILIAL RELATIONSHIP BETWEEN THE TWO.~~

16 ~~(3) MOREOVER, IT IS THE POLICY OF THE COMMONWEALTH TO~~
17 ~~ASSIST FEDERAL, STATE AND LOCAL CRIMINAL JUSTICE AND LAW~~
18 ~~ENFORCEMENT AGENCIES IN THE IDENTIFICATION AND DETECTION OF~~
19 ~~INDIVIDUALS IN CRIMINAL INVESTIGATIONS.~~

20 ~~(4) IT IS THEREFORE IN THE BEST INTEREST OF THE~~
21 ~~COMMONWEALTH TO ESTABLISH A DNA DATA BASE AND A DNA DATA BANK~~
22 ~~CONTAINING DNA SAMPLES SUBMITTED BY INDIVIDUALS ARRESTED FOR,~~
23 ~~CHARGED WITH, CONVICTED OF, ADJUDICATED DELINQUENT FOR OR~~
24 ~~ACCEPTED INTO ARD FOR CRIMINAL HOMICIDES, FELONY SEX OFFENSES~~
25 ~~AND OTHER SPECIFIED OFFENSES.~~

26 ~~(5) IT IS IN THE BEST INTEREST OF THE COMMONWEALTH TO~~
27 ~~AUTHORIZE THE STATE POLICE TO USE DNA ANALYSIS AND TO~~
28 ~~IDENTIFY THESE INDIVIDUALS TO A CRIMINAL JUSTICE AGENCY IN~~
29 ~~CERTAIN CASES.~~

30 ~~§ 2303. DEFINITIONS.~~

1 ~~THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS CHAPTER~~
2 ~~SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE~~
3 ~~CONTEXT CLEARLY INDICATES OTHERWISE:~~

4 ~~"ACCREDITED FORENSIC DNA LABORATORY." A FORENSIC DNA~~
5 ~~LABORATORY THAT HAS RECEIVED ACCREDITATION BY AN ACCREDITING~~
6 ~~BODY NATIONALLY RECOGNIZED WITHIN THE FORENSIC SCIENCE COMMUNITY~~
7 ~~IN ACCORDANCE WITH THE FBI QUALITY ASSURANCE STANDARDS TO~~
8 ~~PERFORM FORENSIC DNA TESTING AND IS IN COMPLIANCE WITH FBI~~
9 ~~QUALITY ASSURANCE STANDARDS.~~

10 ~~"ARD."~~ ACCELERATED REHABILITATIVE DISPOSITION.

11 ~~"ARREST." THE TAKING OR KEEPING OF A PERSON IN CUSTODY BY~~
12 ~~LEGAL AUTHORITY OR PROCEEDINGS COMMENCED BY A POLICE COMPLAINT~~
13 ~~THAT IS PROCEEDED AGAINST BY SUMMONS OR BY A PETITION FILED~~
14 ~~PURSUANT TO 42 PA.C.S. § 6321(A)(3) (RELATING TO COMMENCEMENT OF~~
15 ~~PROCEEDINGS).~~

16 ~~"CODIS."~~ THE [TERM IS DERIVED FROM] COMBINED DNA INDEX
17 SYSTEM[, THE FEDERAL BUREAU OF INVESTIGATION'S NATIONAL DNA
18 IDENTIFICATION INDEX SYSTEM THAT ALLOWS THE STORAGE AND EXCHANGE
19 OF DNA RECORDS SUBMITTED BY STATE AND LOCAL FORENSIC DNA
20 LABORATORIES] ESTABLISHED AND MAINTAINED BY THE FEDERAL BUREAU
21 OF INVESTIGATION.

22 ~~"COMMISSIONER."~~ THE COMMISSIONER OF THE PENNSYLVANIA STATE
23 POLICE.

24 ~~"CRIME SCENE DNA PROFILE." A DNA PROFILE DERIVED FROM A DNA~~
25 ~~SAMPLE RECOVERED FROM A VICTIM, CRIME SCENE OR ITEM LINKED TO A~~
26 ~~CRIME, WHICH MAY HAVE ORIGINATED FROM A PERPETRATOR.~~

27 ~~"CRIMINAL HOMICIDE." ANY OF THE FOLLOWING:~~

28 ~~(1) 18 PA.C.S. § 2501 (RELATING TO CRIMINAL HOMICIDE).~~

29 ~~(2) 18 PA.C.S. § 2502 (RELATING TO MURDER).~~

30 ~~(3) 18 PA.C.S. § 2503 (RELATING TO VOLUNTARY~~

1 ~~MANSLAUGHTER).~~

2 ~~(4) 18 PA.C.S. § 2504 (RELATING TO INVOLUNTARY~~
3 ~~MANSLAUGHTER), WHEN THE OFFENSE IS GRADED AS A FELONY.~~

4 ~~(5) 18 PA.C.S. § 2505 (RELATING TO CAUSING OR AIDING~~
5 ~~SUICIDE), WHEN THE OFFENSE IS GRADED AS A FELONY.~~

6 ~~(6) 18 PA.C.S. § 2506 (RELATING TO DRUG DELIVERY~~
7 ~~RESULTING IN DEATH).~~

8 ~~(7) 18 PA.C.S. § 2507 (RELATING TO CRIMINAL HOMICIDE OF~~
9 ~~LAW ENFORCEMENT OFFICER).~~

10 ~~(8) 18 PA.C.S. § 2603 (RELATING TO CRIMINAL HOMICIDE OF~~
11 ~~UNBORN CHILD).~~

12 ~~(9) 18 PA.C.S. § 2604 (RELATING TO MURDER OF UNBORN~~
13 ~~CHILD).~~

14 ~~(10) 18 PA.C.S. § 2605 (RELATING TO VOLUNTARY~~
15 ~~MANSLAUGHTER OF UNBORN CHILD).~~

16 ~~"CRIMINAL JUSTICE AGENCY." A CRIMINAL JUSTICE AGENCY AS~~
17 ~~DEFINED IN 18 PA.C.S. § 9102 (RELATING TO DEFINITIONS).~~

18 ~~"DNA." DEOXYRIBONUCLEIC ACID[. DNA IS LOCATED IN THE CELLS~~
19 ~~AND PROVIDES AN INDIVIDUAL'S PERSONAL GENETIC BLUEPRINT. DNA]~~
20 ~~LOCATED IN THE CHROMOSOMES OR MITOCHONDRIA OF A LIVING~~
21 ~~ORGANISM'S CELLS WHICH ENCODES GENETIC INFORMATION THAT IS THE~~
22 ~~BASIS OF HUMAN HEREDITY AND FORENSIC IDENTIFICATION.~~

23 ~~"DNA RECORD." DNA PROFILE AND IDENTIFICATION INFORMATION~~
24 ~~STORED IN THE STATE DNA DATA BASE OR THE COMBINED DNA INDEX~~
25 ~~SYSTEM FOR THE PURPOSE OF GENERATING INVESTIGATIVE LEADS OR~~
26 ~~SUPPORTING STATISTICAL INTERPRETATION OF DNA TEST RESULTS. THE~~
27 ~~TERM INCLUDES NUCLEAR AND MITOCHONDRIAL TYPING. THE DNA RECORD~~
28 ~~IS THE RESULT OBTAINED FROM THE DNA TYPING TESTS. [THE DNA~~
29 ~~RECORD IS COMPRISED OF THE CHARACTERISTICS OF A DNA SAMPLE WHICH~~
30 ~~ARE OF VALUE IN ESTABLISHING THE IDENTITY OF INDIVIDUALS. THE~~

1 ~~RESULTS OF ALL DNA IDENTIFICATION TESTS ON AN INDIVIDUAL'S DNA~~
2 ~~SAMPLE ARE ALSO COLLECTIVELY REFERRED TO AS THE DNA PROFILE OF~~
3 ~~AN INDIVIDUAL.]~~

4 ~~"DNA SAMPLE." [A BLOOD OR TISSUE SAMPLE PROVIDED BY ANY~~
5 ~~PERSON WITH RESPECT TO OFFENSES COVERED BY THIS CHAPTER OR~~
6 ~~SUBMITTED TO THE PENNSYLVANIA STATE POLICE LABORATORY PURSUANT~~
7 ~~TO THE FORMER ACT OF MAY 28, 1995 (1ST SP.SESS., P.L.1009,~~
8 ~~NO.14), KNOWN AS THE DNA DETECTION OF SEXUAL AND VIOLENT~~
9 ~~OFFENDERS ACT, TO THE FORMER 42 PA.C.S. CH. 47 (RELATING TO DNA~~
10 ~~DATA AND TESTING) OR TO THIS CHAPTER FOR ANALYSIS OR STORAGE, OR~~
11 ~~BOTH.] A SAMPLE OF BIOLOGICAL MATERIAL SUITABLE FOR DNA~~
12 ~~ANALYSIS.~~

