

# SENATE, No. 436

## STATE OF NEW JERSEY 215th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2012 SESSION

**Sponsored by:**

**Senator NICHOLAS J. SACCO**

**District 32 (Bergen and Hudson)**

**Senator PAUL A. SARLO**

**District 36 (Bergen and Passaic)**

**Co-Sponsored by:**

**Senators Sweeney and Cardinale**

**SYNOPSIS**

Expands DNA database to include samples from disorderly persons and certain violent arrestees.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel



S436 SACCO, SARLO

2

1 AN ACT concerning DNA testing and amending P.L.1994, c.136.

2

3 **BE IT ENACTED** *by the Senate and General Assembly of the State*  
4 *of New Jersey:*

5

6 1. Section 2 of P.L.1994, c.136 (C.53:1-20.18) is amended to  
7 read as follows:

8 2. The Legislature finds and declares that DNA databanks are  
9 an important tool in criminal investigations and in deterring and  
10 detecting recidivist acts. It is the policy of this State to assist  
11 federal, state and local criminal justice and law enforcement  
12 agencies in the identification and detection of individuals who are  
13 the subjects of criminal investigations. It is therefore in the best  
14 interest of the State of New Jersey to establish a DNA database and  
15 a DNA databank containing blood or other biological samples  
16 submitted by every person convicted or found not guilty by reason  
17 of insanity of a crime or offense. It is also in the best interest of the  
18 State of New Jersey to include in this DNA database and DNA  
19 databank blood or other biological samples submitted by juveniles  
20 adjudicated delinquent or adjudicated not delinquent by reason of  
21 insanity for acts, which if committed by an adult, would constitute a  
22 crime or offense.

23 (cf: P.L.2003, c.183, s.1)

24

25 2. Section 4 of P.L.1994, c.136 (C.53:1-20.20) is amended to  
26 read as follows:

27 4. a. On or after January 1, 1995 every person convicted of  
28 aggravated sexual assault and sexual assault under N.J.S.2C:14-2 or  
29 aggravated criminal sexual contact and criminal sexual contact  
30 under N.J.S.2C:14-3 or any attempt to commit any of these crimes  
31 and who is sentenced to a term of imprisonment shall have a blood  
32 sample drawn or other biological sample collected for purposes of  
33 DNA testing upon commencement of the period of confinement.

34 In addition, every person convicted on or after January 1, 1995  
35 of these offenses, but who is not sentenced to a term of  
36 confinement, shall provide a DNA sample as a condition of the  
37 sentence imposed. A person who has been convicted and  
38 incarcerated as a result of a conviction of one or more of these  
39 offenses prior to January 1, 1995 shall provide a DNA sample  
40 before parole or release from incarceration.

41 b. On or after January 1, 1998 every juvenile adjudicated  
42 delinquent for an act which, if committed by an adult, would  
43 constitute aggravated sexual assault or sexual assault under  
44 N.J.S.2C:14-2 or aggravated criminal sexual contact or criminal

**EXPLANATION** – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 sexual contact under N.J.S.2C:14-3, or any attempt to commit any  
2 of these crimes, shall have a blood sample drawn or other biological  
3 sample collected for purposes of DNA testing.

4 c. On or after January 1, 1998 every person found not guilty by  
5 reason of insanity of aggravated sexual assault or sexual assault  
6 under N.J.S.2C:14-2 or aggravated criminal sexual contact or  
7 criminal sexual contact under N.J.S.2C:14-3, or any attempt to  
8 commit any of these crimes, or adjudicated not delinquent by reason  
9 of insanity for an act which, if committed by an adult, would  
10 constitute one of these crimes, shall have a blood sample drawn or  
11 other biological sample collected for purposes of DNA testing.

12 d. On or after January 1, 2000 every person convicted of  
13 murder pursuant to N.J.S.2C:11-3, manslaughter pursuant to  
14 N.J.S.2C:11-4, aggravated assault of the second degree pursuant to  
15 paragraph (1) or (6) of subsection b. of N.J.S.2C:12-1, kidnapping  
16 pursuant to N.J.S.2C:13-1, luring or enticing a child in violation of  
17 P.L.1993, c.291 (C.2C:13-6), engaging in sexual conduct which  
18 would impair or debauch the morals of a child pursuant to  
19 N.J.S.2C:24-4, or any attempt to commit any of these crimes and  
20 who is sentenced to a term of imprisonment shall have a blood  
21 sample drawn or other biological sample collected for purposes of  
22 DNA testing upon commencement of the period of confinement.

