

COMMITTEE BILL ANALYSIS

Bill: Senate Bill 775

Printer's No.: 863

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; require the immediate purging of the DNA records of exonerated individuals; 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 codify accreditation requirements for forensic DNA testing laboratories.

Summary:

Expanded list of offenses

The definition of “other specified offense” is amended to add 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); endangering the welfare of a child (18 Pa.C.S. §4304); and dealing in infant children (18 Pa.C.S. §4305).

Expand DNA testing to arrested individuals

An individual arrested as an adult for a felony sex offense or other specified offense must have a DNA sample collected immediately following a judicial determination at a preliminary hearing that probable cause exists for the arrest or the waiver of the right to a preliminary hearing. 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 felony sex offense or other specified offense.

Purging of the DNA records of exonerated individuals

The State Police must immediately purge all records and identifiable information upon a receipt of a certified copy of the final court order reversing and dismissing the conviction; a final court order establishing that the charge has been dismissed or has resulted in an acquittal; or clear and convincing proof that the sample record or profile was submitted by mistake. Currently the law requires a written request for expungement.

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 a crime scene DNA profile against the State DNA Data Base by the State Police that is conducted using the procedures and methods set forth in the regulations” authorized by this legislation.

The State Police shall adopt a procedure to conduct modified DNA searches based on 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.

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.

Severability and effective date

The legislation contains a severability clause. If any provision is held invalid, the invalidity shall not affect other provisions of the law which can be given effect without the invalid provision.

This act takes effect in 270 days.

Background: On March 18, 2011 the Senate Judiciary Committee held a public hearing on the use of DNA in criminal investigations focusing on this legislation.

Legislative findings

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 felony sex offenses and 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-one states and the Federal government now obtain DNA samples from arrested individuals upon a determination that probable cause exists. Virginia, Colorado and California have authorized the use of modified DNA searches.