13 ~~"FBI." THE FEDERAL BUREAU OF INVESTIGATION.~~

14 ~~"FELONY SEX OFFENSE." A FELONY OFFENSE OR AN ATTEMPT,~~
15 ~~CONSPIRACY OR SOLICITATION TO COMMIT A FELONY OFFENSE UNDER ANY~~
16 ~~OF THE FOLLOWING:~~

17 ~~18 PA.C.S. CH. 31 (RELATING TO SEXUAL OFFENSES).~~

18 ~~18 PA.C.S. § 3130 (RELATING TO CONDUCT RELATING TO SEX~~
19 ~~OFFENDERS).~~

20 ~~18 PA.C.S. § 4302 (RELATING TO INCEST).~~

21 ~~18 PA.C.S. § [5902(C)(1)(III) AND (IV)] 5902(C)(1)(IV)~~
22 ~~(RELATING TO PROSTITUTION AND RELATED OFFENSES).~~

23 ~~18 PA.C.S. § 5903(A) (RELATING TO OBSCENE AND OTHER~~
24 ~~SEXUAL MATERIALS AND PERFORMANCES) WHERE THE OFFENSE~~
25 ~~CONSTITUTES A FELONY.~~

26 ~~{18 PA.C.S. § 6312 (RELATING TO SEXUAL ABUSE OF~~
27 ~~CHILDREN).~~

28 ~~18 PA.C.S. § 6318 (RELATING TO UNLAWFUL CONTACT WITH~~
29 ~~MINOR) WHERE THE MOST SERIOUS UNDERLYING OFFENSE FOR WHICH~~
30 ~~THE DEFENDANT CONTACTED THE MINOR IS GRADED AS A FELONY.~~

1 ~~18 PA.C.S. § 6320 (RELATING TO SEXUAL EXPLOITATION OF~~
2 ~~CHILDREN).}~~

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 ~~"FORENSIC DNA LABORATORY." A LABORATORY THAT PERFORMS~~
7 ~~FORENSIC DNA TESTING FOR THE PURPOSES OF IDENTIFICATION.~~

8 ~~"FORENSIC DNA TESTING." A TEST THAT APPLIES TECHNIQUES FROM~~
9 ~~MOLECULAR BIOLOGY TO ANALYZE DEOXYRIBONUCLEIC ACID (DNA) TO~~
10 ~~IDENTIFY CHARACTERISTICS UNIQUE TO A PARTICULAR INDIVIDUAL.~~

11 ~~"FORMER DNA ACT." THE FORMER ACT OF MAY 28, 1995 (1ST~~
12 ~~SP.SESS., P.L.1009, NO.14), KNOWN AS THE DNA DETECTION OF SEXUAL~~
13 ~~AND VIOLENT OFFENDERS ACT.~~

14 ~~"FUND." THE DNA DETECTION FUND REESTABLISHED IN SECTION 2335~~
15 ~~(RELATING TO DNA DETECTION FUND).~~

16 ~~"HUMAN BEHAVIORAL GENETIC RESEARCH." THE STUDY OF THE~~
17 ~~POSSIBLE GENETIC UNDERPINNINGS OF BEHAVIORS, INCLUDING, BUT NOT~~
18 ~~LIMITED TO, AGGRESSION, SUBSTANCE ABUSE, SOCIAL ATTITUDES,~~
19 ~~MENTAL ABILITIES, SEXUAL ACTIVITY AND EATING HABITS.~~

20 ~~"LAW ENFORCEMENT IDENTIFICATION PURPOSES." ASSISTING IN THE~~
21 ~~DETERMINATION OF THE IDENTITY OF AN INDIVIDUAL WHOSE DNA IS~~
22 ~~CONTAINED IN A BIOLOGICAL SAMPLE.~~

23 ~~"MITOCHONDRIAL DNA ANALYSIS." A METHOD THAT APPLIES~~
24 ~~TECHNIQUES FROM MOLECULAR BIOLOGY TO ANALYZE DNA FOUND IN THE~~
25 ~~MITOCHONDRIA OF CELLS.~~

26 ~~"MODIFIED DNA SEARCH." A SEARCH OF THE STATE DNA DATA BASE,~~
27 ~~USING SCIENTIFICALLY VALID AND RELIABLE METHODS IN ACCORDANCE~~
28 ~~WITH RULES, REGULATIONS AND GUIDELINES PROMULGATED UNDER SECTION~~
29 ~~2318 (RELATING TO PROCEDURES FOR CONDUCT, DISPOSITION AND USE OF~~
30 ~~DNA ANALYSIS), TO DETERMINE THAT A CRIME SCENE DNA PROFILE IS~~

1 ~~SUFFICIENTLY LIKELY TO HAVE ORIGINATED FROM A CLOSE RELATIVE OF~~
2 ~~AN INDIVIDUAL WHOSE DNA PROFILE IS RECORDED IN THE STATE DNA~~
3 ~~DATA BASE.~~

4 ~~"OTHER SPECIFIED OFFENSE." ANY OF THE FOLLOWING:~~

5 ~~(1) A FELONY OFFENSE, OTHER THAN CRIMINAL HOMICIDE OR A~~
6 ~~FELONY SEX OFFENSE.~~

7 ~~(2) [AN OFFENSE UNDER 18 PA.C.S. § 2910 (RELATING TO~~
8 ~~LURING A CHILD INTO A MOTOR VEHICLE OR STRUCTURE) OR 3126~~
9 ~~(RELATING TO INDECENT ASSAULT) OR AN ATTEMPT TO COMMIT SUCH~~
10 ~~AN OFFENSE] (RESERVED).~~

11 ~~(3) [AN OFFENSE SUBJECT TO 42 PA.C.S. CH. 97 SUBCH. H~~
12 ~~(RELATING TO REGISTRATION OF SEXUAL OFFENDERS)] (RESERVED).~~

13 ~~(4) 18 PA.C.S. § 2701(B)(2) (RELATING TO SIMPLE~~
14 ~~ASSAULT).~~

15 ~~(5) 18 PA.C.S. § 2902 (RELATING TO UNLAWFUL RESTRAINT).~~

16 ~~(6) 18 PA.C.S. § 3503(B)(1)(V) (RELATING TO CRIMINAL~~
17 ~~TRESPASS).~~

18 ~~(7) 18 PA.C.S. § 4303 (RELATING TO CONCEALING DEATH OF~~
19 ~~CHILD).~~

20 ~~(8) 18 PA.C.S. § 4305 (RELATING TO DEALING IN INFANT~~
21 ~~CHILDREN).~~

22 ~~(9) A MISDEMEANOR OFFENSE REQUIRING REGISTRATION UNDER~~
23 ~~42 PA.C.S. CH. 97 SUBCH. H (RELATING TO REGISTRATION OF~~
24 ~~SEXUAL OFFENDERS).~~

25 ~~"STATE POLICE." THE PENNSYLVANIA STATE POLICE.~~

26 ~~"Y CHROMOSOME ANALYSIS." A METHOD THAT APPLIES TECHNIQUES~~
27 ~~FROM MOLECULAR BIOLOGY TO EXAMINE DNA FOUND ON THE Y CHROMOSOME.~~

28 ~~§ 2311. POWERS AND DUTIES OF STATE POLICE.~~

29 ~~IN ADDITION TO ANY OTHER POWERS AND DUTIES CONFERRED BY THIS~~
30 ~~CHAPTER, THE STATE POLICE SHALL:~~

1 * * *

2 ~~(2) PROMULGATE [RULES AND REGULATIONS], AS NECESSARY,~~
3 ~~RULES, REGULATIONS AND GUIDELINES TO CARRY OUT THE PROVISIONS~~
4 ~~OF THIS CHAPTER.~~

5 * * *

6 § 2312. STATE DNA DATA BASE.