23 In addition, every person convicted on or after January 1, 2000  
24 of these offenses, but who is not sentenced to a term of  
25 confinement, shall provide a DNA sample as a condition of the  
26 sentence imposed. A person who has been convicted and  
27 incarcerated as a result of a conviction of one or more of these  
28 offenses prior to January 1, 2000 shall provide a DNA sample  
29 before parole or release from incarceration.

30 e. On or after January 1, 2000 every juvenile adjudicated  
31 delinquent for an act which, if committed by an adult, would  
32 constitute murder pursuant to N.J.S.2C:11-3, manslaughter pursuant  
33 to N.J.S.2C:11-4, aggravated assault of the second degree pursuant  
34 to paragraph (1) or (6) of subsection b. of N.J.S.2C:12-1,  
35 kidnapping pursuant to N.J.S.2C:13-1, luring or enticing a child in  
36 violation of P.L.1993, c.291 (C.2C:13-6), engaging in sexual  
37 conduct which would impair or debauch the morals of a child  
38 pursuant to N.J.S.2C:24-4, or any attempt to commit any of these  
39 crimes, shall have a blood sample drawn or other biological sample  
40 collected for purposes of DNA testing.

41 f. On or after January 1, 2000 every person found not guilty by  
42 reason of insanity of murder pursuant to N.J.S.2C:11-3,  
43 manslaughter pursuant to N.J.S.2C:11-4, aggravated assault of the  
44 second degree pursuant to paragraph (1) or (6) of subsection b. of  
45 N.J.S.2C:12-1, kidnapping pursuant to N.J.S.2C:13-1, luring or  
46 enticing a child in violation of P.L.1993, c.291 (C.2C:13-6),  
47 engaging in sexual conduct which would impair or debauch the

1 morals of a child pursuant to N.J.S.2C:24-4, or any attempt to  
2 commit any of these crimes, or adjudicated not delinquent by reason  
3 of insanity for an act which, if committed by an adult, would  
4 constitute one of these crimes, shall have a blood sample drawn or  
5 other biological sample collected for purposes of DNA testing.

6 g. Every person convicted or found not guilty by reason of  
7 insanity of a crime or disorderly persons offense shall have a blood  
8 sample drawn or other biological sample collected for purposes of  
9 DNA testing. If the person is sentenced to a term of imprisonment  
10 or confinement, the person shall have a blood sample drawn or  
11 other biological sample collected for purposes of DNA testing upon  
12 commencement of the period of imprisonment or confinement. If  
13 the person is not sentenced to a term of imprisonment or  
14 confinement, the person shall provide a DNA sample as a condition  
15 of the sentence imposed. A person who has been convicted or  
16 found not guilty by reason of insanity of a crime prior to the  
17 effective date of P.L.2003, c.183 or of a disorderly persons offense  
18 prior to the effective date of P.L. , c. (pending before the  
19 Legislature as this bill) and who, on the effective date, is serving a  
20 sentence of imprisonment, probation, parole or other form of  
21 supervision as a result of the crime or is confined following  
22 acquittal by reason of insanity shall provide a DNA sample before  
23 termination of imprisonment, probation, parole, supervision or  
24 confinement, as the case may be.

25 h. Every juvenile adjudicated delinquent, or adjudicated not  
26 delinquent by reason of insanity, for an act which, if committed by  
27 an adult, would constitute a crime or disorderly persons offense  
28 shall have a blood sample drawn or other biological sample  
29 collected for purposes of DNA testing. If under the order of  
30 disposition the juvenile is sentenced to some form of imprisonment,  
31 detention or confinement, the juvenile shall have a blood sample  
32 drawn or other biological sample collected for purposes of DNA  
33 testing upon commencement of the period of imprisonment,  
34 detention or confinement. If the order of disposition does not  
35 include some form of imprisonment, detention or confinement, the  
36 juvenile shall provide a DNA sample as a condition of the  
37 disposition ordered by the court. A juvenile who, prior to the  
38 effective date of P.L.2003, c.183, has been adjudicated delinquent,  
39 or adjudicated not delinquent by reason of insanity for an act which,  
40 if committed by an adult, would constitute a crime or, prior to the  
41 effective date of P.L. , c. (pending before the Legislature as this  
42 bill), has been adjudicated delinquent, or adjudicated not delinquent  
43 by reason of insanity for an act which, if committed by an adult,  
44 would constitute a disorderly persons offense, and who on the  
45 effective date is under some form of imprisonment, detention,  
46 confinement, probation, parole or any other form of supervision as a  
47 result of the offense or is confined following an adjudication of not  
48 delinquent by reason of insanity shall provide a DNA sample before

1 termination of imprisonment, detention, supervision or  
2 confinement, as the case may be.

