

COMMITTEE BILL ANALYSIS

Bill: Senate Bill 150

Printer's No.: 132

Sponsor: Senator Pileggi

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Synopsis: This bill amends Title 44 (Law and Justice) of the Pennsylvania Consolidated Statutes to expand the list of eligible criminal offenses for which DNA testing is required; expand DNA testing to certain arrested individuals; codify accreditation requirements for forensic DNA testing laboratories; clarify existing language to ensure the privacy and proper use of DNA records; authorize the use of modified DNA searches to assist investigators in identifying unknown crime scene DNA profiles; and require the expungement of DNA records of exonerated individuals.

Summary:

Expanded list of offenses

The definition of "other specified offense" is amended to add offenses to the list of criminal offenses requiring DNA testing. The new crimes on the list include simple assault against a child under 12 by an adult at least 21 years of age (18 Pa.C.S. §2701(b)(2)); unlawful restraint (18 Pa.C.S. §2902(a)); defiant criminal trespass on school grounds (18 Pa.C.S. §3503(b)(1)(v)); concealing the death of a child (18 Pa.C.S. §4303); dealing in infant children (18 Pa.C.S. §4305); and a misdemeanor offense requiring registration under Megan's Law (42 Pa.C.S. Ch. 97 Subch. H).

Expand DNA testing to arrested individuals

A person arrested for criminal homicide or a felony sex offense must have a DNA sample collected no later than five days after the arrest. Currently the law only authorizes collection of a DNA sample from individuals convicted or adjudicated delinquent for a felony sex offense or other specified offense.

The State Police shall create a separate category within the data base to store DNA samples from arrested individuals.

The bill also requires a DNA sample as a condition of accepting a person into Pennsylvania pursuant to the Interstate Compact for Supervision of Adult Offenders if the person was convicted of an offense in another jurisdiction equivalent to a criminal homicide, a felony sex offense or other specified offense as determined by the Pennsylvania Board of Probation and Parole.

Expungement

A person may request the State Police in writing to remove the DNA sample from the data base on the grounds that the sample was included by mistake. A person may request the court of common pleas to issue an order directing the expungement of the DNA sample under circumstances where the conviction has been reversed, charges dismissed, a judgment of acquittal was entered and several other similar situations. The district attorney shall receive notice. A certified copy of the expungement order shall be submitted to the State Police.

Ensuring the privacy and proper use of DNA records

The tests to be performed on each DNA sample shall only be used for law enforcement identification purposes. No DNA sample shall be used for human behavioral genetic research. The bill adds a definition of “law enforcement identification purposes.” The term means “Assisting in the determination of the identity of an individual whose DNA is contained in a biological sample.” A definition of “human behavioral genetic research” is also included.

Modified DNA search

The State Police may conduct a modified DNA search. A “modified DNA search” is defined as a search of the State DNA Data Base, using scientifically valid and reliable methods to determine that a crime scene DNA profile is sufficiently likely to have originated from a close relative of an individual whose DNA profile is in the State DNA Data Base.

A criminal justice agency may request in writing that the State Police perform a modified DNA search in an unsolved case. The State Police shall require a criminal justice agency to provide certain assurances and information in support of its request. The State Police may conduct a modified DNA search in an unsolved case without the request of a criminal justice agency if the State Police determine that they would have granted a request had a request been made by a criminal justice agency.

The State Police shall provide the requesting criminal justice agency with personally identifying information on individuals whose DNA records were identified through a modified DNA search.

Accreditation requirements

Forensic DNA testing laboratories must be accredited by a body nationally recognized within the forensic science community in accordance with the FBI Quality Assurance Standards to perform forensic DNA testing and must be in compliance with FBI quality assurance standards.

Annual report

No later than August 1 of each year, the State Police commissioner must submit to the Governor’s office and the majority and minority chairmen of the Senate and House judiciary committees a written report containing information regarding the collection and testing of DNA samples under this chapter.

Effective date

This act takes effect in 60 days.

Background: On March 18, 2011 the Senate Judiciary Committee held a public hearing on the use of DNA in criminal investigations focusing on Senate Bill 775. The Senate passed Senate Bill 775 by a vote of 42 to 6. The House of Representatives amended and passed Senate Bill 775 by a vote of 177 to 14. The Senate amended the House amendments and concurred by a vote of 44 to 5. The House of Representatives took no further action. Senate Bill 150 generally reflects Senate Bill 775 in its final printer's number.

Legislative findings

The findings section of the bill emphasizes that DNA data banks are an important tool in criminal investigations both in excluding innocent individuals who are under criminal investigations and in detecting and deterring repeated crimes by individuals.

The legislative findings section of the bill is amended to recognize that several states have authorized the use of DNA analysis to identify crime scene DNA profiles by establishing that the source of a crime scene DNA profile is likely to be a close relative of a specific individual whose DNA record is on file.

It is in the best interest of the Commonwealth to establish a DNA data base containing samples submitted by individuals arrested for, charged with or convicted of criminal homicide, a felony sex offense or other specified offenses. It is also in the best interest of the Commonwealth to authorize the State Police to use DNA analysis and to identify these individuals to a criminal justice agency in certain cases.

Other states

Twenty-six states and the Federal government now obtain DNA samples from arrested individuals. Other states including Florida, Colorado and California have authorized the use of modified DNA searches.