7 ~~{THE STATE DNA DATA BASE IS REESTABLISHED. IT SHALL BE~~
8 ~~ADMINISTERED BY THE STATE POLICE AND PROVIDE DNA RECORDS TO THE~~
9 ~~FBI FOR STORAGE AND MAINTENANCE BY CODIS.} A STATEWIDE DNA DATA~~
10 ~~BASE IS ESTABLISHED WITHIN THE STATE POLICE TO STORE DNA RECORDS~~
11 ~~FROM DNA SAMPLES SUBMITTED FOR ANALYSIS AND STORAGE TO THE STATE~~
12 ~~POLICE LABORATORY UNDER THE FORMER DNA ACT, THE FORMER~~
13 ~~PROVISIONS OF 42 PA.C.S. CH. 47 (RELATING TO DNA DATA AND~~
14 ~~TESTING) OR TO THIS CHAPTER, AND TO PROVIDE DNA RECORDS TO~~
15 ~~CODIS. THE STATE DNA DATA BASE SHALL HAVE THE CAPABILITY~~
16 ~~PROVIDED BY COMPUTER SOFTWARE AND PROCEDURES ADMINISTERED BY THE~~
17 ~~STATE POLICE TO STORE AND MAINTAIN DNA RECORDS RELATED TO:~~

18 ~~(1) FORENSIC CASEWORK;~~

19 ~~(2) [CONVICTED] ARRESTEES AND CONVICTED OR DELINQUENCY~~
20 ~~ADJUDICATED OFFENDERS REQUIRED TO PROVIDE A DNA SAMPLE UNDER~~
21 ~~THIS CHAPTER; AND~~

22 ~~(3) ANONYMOUS DNA RECORDS USED FOR STATISTICAL RESEARCH~~
23 ~~{OR} ON THE FREQUENCY OF DNA GENOTYPES, QUALITY CONTROL OR~~
24 ~~THE DEVELOPMENT OF NEW DNA IDENTIFICATION METHODS.~~

25 § 2313. STATE DNA DATA BANK.

26 ~~THE STATE DNA DATA BANK IS REESTABLISHED. IT SHALL SERVE AS~~
27 ~~THE REPOSITORY OF DNA SAMPLES COLLECTED UNDER THIS CHAPTER OR~~
28 ~~UNDER PRIOR LAW.~~

29 § 2314. STATE POLICE RECOMMENDATION OF ADDITIONAL OFFENSES AND
30 ANNUAL REPORT.

1 ~~(A) RECOMMENDATION. THE STATE POLICE MAY RECOMMEND TO THE~~
2 ~~GENERAL ASSEMBLY THAT IT ENACT LEGISLATION FOR THE INCLUSION OF~~
3 ~~ADDITIONAL OFFENSES FOR WHICH DNA SAMPLES SHALL BE TAKEN AND~~
4 ~~OTHERWISE SUBJECTED TO THE PROVISIONS OF THIS CHAPTER. IN~~
5 ~~DETERMINING WHETHER TO RECOMMEND ADDITIONAL OFFENSES, THE STATE~~
6 ~~POLICE SHALL CONSIDER THOSE OFFENSES FOR WHICH DNA TESTING WILL~~
7 ~~HAVE A SUBSTANTIAL IMPACT ON THE DETECTION AND IDENTIFICATION OF~~
8 ~~SEX OFFENDERS AND [VIOLENT] OTHER OFFENDERS.~~

9 ~~(B) ANNUAL REPORT. NO LATER THAN AUGUST 1 OF EACH YEAR, THE~~
10 ~~COMMISSIONER SHALL SUBMIT TO THE GOVERNOR'S OFFICE, THE MAJORITY~~
11 ~~AND MINORITY CHAIRMEN OF THE SENATE JUDICIARY COMMITTEE AND THE~~
12 ~~MAJORITY AND MINORITY CHAIRMEN OF THE HOUSE JUDICIARY COMMITTEE,~~
13 ~~A WRITTEN REPORT CONTAINING INFORMATION REGARDING THE COLLECTION~~
14 ~~AND TESTING OF DNA SAMPLES UNDER THE PROVISIONS OF THIS CHAPTER.~~
15 ~~THE REPORT MUST INCLUDE, BUT NEED NOT BE LIMITED TO, THE~~
16 ~~FOLLOWING INFORMATION PERTAINING TO THE PREVIOUS FISCAL YEAR:~~

17 ~~(1) THE NUMBER OF DNA SAMPLES SUBMITTED FROM INDIVIDUALS~~
18 ~~UPON ARREST.~~

19 ~~(2) THE AGE, RACE AND SEX OF ARRESTEES FROM WHOM DNA~~
20 ~~SAMPLES WERE SUBMITTED UPON ARREST AND THE AGE, RACE AND SEX~~
21 ~~OF THOSE CONVICTED FROM WHOM DNA SAMPLES WERE SUBMITTED UPON~~
22 ~~CONVICTION.~~

23 ~~(3) THE FISCAL IMPACT ON THE STATE POLICE OF COLLECTING~~
24 ~~DNA SAMPLES FROM PERSONS CONVICTED OF OFFENSES.~~

25 ~~(4) THE FISCAL IMPACT ON THE STATE POLICE OF COLLECTING~~
26 ~~DNA SAMPLES FROM ARRESTEES.~~

27 ~~(5) THE NUMBER OF DNA SAMPLES COLLECTED AT ARREST THAT~~
28 ~~WERE EXPUNGED FROM THE STATEWIDE DNA DATA BASE.~~

29 ~~(6) THE AVERAGE LENGTH OF TIME BETWEEN THE RECEIPT OF~~
30 ~~DNA SAMPLES FROM ARRESTEES AND FROM THOSE CONVICTED OF~~

~~OFFENSES AND THE COMPLETION OF FORENSIC DNA TESTING OF EACH
OF THOSE CATEGORIES OF DNA SAMPLES.~~

~~(7) RECOMMENDATIONS, IF ANY, UNDER THIS SECTION FOR THE
INCLUSION OF ADDITIONAL OFFENSES FOR WHICH DNA SAMPLES MUST
BE COLLECTED OR RECOMMENDATIONS FOR THE REMOVAL OF SPECIFIC
OFFENSES FROM THE CATEGORIES REQUIRING THE COLLECTION OF DNA
SAMPLES FROM ARRESTEES OR PERSONS CONVICTED OF CRIMES.~~

~~§ 2315. PROCEDURAL COMPATIBILITY WITH FBI.~~

~~THE DNA IDENTIFICATION SYSTEM [AS] ESTABLISHED BY THE STATE
POLICE SHALL BE COMPATIBLE WITH THE PROCEDURES [SPECIFIED]
ESTABLISHED BY THE FBI QUALITY ASSURANCE STANDARDS FOR FORENSIC
DNA TESTING LABORATORIES AND DNA DATA BASING LABORATORIES AND
CODIS POLICIES AND PROCEDURES, INCLUDING USE OF COMPARABLE TEST
PROCEDURES, LABORATORY EQUIPMENT, SUPPLIES AND COMPUTER
SOFTWARE.~~

~~§ 2316. DNA SAMPLE REQUIRED [UPON CONVICTION, DELINQUENCY
ADJUDICATION AND CERTAIN ARD CASES].~~

~~(A) [GENERAL RULE] CONVICTION OR ADJUDICATION. A PERSON WHO
IS CONVICTED OR ADJUDICATED DELINQUENT FOR CRIMINAL HOMICIDE, A
FELONY SEX OFFENSE OR OTHER SPECIFIED OFFENSE OR WHO IS OR
REMAINS INCARCERATED FOR CRIMINAL HOMICIDE, A FELONY SEX OFFENSE
OR OTHER SPECIFIED OFFENSE ON OR AFTER THE EFFECTIVE DATE OF
THIS CHAPTER SHALL HAVE A DNA SAMPLE [DRAWN] COLLECTED AS
FOLLOWS:~~

~~(1) A PERSON WHO IS SENTENCED OR RECEIVES A DELINQUENCY
DISPOSITION TO A TERM OF CONFINEMENT FOR AN OFFENSE COVERED
BY THIS SUBSECTION SHALL HAVE A DNA SAMPLE [DRAWN] COLLECTED
UPON INTAKE TO A PRISON, JAIL OR JUVENILE DETENTION FACILITY
OR ANY OTHER DETENTION FACILITY OR INSTITUTION. IF THE PERSON
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 CRIMINAL HOMICIDE, A FELONY SEX OFFENSE OR~~
21 ~~OTHER SPECIFIED OFFENSE AND WHO SERVES A TERM OF CONFINEMENT~~
22 ~~IN CONNECTION THEREWITH AFTER JUNE 18, 2002, SHALL NOT BE~~
23 ~~RELEASED IN ANY MANNER UNLESS AND UNTIL A DNA SAMPLE HAS BEEN~~
24 ~~[WITHDRAWN] COLLECTED.~~

