

P.L. 1997, CHAPTER 341, *approved January 12, 1998*
Assembly, No. 353 (*Second Reprint*)

1 AN ACT concerning DNA testing of certain ²[juveniles] persons² and
2 amending P.L.1994, c.136.

3

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

6

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 offenses² and blood samples submitted by certain persons found
24 not guilty by reason of insanity, or adjudicated not delinquent by
25 reason of insanity, of certain serious sexual offenses².

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

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

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.

² Senate SJU committee amendments adopted November 17, 1997.

1 3. As used in this act:

2 "CODIS" means the FBI's national DNA identification index system
3 that allows the storage and exchange of DNA records submitted by
4 State and local forensic laboratories.

5 "DNA" means deoxyribonucleic acid.

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

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

16 "Division" means the Division of State Police in the Department of
17 Law and Public Safety.

18 "FBI" means the Federal Bureau of Investigation.

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

22 "State DNA Databank" means the repository of DNA samples
23 collected under the provisions of this act.

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

25

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

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

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

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

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

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

12 6. Each DNA sample required to be drawn pursuant section 4 of
13 this act from persons who are incarcerated shall be drawn at the place
14 of incarceration. DNA samples from persons who are not sentenced
15 to a term of confinement shall be drawn at a prison or jail unit to be
16 specified by the sentencing court. DNA samples from persons who are
17 adjudicated delinquent shall be drawn at a ²[juvenile facility to be]
18 prison or jail identification and classification bureau² specified by the
19 family court. Only a correctional health nurse technician, physician,
20 registered professional nurse, licensed practical nurse, laboratory
21 technician, phlebotomist or other health care worker with phlebotomy
22 training shall draw any DNA sample to be submitted for analysis. No
23 civil liability shall attach to any person authorized to draw blood by
24 this section as a result of drawing blood from any person if the blood
25 was drawn according to recognized medical procedures. No person
26 shall be relieved from liability for negligence in the drawing of any
27 DNA sample. No sample shall be drawn if the division has previously
28 received an adequate blood sample from the convicted person or the
29 juvenile adjudicated delinquent.

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

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

34 9. a. (1) Any person whose DNA record or profile has been
35 included in the State DNA database and whose DNA sample is stored
36 in the State DNA databank may apply for expungement on the grounds
37 that the conviction that resulted in the inclusion of the person's DNA
38 record or profile in the State database or the inclusion of the person's
39 DNA sample in the State databank has been reversed and the case
40 dismissed. The person, either individually or through an attorney, may
41 apply to the court for expungement of the record. A copy of the
42 application for expungement shall be served on the prosecutor for the
43 county ²in² which the conviction was obtained not less than 20 days
44 prior to the date of the hearing on the application. A certified copy of
45 the order reversing and dismissing the conviction shall be attached to
46 an order expunging the DNA record or profile insofar as its inclusion

1 rests upon that conviction.

2 (2) Any juvenile adjudicated delinquent whose DNA record or
3 profile has been included in the State DNA database and whose DNA
4 sample is stored in the State DNA databank may apply for
5 expungement on the grounds that the adjudication that resulted in the
6 inclusion of the juvenile's DNA record or profile in the State database
7 or the inclusion of the juvenile's DNA sample in the State databank has
8 been reversed and the case dismissed. The juvenile adjudicated
9 delinquent, either individually or through an attorney, may apply to the
10 court for expungement of the record. A copy of the application for
11 expungement shall be served on the prosecutor for the county ²in²
12 which the conviction was obtained not less than 20 days prior to the
13 date of the hearing on the application. A certified copy of the order
14 reversing and dismissing the adjudication shall be attached to an order
15 expunging the DNA record or profile insofar as its inclusion rests upon
16 that conviction.

17 ²(3) Any person found not guilty by reason of insanity, or
18 adjudicated not delinquent by reason of insanity, whose DNA record
19 or profile has been included in the State DNA database and whose
20 DNA sample is stored in the State DNA databank may apply for
21 expungement on the grounds that the judgment that resulted in the
22 inclusion of the person's DNA record or profile in the State database
23 or the inclusion of the person's DNA sample in the State databank has
24 been reversed and the case dismissed. The person, either individually
25 or through an attorney, may apply to the court for expungement of the
26 record. A copy of the application of expungement shall be served on
27 the prosecutor for the county in which the judgment was obtained not
28 less than 20 days prior to the date of the hearing on the application.
29 A certified copy of the order reversing and dismissing the judgment
30 shall be attached to an order expunging the DNA record or profile
31 insofar as its inclusion rests upon that conviction.²

32 b. Upon receipt of an order of expungement and unless otherwise
33 provided , the division shall purge the DNA record and all other
34 identifiable information from the State database and the DNA sample
35 stored in the State databank covered by the order. If the entry in the
36 database reflects more than one conviction or adjudication, that entry
37 shall not be expunged unless and until the person or the juvenile
38 adjudicated delinquent has obtained an order of expungement for each
39 conviction or ²[adjudication] adjudication² on the grounds contained in
40 subsection a. of this section. If one of the bases for inclusion in the
41 DNA database was other than conviction or adjudication, that entry
42 shall not be subject to expungement.¹

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

44

45 ¹[5.] 6.¹ This act shall take effect immediately.

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2

3 Expands provisions of P.L.1994, c.136 providing for taking of DNA
4 samples in certain cases.