3 i. Nothing in this act shall be deemed to limit or preclude  
4 collection of DNA samples as authorized by court order or in  
5 accordance with any other law.

6 (cf: P.L.2003, c.183, s.3)

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8 3. Section 6 of P.L.1994, c.136 (C.53:1-20.22) is amended to  
9 read as follows:

10 6. a. Each blood sample required to be drawn or biological  
11 sample collected pursuant to section 4 of P.L.1994, c.136 (C.53:1-  
12 20.20) from persons who are incarcerated shall be drawn or  
13 collected at the place of incarceration. DNA samples from persons  
14 who are not sentenced to a term of confinement shall be drawn or  
15 collected at a prison or jail unit to be specified by the sentencing  
16 court. DNA samples from persons who are adjudicated delinquent  
17 shall be drawn or collected at a prison or jail identification and  
18 classification bureau specified by the family court.

19 b. Only a correctional health nurse technician, physician,  
20 registered professional nurse, licensed practical nurse, laboratory or  
21 medical technician, phlebotomist or other health care worker with  
22 phlebotomy training shall draw any blood sample to be submitted  
23 for analysis, and only a correctional health nurse technician,  
24 physician, registered professional nurse, licensed practical nurse,  
25 laboratory or medical technician or person who has received  
26 biological sample collection training in accordance with protocols  
27 adopted by the Attorney General, in consultation with the  
28 Department of Corrections, shall collect or supervise the collection  
29 of any other biological sample to be submitted for analysis. No  
30 civil liability shall attach to any person authorized to draw blood or  
31 collect a biological sample by this section as a result of drawing  
32 blood or collecting the sample from any person if the blood was  
33 drawn or sample collected according to recognized medical  
34 procedures. No person shall be relieved from liability for  
35 negligence in the drawing or collecting of any DNA sample. No  
36 sample shall be drawn or collected pursuant to section 4 of  
37 P.L.1994, c.136 (C.53:1-20.20) if the division has previously  
38 received a blood or biological sample from the convicted person or  
39 the juvenile adjudicated delinquent which was adequate for  
40 successful analysis and identification.

41 c. A person or juvenile who refuses to allow a blood sample to  
42 be drawn or a biological sample to be collected is guilty of crime of  
43 the fourth degree.

44 (cf: P.L.2003, c.183, s.5)

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46 4. This act shall take effect on the first day of the 18th month  
47 following enactment, but the Attorney General and the  
48 Superintendent of State Police may take such anticipatory

1 administrative action in advance as shall be necessary for the  
2 implementation of this act.

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STATEMENT

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7 This bill would expand the State's DNA database to also include  
8 DNA samples from persons convicted of disorderly persons  
9 offenses.

10 The "DNA Database and Databank Act of 1994," P.L.1994,  
11 c.136 (C.53:1-20.17 et seq.), was amended by P.L.2003, c.183 to  
12 expand the DNA database to include blood or biological samples  
13 from adults and juveniles found guilty of, adjudicated delinquent  
14 for, or found not guilty by reason of insanity of a crime of the first,  
15 second, third or fourth degree. Prior to this law, the database  
16 contained DNA samples from these persons if they were convicted  
17 of, adjudicated delinquent for or found not guilty by reason of  
18 insanity of certain violent crimes, such as murder, manslaughter and  
19 kidnapping and sex offenses.

20 Under this bill, DNA samples also would be taken from adults  
21 and juveniles convicted of disorderly persons offenses. The sample  
22 would be obtained upon imprisonment or, if the person is not  
23 sentenced to imprisonment, as a condition of the sentence. Persons  
24 imprisoned or on parole or probation for a disorderly persons  
25 offense when the law becomes effective also would have to provide  
26 a sample.

27 The bill also establishes that a person who refuses to submit a  
28 blood or biological sample is guilty of a crime of the fourth degree.  
29 Fourth degree crimes are punishable by a term of imprisonment of  
30 up to 18 months, a fine of up to \$10,000, or both.