25 ~~(2) THIS CHAPTER SHALL APPLY TO INCARCERATED PERSONS~~
26 ~~CONVICTED OR ADJUDICATED DELINQUENT FOR CRIMINAL HOMICIDE, A~~
27 ~~FELONY SEX OFFENSE OR OTHER SPECIFIED OFFENSE PRIOR TO JUNE~~
28 ~~19, 2002.~~

29 ~~(3) THIS CHAPTER SHALL APPLY TO INCARCERATED PERSONS AND~~
30 ~~PERSONS ON PROBATION OR PAROLE WHO WERE CONVICTED OR~~

1 ~~ADJUDICATED DELINQUENT FOR CRIMINAL HOMICIDE, A FELONY SEX~~
2 ~~OFFENSE OR OTHER SPECIFIED OFFENSES PRIOR TO THE EFFECTIVE~~
3 ~~DATE OF THIS PARAGRAPH.~~

4 ~~(C) CERTAIN ARD CASES. ACCEPTANCE INTO ARD AS A RESULT OF A~~
5 ~~CRIMINAL CHARGE FOR CRIMINAL HOMICIDE, A FELONY SEX OFFENSE OR~~
6 ~~OTHER SPECIFIED OFFENSE FILED AFTER JUNE 18, 2002, [MAY] SHALL~~
7 ~~BE CONDITIONED UPON THE [GIVING] COLLECTION OF A DNA SAMPLE.~~

8 ~~(C.1) ARREST. A PERSON WHO IS ARRESTED IN THIS COMMONWEALTH~~
9 ~~FOR CRIMINAL HOMICIDE, FELONY SEX OFFENSES OR OTHER SPECIFIED~~
10 ~~OFFENSES SHALL HAVE A DNA SAMPLE COLLECTED AS FOLLOWS:~~

11 ~~(1) A PERSON WHO IS ARRESTED FOR AN OFFENSE COVERED~~
12 ~~UNDER THIS SUBSECTION SHALL HAVE A DNA SAMPLE COLLECTED AT~~
13 ~~THE TIME FINGERPRINTS ARE COLLECTED PURSUANT TO 18 PA.C.S. §~~
14 ~~9112 (RELATING TO MANDATORY FINGERPRINTING). DNA COLLECTED~~
15 ~~SHALL BE SUBMITTED TO THE PENNSYLVANIA STATE POLICE WITHIN 48~~
16 ~~HOURS IN THE MANNER PRESCRIBED BY RULES, REGULATIONS OR~~
17 ~~GUIDELINES PROMULGATED UNDER SECTION 2318 (RELATING TO~~
18 ~~PROCEDURES FOR CONDUCT, DISPOSITION AND USE OF DNA ANALYSIS).~~

19 ~~(2) A PERSON WHO IS ARRESTED FOR AN OFFENSE COVERED~~
20 ~~UNDER THIS SUBSECTION MAY NOT BE RELEASED UNTIL A DNA SAMPLE~~
21 ~~AND FINGERPRINTS HAVE BEEN COLLECTED.~~

22 ~~(3) IF A DNA SAMPLE IS NOT TIMELY COLLECTED IN~~
23 ~~ACCORDANCE WITH THIS SUBSECTION, THE DNA SAMPLE MAY BE~~
24 ~~COLLECTED ANY TIME THEREAFTER BY A LAW ENFORCEMENT OFFICIAL,~~
25 ~~PRISON, JAIL, JUVENILE DETENTION FACILITY, DETENTION FACILITY~~
26 ~~OR INSTITUTION.~~

27 ~~(4) THIS SUBSECTION SHALL APPLY AS FOLLOWS:~~

28 ~~(I) BEGINNING ONE YEAR AFTER THE EFFECTIVE DATE OF~~
29 ~~THIS SUBSECTION, ANY PERSON ARRESTED FOR CRIMINAL~~
30 ~~HOMICIDE SHALL HAVE A DNA SAMPLE COLLECTED UNDER THIS~~

1 ~~SUBSECTION UPON ARREST.~~

2 ~~(II) BEGINNING TWO YEARS AFTER THE EFFECTIVE DATE OF~~
3 ~~THIS SUBSECTION, ANY PERSON ARRESTED FOR A FELONY SEX~~
4 ~~OFFENSE SHALL HAVE A DNA SAMPLE COLLECTED UNDER THIS~~
5 ~~SUBSECTION UPON ARREST.~~

6 ~~(III) BEGINNING THREE YEARS AFTER THE EFFECTIVE DATE~~
7 ~~OF THIS SUBSECTION, ANY PERSON ARRESTED FOR ANY OTHER~~
8 ~~SPECIFIED OFFENSE SHALL HAVE A DNA SAMPLE COLLECTED UNDER~~
9 ~~THIS SUBSECTION UPON ARREST.~~

10 ~~(D) SUPERVISION OF DNA SAMPLES. ALL DNA SAMPLES TAKEN~~
11 ~~PURSUANT TO THIS SECTION SHALL BE TAKEN IN ACCORDANCE WITH~~
12 ~~RULES, REGULATIONS AND GUIDELINES PROMULGATED BY THE STATE~~
13 ~~POLICE IN CONSULTATION WITH THE DEPARTMENT OF CORRECTIONS.~~

14 ~~(D.1) MANDATORY SUBMISSION. THE REQUIREMENTS OF THIS~~
15 ~~CHAPTER ARE MANDATORY AND APPLY REGARDLESS OF WHETHER A COURT~~
16 ~~ADVISES A PERSON THAT A DNA SAMPLE MUST BE PROVIDED TO THE STATE~~
17 ~~DNA DATA BASE AND THE STATE DNA DATA BANK AS A RESULT OF [A] AN~~
18 ~~ARREST, CONVICTION OR ADJUDICATION OF DELINQUENCY. A PERSON WHO~~
19 ~~HAS BEEN SENTENCED TO DEATH OR LIFE IMPRISONMENT WITHOUT THE~~
20 ~~POSSIBILITY OF PAROLE OR TO ANY TERM OF INCARCERATION IS NOT~~
21 ~~EXEMPT FROM THE REQUIREMENTS OF THIS CHAPTER. ANY PERSON SUBJECT~~
22 ~~TO THIS CHAPTER WHO HAS NOT PROVIDED A DNA SAMPLE FOR ANY~~
23 ~~REASON, INCLUDING BECAUSE OF AN OVERSIGHT OR ERROR, SHALL~~
24 ~~PROVIDE A DNA SAMPLE FOR INCLUSION IN THE STATE DNA DATA BASE~~
25 ~~AND THE STATE DNA DATA BANK AFTER BEING NOTIFIED BY AUTHORIZED~~
26 ~~LAW ENFORCEMENT OR CORRECTIONS PERSONNEL. IF A PERSON PROVIDES A~~
27 ~~DNA SAMPLE WHICH IS NOT ADEQUATE FOR ANY REASON, THE PERSON~~
28 ~~SHALL PROVIDE ANOTHER DNA SAMPLE FOR INCLUSION IN THE STATE DNA~~
29 ~~DATA BASE AND THE STATE DNA DATA BANK AFTER BEING NOTIFIED BY~~
30 ~~AUTHORIZED LAW ENFORCEMENT OR CORRECTIONS PERSONNEL. THE~~

~~1 COLLECTION OF A DNA SAMPLE UNDER THIS CHAPTER SHALL NOT BE
2 REQUIRED IF THE AUTHORIZED LAW ENFORCEMENT OR CORRECTIONS
3 OFFICIAL CONFIRMS THAT A DNA SAMPLE FROM THE PERSON HAS ALREADY
4 BEEN VALIDLY COLLECTED AND PROVIDED TO THE STATE DNA DATA BANK
5 AND A DNA RECORD FOR THE PERSON EXISTS IN THE STATE DNA DATA
6 BASE.~~

~~7 (E) DEFINITION. AS USED IN THIS SECTION, THE TERM
8 "RELEASED" MEANS ANY RELEASE, PAROLE, FURLOUGH, WORK RELEASE,
9 PRERELEASE OR RELEASE IN ANY OTHER MANNER FROM A PRISON, JAIL,
10 JUVENILE DETENTION FACILITY OR ANY OTHER PLACE OF CONFINEMENT.~~

~~11 SECTION 2. TITLE 44 IS AMENDED BY ADDING A SECTION TO READ:
12 § 2316.1. COLLECTION FROM PERSONS ACCEPTED FROM OTHER
13 JURISDICTIONS.~~

