

[First Reprint]
ASSEMBLY, No. 353

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblywoman QUIGLEY, Assemblyman FELICE
and Assemblywoman Pou

1 AN ACT concerning DNA testing of certain juveniles and amending
2 P.L.1994, c.136.

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

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

9 2. The Legislature finds and declares that DNA databanks are an
10 important tool in criminal investigations and in deterring and detecting
11 recidivist acts. Several states have enacted laws requiring persons
12 convicted of certain crimes, especially serious sexual offenses, to
13 provide genetic samples for DNA profiling. Moreover, it is the policy
14 of this State to assist federal, state and local criminal justice and law
15 enforcement agencies in the identification and detection of individuals
16 who are the subjects of criminal investigations. It is therefore in the
17 best interest of the State of New Jersey to establish a DNA database
18 and a DNA databank containing blood samples submitted by certain
19 serious sexual offenders. It is also in the best interest of the State of
20 New Jersey to include in this DNA database and DNA databank blood
21 samples submitted by certain juveniles adjudicated delinquent for
22 certain acts, which if committed by an adult, would constitute serious
23 sexual offenses.

24 (cf: P.L.1994, c.136, s.2)

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26 2. Section 3 of P.L.1994, c.136 (C.53:1-20.19) is amended to read
27 as follows:

28 3. As used in this act:

29 "CODIS" means the FBI's national DNA identification index system

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly AJU committee amendments adopted May 1, 1997.

1 that allows the storage and exchange of DNA records submitted by
2 State and local forensic laboratories.

3 "DNA" means deoxyribonucleic acid.

4 "DNA Record" means DNA identification information stored in the
5 State DNA database or CODIS for the purpose of generating
6 investigative leads or supporting statistical interpretation of DNA test
7 results.

8 "DNA Sample" means a blood sample provided by any person
9 convicted of any offense enumerated in section 4 of this act or
10 provided by any juvenile adjudicated delinquent for an act which, if
11 committed by an adult, would constitute any offense enumerated in
12 section 4 of this act or submitted to the division for analysis pursuant
13 to a criminal investigation.

14 "Division" means the Division of State Police in the Department of
15 Law and Public Safety.

16 "FBI" means the Federal Bureau of Investigation.

17 "State DNA Database" means the DNA identification record system
18 to be administered by the division which provides DNA records to the
19 FBI for storage and maintenance in CODIS.

20 "State DNA Databank" means the repository of DNA samples
21 collected under the provisions of this act.

22 (cf: P.L.1994, c.136, s.3)

23

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

26 4. a. On or after January 1, 1995 every person convicted of
27 aggravated sexual assault and sexual assault under N.J.S.2C:14-2 or
28 aggravated criminal sexual contact and criminal sexual contact under
29 N.J.S.2C:14-3 or any attempt to commit any of these crimes and who
30 is sentenced to a term of imprisonment shall have a blood sample
31 drawn for purposes of DNA testing upon commencement of the period
32 of confinement. In addition, every person convicted on or after
33 January 1, 1995 of these offenses, but who is not sentenced to a term
34 of confinement, shall provide a DNA sample as a condition of the
35 sentence imposed. A person who has been convicted and incarcerated
36 as a result of a conviction of one or more of these offenses prior to
37 January 1, 1995 shall have a DNA sample drawn before parole or
38 release from incarceration.

39 b. On or after January 1, ¹[1996] 1998¹ every juvenile adjudicated
40 delinquent for an act which, if committed by an adult, would constitute
41 aggravated sexual assault or sexual assault under N.J.S.2C:14-2 or
42 aggravated criminal sexual contact or criminal sexual contact under
43 N.J.S.2C:14-3, or any attempt to commit any of these crimes, shall
44 have a blood sample drawn for purposes of DNA testing.

45 (cf: P.L.1994, c.136, s.4)

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

3 6. Each DNA sample required to be drawn pursuant section 4 of
4 this act from persons who are incarcerated shall be drawn at the place
5 of incarceration. DNA samples from persons who are not sentenced
6 to a term of confinement shall be drawn at a prison or jail unit to be
7 specified by the sentencing court. DNA samples from persons who are
8 adjudicated delinquent shall be drawn at a juvenile facility to be
9 specified by the family court. Only a correctional health nurse
10 technician, physician, registered professional nurse, licensed practical
11 nurse, laboratory technician, phlebotomist or other health care worker
12 with phlebotomy training shall draw any DNA sample to be submitted
13 for analysis. No civil liability shall attach to any person authorized to
14 draw blood by this section as a result of drawing blood from any
15 person if the blood was drawn according to recognized medical
16 procedures. No person shall be relieved from liability for negligence
17 in the drawing of any DNA sample. No sample shall be drawn if the
18 division has previously received an adequate blood sample from the
19 convicted person or the juvenile adjudicated delinquent.

20 (cf: P.L.1994, c.136, s.6)

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22 ¹5. Section 9 of P.L. 1994, c. 136 (C.53:1-20.25) is amended to
23 read as follows:

24 9. a. (1) Any person whose DNA record or profile has been
25 included in the State DNA database and whose DNA sample is stored
26 in the State DNA databank may apply for expungement on the grounds
27 that the conviction that resulted in the inclusion of the person's DNA
28 record or profile in the State database or the inclusion of the person's
29 DNA sample in the State databank has been reversed and the case
30 dismissed. The person, either individually or through an attorney, may
31 apply to the court for expungement of the record. A copy of the
32 application for expungement shall be served on the prosecutor for the
33 county which the conviction was obtained not less than 20 days prior
34 to the date of the hearing on the application. A certified copy of the
35 order reversing and dismissing the conviction shall be attached to an
36 order expunging the DNA record or profile insofar as its inclusion
37 rests upon that conviction.

38 (2) Any juvenile adjudicated delinquent whose DNA record or
39 profile has been included in the State DNA database and whose DNA
40 sample is stored in the State DNA databank may apply for
41 expungement on the grounds that the adjudication that resulted in the
42 inclusion of the juvenile's DNA record or profile in the State database
43 or the inclusion of the juvenile's DNA sample in the State databank has
44 been reversed and the case dismissed. The juvenile adjudicated
45 delinquent, either individually or through an attorney, may apply to the
46 court for expungement of the record. A copy of the application for

1 expungement shall be served on the prosecutor for the county which
2 the conviction was obtained not less than 20 days prior to the date of
3 the hearing on the application. A certified copy of the order reversing
4 and dismissing the adjudication shall be attached to an order
5 expunging the DNA record or profile insofar as its inclusion rests upon
6 that conviction.

7 b. Upon receipt of an order of expungement and unless otherwise
8 provided , the division shall purge the DNA record and all other
9 identifiable information from the State database and the DNA sample
10 stored in the State databank covered by the order. If the entry in the
11 database reflects more than one conviction or adjudication, that entry
12 shall not be expunged unless and until the person or the juvenile
13 adjudicated delinquent has obtained an order of expungement for each
14 conviction or adjudication on the grounds contained in subsection a. of
15 this section. If one of the bases for inclusion in the DNA database was
16 other than conviction or adjudication, that entry shall not be subject to
17 expungement.¹

18 (cf: P.L.1994,c.136,s.9)

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20 ¹[5.] 6.¹ This act shall take effect immediately.

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25 Includes certain juveniles adjudicated delinquent within provisions of
26 P.L.1994, c.136 providing for taking of DNA samples.