~~14 (A) CONDITIONAL ACCEPTANCE. WHEN A PERSON IS ACCEPTED INTO
15 THIS COMMONWEALTH FOR SUPERVISION FROM ANOTHER JURISDICTION
16 UNDER THE INTERSTATE COMPACT FOR SUPERVISION OF ADULT OFFENDERS,
17 OTHER RECIPROCAL AGREEMENT WITH A FEDERAL, STATE OR COUNTY
18 AGENCY, OR A PROVISION OF LAW, WHETHER OR NOT THE PERSON IS
19 CONFINED OR RELEASED, THE ACCEPTANCE SHALL BE CONDITIONED ON THE
20 OFFENDER'S PROVIDING DNA SAMPLES UNDER THIS CHAPTER IF THE
21 OFFENDER HAS A PAST OR PRESENT FEDERAL, STATE OR MILITARY COURT
22 CONVICTION OR ADJUDICATION THAT IS EQUIVALENT TO CRIMINAL
23 HOMICIDE, A FELONY SEX OFFENSE OR OTHER SPECIFIED OFFENSE AS
24 DETERMINED BY THE PENNSYLVANIA BOARD OF PROBATION AND PAROLE.
25 ADDITIONAL DNA SAMPLES SHALL NOT BE REQUIRED IF A DNA SAMPLE IS
26 CURRENTLY ON FILE WITH THE STATE DNA DATA BANK AND A DNA RECORD
27 IS CURRENTLY ON FILE IN THE STATE DNA DATA BASE.~~

~~28 (B) TIME PERIOD.~~

~~29 (1) IF THE PERSON ACCEPTED UNDER SUBSECTION (A) IS NOT
30 CONFINED, THE DNA SAMPLE AND FINGERPRINTS REQUIRED UNDER THIS~~

~~CHAPTER SHALL BE PROVIDED WITHIN FIVE CALENDAR DAYS AFTER THE PERSON REPORTS TO THE SUPERVISING AGENT OR WITHIN FIVE CALENDAR DAYS OF NOTICE TO THE PERSON, WHICHEVER OCCURS FIRST. THE PERSON SHALL APPEAR AND THE DNA SAMPLES SHALL BE COLLECTED IN ACCORDANCE WITH THE PROVISIONS OF THIS CHAPTER.~~

~~(2) IF THE PERSON ACCEPTED UNDER SUBSECTION (A) IS CONFINED, THE PERSON SHALL PROVIDE THE DNA SAMPLE AND FINGERPRINTS REQUIRED BY THIS CHAPTER WITHIN FIVE CALENDAR DAYS AFTER THE PERSON IS RECEIVED AT A PLACE OF INCARCERATION OR CONFINEMENT.~~

~~SECTION 3. SECTIONS 2317 HEADING AND (A) (1) AND (B) AND 2318 (A) AND (C) OF TITLE 44 ARE AMENDED TO READ:~~

~~§ 2317. PROCEDURES FOR [WITHDRAWAL,] COLLECTION AND TRANSMISSION OF DNA SAMPLES.~~

~~(A) [DRAWING] COLLECTION OF DNA SAMPLES.~~

~~(1) EACH DNA SAMPLE REQUIRED TO BE [DRAWN] COLLECTED PURSUANT TO [SECTION] SECTIONS 2316 (RELATING TO DNA SAMPLE REQUIRED [UPON CONVICTION, DELINQUENCY ADJUDICATION AND CERTAIN ARD CASES]) AND 2316.1 (RELATING TO COLLECTION FROM PERSONS ACCEPTED FROM OTHER JURISDICTIONS) [FROM] SHALL BE COLLECTED AS FOLLOWS:~~

~~(I) FROM PERSONS WHO ARE INCARCERATED OR CONFINED, THE DNA SAMPLE SHALL BE [DRAWN] COLLECTED AT THE PLACE OF INCARCERATION OR CONFINEMENT AS PROVIDED FOR IN SECTION 2316 OR 2316.1.~~

~~(II) DNA SAMPLES FROM PERSONS WHO ARE NOT [ORDERED OR SENTENCED TO A TERM OF CONFINEMENT] INCARCERATED OR CONFINED SHALL BE [DRAWN] COLLECTED AS PRESCRIBED IN SECTIONS 2316 AND 2316.1 OR AT A PRISON, JAIL UNIT, JUVENILE FACILITY OR OTHER FACILITY [TO BE] SPECIFIED BY~~

1 ~~STORED IN THE STATE DNA DATA BASE, AND RECORDS OF TESTING~~
2 ~~SHALL BE RETAINED ON FILE WITH THE STATE POLICE CONSISTENT~~
3 ~~WITH THE PROCEDURES ESTABLISHED BY THE FBI QUALITY ASSURANCE~~
4 ~~STANDARDS FOR FORENSIC DNA TESTING LABORATORIES AND DNA DATA~~
5 ~~BASING LABORATORIES AND CODIS POLICIES AND PROCEDURES. NO~~
6 ~~SAMPLE TYPING RESULTS FROM A SAMPLE COLLECTED PURSUANT TO~~
7 ~~SECTION 2316(C.1) (RELATING TO DNA SAMPLE REQUIRED) SHALL BE~~
8 ~~STORED IN THE STATE DNA DATA BASE OR SUBMITTED TO THE~~
9 ~~NATIONAL DNA INDEX SYSTEM UNTIL THE DEFENDANT HAS BEEN HELD~~
10 ~~FOR COURT FOR A QUALIFYING OFFENSE AFTER GRAND JURY~~
11 ~~INDICTMENT OR WAIVER OR PRELIMINARY HEARING OR WAIVER.~~

12 ~~(3) THESE PROCEDURES SHALL ALSO INCLUDE QUALITY~~
13 ~~ASSURANCE GUIDELINES TO ENSURE THAT DNA IDENTIFICATION~~
14 ~~RECORDS MEET STANDARDS FOR ACCREDITED FORENSIC DNA~~
15 ~~LABORATORIES WHICH SUBMIT DNA RECORDS TO THE STATE DNA DATA~~
16 ~~BASE.~~

17 ~~(4) THE RULES, REGULATIONS AND GUIDELINES SHALL ADDRESS~~
18 ~~THE FOLLOWING:~~

19 ~~(I) VERIFICATION OF ACCREDITATION.~~

20 ~~(II) COMPLIANCE WITH FBI QUALITY ASSURANCE~~
21 ~~STANDARDS, INCLUDING CONTINUING EDUCATION REQUIREMENTS~~
22 ~~FOR THE PERSONNEL OF FORENSICS DNA TESTING LABORATORIES.~~

23 * * *

24 ~~(C) USE OF TESTS.—~~

25 ~~(1) EXCEPT AS OTHERWISE PROVIDED IN SECTION 2319(C)~~
26 ~~(RELATING TO DNA DATA BASE EXCHANGE), THE TESTS TO BE~~
27 ~~PERFORMED ON EACH DNA SAMPLE SHALL BE USED ONLY FOR LAW~~
28 ~~ENFORCEMENT IDENTIFICATION PURPOSES OR TO ASSIST IN THE~~
29 ~~RECOVERY OR IDENTIFICATION OF HUMAN REMAINS FROM DISASTERS OR~~
30 ~~FOR OTHER HUMANITARIAN IDENTIFICATION PURPOSES, INCLUDING~~

1 IDENTIFICATION OF MISSING PERSONS.

2 ~~(2) NO DNA SAMPLE OR DNA RECORD ACQUIRED UNDER THIS~~
3 ~~CHAPTER MAY BE USED FOR HUMAN BEHAVIORAL GENETIC RESEARCH OR~~
4 ~~FOR NONLAW ENFORCEMENT OR NONHUMANITARIAN IDENTIFICATION~~
5 ~~PURPOSES.~~

6 * * *

7 SECTION 4. TITLE 44 IS AMENDED BY ADDING A SECTION TO READ:

8 ~~§ 2318.1. REQUEST FOR MODIFIED DNA SEARCH.~~

9 ~~(A) GENERAL RULE.~~

10 ~~(1) A CRIMINAL JUSTICE AGENCY MAY REQUEST IN WRITING~~
11 ~~THAT THE STATE POLICE PERFORM A MODIFIED DNA SEARCH IN AN~~
12 ~~UNSOLVED CASE AND SHALL PROVIDE INFORMATION AS REQUIRED BY~~
13 ~~THE STATE POLICE.~~

14 ~~(2) THE STATE POLICE MAY GRANT A REQUEST TO CONDUCT A~~
15 ~~MODIFIED DNA SEARCH IF THE STATE POLICE DETERMINE THAT THE~~
16 ~~REQUEST COMPLIES WITH SUBSECTION (D) (2).~~

17 ~~(B) MODIFIED DNA SEARCH.~~

18 ~~(1) THE STATE POLICE MAY CONDUCT A MODIFIED DNA SEARCH~~
19 ~~IF IT GRANTS A REQUEST UNDER SUBSECTION (A) (2).~~

20 ~~(2) THE STATE POLICE MAY CONDUCT A MODIFIED DNA SEARCH~~
21 ~~IN UNSOLVED CASES WITHOUT THE REQUEST OF A CRIMINAL JUSTICE~~
22 ~~AGENCY IF THE STATE POLICE DETERMINE THAT THEY WOULD HAVE~~
23 ~~GRANTED A REQUEST HAD A REQUEST BEEN MADE BY A CRIMINAL~~
24 ~~JUSTICE AGENCY.~~

25 ~~(3) IN ALL CASES, THE STATE POLICE SHALL USE PROCEDURES~~
26 ~~FOR CONDUCTING A MODIFIED DNA SEARCH THAT ARE CONSISTENT WITH~~
27 ~~THE RULES, REGULATIONS AND GUIDELINES PROMULGATED UNDER~~
28 ~~SECTION 2318 (RELATING TO PROCEDURES FOR CONDUCT, DISPOSITION~~
29 ~~AND USE OF DNA ANALYSIS).~~

30 ~~(C) RELEASE OF INFORMATION FROM A MODIFIED DNA SEARCH. THE~~

~~1 STATE POLICE SHALL PROVIDE THE REQUESTING CRIMINAL JUSTICE~~
~~2 AGENCY WITH PERSONALLY IDENTIFYING INFORMATION ON INDIVIDUALS~~
~~3 WHOSE DNA RECORDS WERE IDENTIFIED THROUGH A MODIFIED DNA SEARCH.~~

~~4 (D) REQUIREMENTS.~~

~~5 (1) THE STATE POLICE SHALL REQUIRE A CRIMINAL JUSTICE~~
~~6 AGENCY TO PROVIDE ASSURANCES AND INFORMATION IN SUPPORT OF~~
~~7 ITS REQUEST FOR A MODIFIED DNA SEARCH, INCLUDING:~~

~~8 (I) A REPRESENTATION THAT A MODIFIED DNA SEARCH IS~~
~~9 NECESSARY FOR LAW ENFORCEMENT IDENTIFICATION PURPOSES IN~~
~~10 AN UNSOLVED CASE.~~

~~11 (II) A REPRESENTATION THAT ALL OTHER INVESTIGATIVE~~
~~12 LEADS HAVE BEEN PURSUED.~~

~~13 (III) A COMMITMENT TO FURTHER INVESTIGATE THE CASE~~
~~14 IF PERSONAL IDENTIFYING INFORMATION FROM A MODIFIED DNA~~
~~15 SEARCH IS PROVIDED.~~

~~16 (IV) ANY OTHER INFORMATION THE STATE POLICE DEEM~~
~~17 NECESSARY.~~

~~18 (2) THE STATE POLICE MAY GRANT A MODIFIED DNA SEARCH~~
~~19 REQUEST IF THE STATE POLICE DETERMINE THAT:~~

~~20 (I) THE CRIME SCENE DNA PROFILE HAS SUFFICIENT SIZE,~~
~~21 QUALITY AND INTEGRITY.~~

~~22 (II) THE CRIME SCENE DNA PROFILE HAS PREVIOUSLY BEEN~~
~~23 SUBJECTED TO A ROUTINE DNA SEARCH AGAINST THE STATE DNA~~
~~24 DATA BASE AND THE NATIONAL DNA INDEX SYSTEM.~~

~~25 (III) THE MODIFIED DNA SEARCH IS NECESSARY FOR LAW~~
~~26 ENFORCEMENT IDENTIFICATION PURPOSES IN AN UNSOLVED CASE.~~

~~27 (IV) THE CRIMINAL JUSTICE AGENCY HAS PURSUED ALL~~
~~28 OTHER INVESTIGATIVE LEADS.~~

~~29 (V) ANY RELEVANT CONSIDERATION, INCLUDING FACTORS OR~~
~~30 REQUIREMENTS CONSIDERED BY ANY OTHER JURISDICTION,~~

1 ~~SUPPORTS GRANTING THE REQUEST.~~

2 ~~(3) THE STATE POLICE PROCEDURES, PROMULGATED UNDER~~
3 ~~SECTION 2318, TO CONDUCT MODIFIED DNA SEARCHES SHALL BE BASED~~
4 ~~ON SCIENTIFICALLY VALID AND RELIABLE METHODS TO DETERMINE~~
5 ~~THAT A CRIME SCENE DNA PROFILE IS SUFFICIENTLY LIKELY TO HAVE~~
6 ~~ORIGINATED FROM A CLOSE RELATIVE OF AN INDIVIDUAL WHOSE DNA~~
7 ~~PROFILE IS RECORDED IN THE STATE DNA DATA BASE OR THE~~
8 ~~NATIONAL DNA INDEX SYSTEM. THE STATE POLICE MAY REQUIRE THE~~
9 ~~FOLLOWING:~~

10 ~~(I) AN ANALYSIS OF THE RARITY IN THE RELEVANT~~
11 ~~POPULATION OF EACH SHARED DNA CHARACTERISTIC.~~

12 ~~(II) AN ANALYSIS OF THE PATTERN OF SHARED DNA~~
13 ~~CHARACTERISTICS.~~

14 ~~(III) Y CHROMOSOME ANALYSIS.~~

15 ~~(IV) MITOCHONDRIAL DNA ANALYSIS.~~

16 ~~(V) ANY OTHER SUITABLE METHOD DESIGNED TO DETERMINE~~
17 ~~THAT A CRIME SCENE DNA PROFILE ORIGINATED FROM A CLOSE~~
18 ~~RELATIVE OF AN INDIVIDUAL IN THE STATE DNA DATA BASE OR~~
19 ~~THE NATIONAL DNA INDEX SYSTEM.~~

20 SECTION 5. ~~SECTIONS 2319, 2321 AND 2322 OF TITLE 44 ARE~~
21 ~~AMENDED TO READ:~~

22 ~~§ 2319. DNA DATA BASE EXCHANGE.~~

23 ~~(A) RECEIPT OF DNA SAMPLES BY STATE POLICE. IT SHALL BE THE~~
24 ~~DUTY OF THE STATE POLICE TO RECEIVE DNA SAMPLES, TO STORE, TO~~
25 ~~PERFORM ANALYSIS OR TO CONTRACT FOR DNA TYPING ANALYSIS WITH [A~~
26 ~~QUALIFIED] AN ACCREDITED FORENSIC DNA LABORATORY THAT MEETS THE~~
27 ~~[GUIDELINES] RULES, REGULATIONS AND GUIDELINES UNDER SECTION~~
28 ~~2318 (RELATING TO PROCEDURES FOR CONDUCT, DISPOSITION AND USE OF~~
29 ~~DNA ANALYSIS) AS ESTABLISHED BY THE STATE POLICE, TO CLASSIFY~~
30 ~~AND TO FILE THE DNA RECORD OF IDENTIFICATION CHARACTERISTIC~~

1 ~~PROFILES OF DNA SAMPLES SUBMITTED UNDER THE FORMER DNA ACT,~~
2 ~~FORMER PROVISIONS OF 42 PA.C.S. CH. 47 (RELATING TO DNA DATA AND~~
3 ~~TESTING) OR THIS CHAPTER AND TO MAKE SUCH INFORMATION AVAILABLE~~
4 ~~AS PROVIDED IN THIS SECTION. THE STATE POLICE MAY CONTRACT [OUT]~~
5 ~~FOR THE STORAGE OF DNA TYPING ANALYSIS [AND MAY CONTRACT OUT] OR~~
6 ~~DNA TYPING ANALYSIS TO [A QUALIFIED] AN ACCREDITED FORENSIC DNA~~
7 ~~LABORATORY THAT MEETS THE RULES, REGULATIONS AND GUIDELINES AS~~
8 ~~ESTABLISHED BY THE STATE POLICE UNDER SECTION 2318. THE RESULTS~~
9 ~~OF THE DNA PROFILE OF INDIVIDUALS IN THE STATE DNA DATA BASE~~
10 ~~SHALL BE MADE AVAILABLE:~~

11 ~~(1) TO CRIMINAL JUSTICE AGENCIES OR [APPROVED CRIME]~~
12 ~~CODIS PARTICIPATING DNA LABORATORIES WHICH SERVE THESE~~
13 ~~AGENCIES; OR~~

14 ~~(2) UPON WRITTEN OR ELECTRONIC REQUEST AND IN~~
15 ~~FURTHERANCE OF AN OFFICIAL INVESTIGATION OF A CRIMINAL~~
16 ~~OFFENSE OR OFFENDER OR SUSPECTED OFFENDER.~~

17 ~~(B) METHODS OF OBTAINING INFORMATION. THE STATE POLICE~~
18 ~~SHALL [ADOPT] PROMULGATE, AS NECESSARY, RULES, REGULATIONS AND~~
19 ~~GUIDELINES GOVERNING THE METHODS OF OBTAINING INFORMATION FROM~~
20 ~~THE STATE DNA DATA BASE AND CODIS AND PROCEDURES FOR~~
21 ~~VERIFICATION OF THE IDENTITY AND AUTHORITY OF THE REQUESTER.~~

22 ~~(C) POPULATION DATA BASE.~~

23 ~~(1) THE STATE POLICE MAY ESTABLISH A SEPARATE POPULATION~~
24 ~~DATA BASE COMPRISED OF DNA SAMPLES OBTAINED UNDER THIS~~
25 ~~CHAPTER AFTER ALL PERSONAL IDENTIFICATION 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 ~~(D) SEPARATE CATEGORY. THE STATE POLICE SHALL CREATE A~~
4 ~~SEPARATE CATEGORY WITHIN THE DATA BASE TO STORE DNA SAMPLES AND~~
5 ~~RECORDS COLLECTED UPON ARREST UNDER SECTION 2316(C.1) (RELATING~~
6 ~~TO DNA SAMPLE REQUIRED).~~

7 ~~§ 2321. EXPUNGEMENT.~~

8 ~~{(A) GENERAL RULE. A PERSON WHOSE DNA SAMPLE, RECORD OR~~
9 ~~PROFILE HAS BEEN INCLUDED IN THE STATE DNA DATA BANK OR THE~~
10 ~~STATE DNA DATA BASE PURSUANT TO THE FORMER DNA ACT, FORMER 42-~~
11 ~~PA.C.S. CH. 47 (RELATING TO DNA DATA AND TESTING) OR THIS~~
12 ~~CHAPTER MAY REQUEST EXPUNGEMENT ON THE GROUNDS THAT THE~~
13 ~~CONVICTION OR DELINQUENCY ADJUDICATION ON WHICH THE AUTHORITY~~
14 ~~FOR INCLUDING THAT PERSON'S DNA SAMPLE, RECORD OR PROFILE WAS~~
15 ~~BASED HAS BEEN REVERSED AND THE CASE DISMISSED OR THAT THE DNA~~
16 ~~SAMPLE, RECORD OR PROFILE WAS INCLUDED IN THE STATE DNA DATA~~
17 ~~BANK OR THE STATE DNA DATA BASE BY MISTAKE.~~

18 ~~(B) DUTY OF STATE POLICE. THE STATE POLICE SHALL PURGE ALL~~
19 ~~RECORDS AND IDENTIFIABLE INFORMATION IN THE STATE DNA DATA BANK~~
20 ~~OR STATE DNA DATA BASE PERTAINING TO THE PERSON AND DESTROY EACH~~
21 ~~SAMPLE, RECORD AND PROFILE FROM THE PERSON UPON:~~

22 ~~(1) RECEIPT OF A WRITTEN REQUEST FOR EXPUNGEMENT~~
23 ~~PURSUANT TO THIS SECTION AND A CERTIFIED COPY OF THE FINAL~~
24 ~~COURT ORDER REVERSING AND DISMISSING THE CONVICTION; OR~~

25 ~~(2) CLEAR AND CONVINCING PROOF THAT THE SAMPLE RECORD OR~~
26 ~~PROFILE WAS INCLUDED BY MISTAKE.}~~

27 ~~(A) GENERAL RULE. A PERSON WHOSE DNA SAMPLE, RECORD OR~~
28 ~~PROFILE HAS BEEN INCLUDED IN THE STATE DNA DATA BANK OR THE~~
29 ~~STATE DNA DATA BASE UNDER THE FORMER DNA ACT, FORMER PROVISIONS~~
30 ~~OF 42 PA.C.S. CH. 47 (RELATING TO DNA DATA AND TESTING) OR THIS~~

1 ~~CHAPTER MAY HAVE THE DNA SAMPLE, RECORD OR PROFILE EXPUNGED IN~~
2 ~~ACCORDANCE WITH THIS SECTION.~~

3 ~~(B) REMOVAL BY REQUEST. A PERSON WHOSE DNA SAMPLE, RECORD~~
4 ~~OR PROFILE HAS BEEN INCLUDED IN THE STATE DNA DATA BANK OR THE~~
5 ~~STATE DNA DATE BASE UNDER THE FORMER DNA ACT, FORMER PROVISIONS~~
6 ~~OF 42 PA.C.S. CH. 47 OR THIS CHAPTER MAY FILE A WRITTEN REQUEST~~
7 ~~WITH THE STATE POLICE ON THE GROUNDS THAT THE DNA SAMPLE, RECORD~~
8 ~~OR PROFILE BE REMOVED ON THE GROUNDS THAT THE DNA SAMPLE, RECORD~~
9 ~~OR PROFILE WAS INCLUDED IN THE STATE DNA DATA BANK OR THE STATE~~
10 ~~DNA DATA BASE BY MISTAKE. IF THE STATE POLICE GRANTS THE~~
11 ~~REQUEST, THE REQUEST SHALL BE PROCESSED AT NO COST AND THE STATE~~
12 ~~POLICE SHALL PROVIDE WRITTEN NOTICE OF THE REMOVAL TO THE PERSON~~
13 ~~AND HIS ATTORNEY OF RECORD, IF ANY, WITHIN 60 DAYS AFTER~~
14 ~~DESTROYING THE DNA SAMPLE, RECORD AND PROFILE. IF THE STATE~~
15 ~~POLICE ERRONEOUSLY DENIES THE REQUEST, THE PERSON MAY FILE A~~
16 ~~REQUEST FOR EXPUNGEMENT OF THE DNA SAMPLE, RECORD OR PROFILE~~
17 ~~WITH THE COURT OF COMMON PLEAS OF THE COUNTY WHERE THE ORIGINAL~~
18 ~~CHARGES WERE FILED OR THE ARREST FOR WHICH THE DNA SAMPLE,~~
19 ~~RECORD OR PROFILE ORIGINATED WAS MADE. UPON RECEIPT OF A REQUEST~~
20 ~~FOR EXPUNGEMENT, THE COURT SHALL SERVE NOTICE UPON THE DISTRICT~~
21 ~~ATTORNEY WHO SHALL FILE AND SERVE OBJECTIONS, IF ANY, WITHIN 30~~
22 ~~DAYS OF SERVICE OF NOTICE. AT A HEARING ON THE REQUEST, THE~~
23 ~~DISTRICT ATTORNEY SHALL HAVE THE BURDEN OF SHOWING BY A~~
24 ~~PREPONDERANCE OF THE EVIDENCE THAT THE SAMPLE, RECORD OR PROFILE~~
25 ~~SHOULD NOT BE REMOVED.~~

26 ~~(B.1) EXPUNGEMENT BY COURT ORDER. THE FOLLOWING SHALL~~
27 ~~APPLY:~~

28 ~~(1) EXCEPT AS PROVIDED UNDER PARAGRAPHS (2) AND (3), THE~~
29 ~~COURT OF COMMON PLEAS OF THE COUNTY WHERE THE ORIGINAL~~
30 ~~CHARGES WERE FILED OR THE ARREST FOR WHICH THE DNA SAMPLE,~~

1 ~~RECORD OR PROFILE ORIGINATED WAS MADE MAY ISSUE AN ORDER~~
2 ~~DIRECTING THE EXPUNGEMENT OF THE DNA SAMPLE, RECORD OR~~
3 ~~PROFILE PERTAINING TO THE PERSON IN THE STATE DNA DATA BANK~~
4 ~~OR THE STATE DNA DATA BASE IN THE FOLLOWING INSTANCES:~~

5 ~~(I) THE CONVICTION OR DELINQUENCY ADJUDICATION FOR~~
6 ~~WHICH THE PERSON'S DNA SAMPLE WAS COLLECTED HAS BEEN~~
7 ~~REVERSED AND NO APPEAL IS PENDING;~~

8 ~~(II) THE CHARGE FOR WHICH THE DNA SAMPLE WAS TAKEN~~
9 ~~HAS BEEN DISMISSED, NO APPEAL IS PENDING AND THE~~
10 ~~PROSECUTING AUTHORITY IS BARRED FROM FURTHER PROSECUTION;~~

11 ~~(III) THERE HAS BEEN A JUDGMENT OF ACQUITTAL ON THE~~
12 ~~CHARGE FOR WHICH THE DNA SAMPLE WAS TAKEN AND NO FURTHER~~
13 ~~APPEAL IS PENDING;~~

14 ~~(IV) THE PERSON FROM WHOM THE DNA SAMPLE WAS TAKEN~~
15 ~~WAS NOT CHARGED WITH A CRIME FOR WHICH A DNA SAMPLE IS~~
16 ~~AUTHORIZED TO BE TAKEN UNDER THIS CHAPTER;~~

17 ~~(V) THE PROSECUTING AUTHORITY HAS EXPRESSLY DECLINED~~
18 ~~TO PROSECUTE THE CHARGE FOR WHICH THE DNA SAMPLE WAS~~
19 ~~TAKEN;~~

20 ~~(VI) THE CHARGE FOR WHICH THE DNA SAMPLE WAS TAKEN~~
21 ~~WAS NOT FILED WITHIN THE STATUTE OF LIMITATIONS;~~

22 ~~(VII) THE PERSON WAS GRANTED AN UNCONDITIONAL PARDON~~
23 ~~FOR THE CRIME FOR WHICH THE DNA SAMPLE WAS TAKEN; OR~~

24 ~~(2) PARAGRAPH (1) AND SUBSECTION (B) SHALL NOT APPLY IF~~
25 ~~THE PERSON HAS BEEN ARRESTED, CHARGED, CONVICTED OR~~
26 ~~ADJUDICATED DELINQUENT FOR ANY OTHER CRIME FOR WHICH A DNA~~
27 ~~SAMPLE IS REQUIRED TO BE COLLECTED UNDER THIS CHAPTER.~~

28 ~~(3) THE COURT MAY NOT ORDER EXPUNGEMENT PRIOR TO 30 DAYS~~
29 ~~AFTER SERVING NOTICE TO THE DISTRICT ATTORNEY. WITHIN THE 30~~
30 ~~DAY PERIOD THE DISTRICT ATTORNEY MAY FILE OBJECTIONS TO THE~~

1 ~~EXPUNGEMENT. IF THE DISTRICT ATTORNEY FILES OBJECTIONS, A~~
2 ~~HEARING SHALL BE HELD AT WHICH THE BURDEN SHALL BE ON THE~~
3 ~~DISTRICT ATTORNEY TO SHOW, BY A PREPONDERANCE OF THE~~
4 ~~EVIDENCE, THAT NONE OF THE CIRCUMSTANCES IN PARAGRAPH (1) ARE~~
5 ~~PRESENT OR, EXCEPT FOR A MOTION FILED UNDER SUBPARAGRAPH (1)~~
6 ~~(III), WHY THE INTERESTS OF JUSTICE WILL NOT BE SERVED AND~~
7 ~~EXPUNGEMENT SHOULD NOT BE ORDERED.~~

8 ~~(4) NOTWITHSTANDING ANY OTHER LAW OR RULE OF COURT, THE~~
9 ~~COURT SHALL HAVE NO AUTHORITY TO ORDER THE EXPUNGEMENT OF ANY~~
10 ~~DNA SAMPLE, RECORD OR PROFILE IN THE STATE DNA DATA BANK OR~~
11 ~~THE STATE DNA DATA BASE EXCEPT AS PROVIDED UNDER THIS~~
12 ~~SUBSECTION.~~

13 ~~(B.2) EXPUNGEMENT REPORTING. THE COURT SHALL FORWARD A~~
14 ~~CERTIFIED COPY OF AN EXPUNGEMENT ORDER ISSUED UNDER SUBSECTION~~
15 ~~(B) OR (B.1) TO THE STATE POLICE.~~

16 ~~(B.3) DUTIES OF STATE POLICE. THE FOLLOWING SHALL APPLY:~~

17 ~~(1) UPON RECEIPT OF AN EXPUNGEMENT ORDER ISSUED UNDER~~
18 ~~SUBSECTION (B) OR (B.1), THE STATE POLICE SHALL DESTROY THE~~
19 ~~DNA SAMPLE, RECORD AND PROFILE IN THE STATE DNA DATA BANK AND~~
20 ~~THE STATE DNA DATA BASE PERTAINING TO A PERSON IDENTIFIED IN~~
21 ~~AN EXPUNGEMENT ORDER.~~

22 ~~(2) THE EXPUNGEMENT SHALL BE PROCESSED AT NO COST TO THE~~
23 ~~PERSON FROM WHOM THE DNA SAMPLE WAS TAKEN.~~

24 ~~(3) THE STATE POLICE SHALL PROVIDE WRITTEN NOTICE OF THE~~
25 ~~EXPUNGEMENT TO THE PERSON AND HIS ATTORNEY OF RECORD, IF ANY,~~
26 ~~WITHIN 60 DAYS AFTER DESTROYING THE DNA SAMPLE, RECORD AND~~
27 ~~PROFILE.~~

28 ~~(4) THE STATE POLICE SHALL PUBLISH INFORMATION REGARDING~~
29 ~~THE ELIGIBILITY REQUIREMENTS FOR EXPUNGEMENT UNDER THIS~~
30 ~~SECTION AND THE STEPS NECESSARY TO OBTAIN AN EXPUNGEMENT~~

~~1 UNDER THIS SECTION ON THE STATE POLICE'S PUBLICLY AVAILABLE~~
~~2 INTERNET WEBSITE. THE INFORMATION SHALL INCLUDE A SIMPLIFIED~~
~~3 FORM PETITION AND PROPOSED ORDER, APPROVED BY THE~~
~~4 ADMINISTRATIVE OFFICE OF PENNSYLVANIA COURTS, WHICH CAN BE~~
~~5 USED BY THE PERSON TO REQUEST AN EXPUNGEMENT FROM THE COURT~~
~~6 AUTHORIZED UNDER SUBSECTION (B) OR (B.1). THE STATE POLICE~~
~~7 SHALL PUBLISH THE INFORMATION IN AT LEAST TWO COMMONLY~~
~~8 ACCESSIBLE FORMATS, SUCH AS HYPERTEXT MARKUP LANGUAGE AND~~
~~9 PORTABLE DOCUMENT FORMAT.~~

~~10 (C) LIMITATIONS.~~

~~11 (1) AN INCARCERATED OR PREVIOUSLY INCARCERATED PERSON~~
~~12 MAY NOT SEEK EXPUNGEMENT OF A DNA SAMPLE, RECORD OR PROFILE~~
~~13 ON THE GROUND THAT THAT PERSON WAS CONVICTED OR ADJUDICATED~~
~~14 DELINQUENT FOR A FELONY SEX OFFENSE PRIOR TO JULY 27, 1995.~~

~~15 (2) A PERSON MAY NOT SEEK EXPUNGEMENT OF A DNA SAMPLE,~~
~~16 RECORD OR PROFILE ON THE GROUND THAT THAT PERSON WAS~~
~~17 CONVICTED OR ADJUDICATED DELINQUENT FOR ONE OF THE OTHER~~
~~18 SPECIFIED OFFENSES PRIOR TO THE EFFECTIVE DATE OF THE FORMER~~
~~19 DNA ACT OR THIS CHAPTER.~~

~~20 (D) EFFECT OF EXPUNGEMENT. THE EXPUNGEMENT OF A DNA SAMPLE,~~
~~21 RECORD OR PROFILE PURSUANT TO THIS SECTION SHALL HAVE NO EFFECT~~
~~22 ON ANY DATA BANK OR DATA BASE MATCH OR PARTIAL MATCH OCCURRING~~
~~23 PRIOR TO THE EXPUNGEMENT OF THE SAMPLE, RECORD OR PROFILE.~~

~~24 § 2322. MANDATORY COST.~~

~~25 UNLESS THE COURT FINDS THAT UNDUE HARDSHIP WOULD RESULT, A~~
~~26 MANDATORY COST OF \$250, WHICH SHALL BE IN ADDITION TO ANY OTHER~~
~~27 COSTS IMPOSED PURSUANT TO STATUTORY AUTHORITY, SHALL~~
~~28 AUTOMATICALLY BE ASSESSED ON ANY PERSON CONVICTED, ADJUDICATED~~
~~29 DELINQUENT OR GRANTED ARD FOR CRIMINAL HOMICIDE, A FELONY SEX~~
~~30 OFFENSE OR OTHER SPECIFIED OFFENSE, AND ALL PROCEEDS DERIVED~~

1 ~~FROM THIS SECTION SHALL BE TRANSMITTED TO THE FUND.~~

2 SECTION 6 2. THIS ACT SHALL TAKE EFFECT IN 60 DAYS.

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