

SENATE, No. 2175

STATE OF NEW JERSEY

INTRODUCED JUNE 12, 1997

By Senators SACCO and SCOTT

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

32 "DNA" means deoxyribonucleic acid.

33 "DNA Record" means DNA identification information stored in the  
34 State DNA database or CODIS for the purpose of generating

**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.**

1 investigative leads or supporting statistical interpretation of DNA test  
2 results.

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

9 "Division" means the Division of State Police in the Department of  
10 Law and Public Safety.

11 "FBI" means the Federal Bureau of Investigation.

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

15 "State DNA Databank" means the repository of DNA samples  
16 collected under the provisions of this act.

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

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

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

34 b. On or after January 1, 1998 every juvenile adjudicated  
35 delinquent for an act which, if committed by an adult, would constitute  
36 aggravated sexual assault or sexual assault under N.J.S.2C:14-2 or  
37 aggravated criminal sexual contact or criminal sexual contact under  
38 N.J.S.2C:14-3, or any attempt to commit any of these crimes, shall  
39 have a blood sample drawn for purposes of DNA testing.

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

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

44 6. Each DNA sample required to be drawn pursuant section 4 of  
45 this act from persons who are incarcerated shall be drawn at the place  
46 of incarceration. DNA samples from persons who are not sentenced

1 to a term of confinement shall be drawn at a prison or jail unit to be  
2 specified by the sentencing court. DNA samples from persons who are  
3 adjudicated delinquent shall be drawn at a juvenile facility to be  
4 specified by the family court. Only a correctional health nurse  
5 technician, physician, registered professional nurse, licensed practical  
6 nurse, laboratory technician, phlebotomist or other health care worker  
7 with phlebotomy training shall draw any DNA sample to be submitted  
8 for analysis. No civil liability shall attach to any person authorized to  
9 draw blood by this section as a result of drawing blood from any  
10 person if the blood was drawn according to recognized medical  
11 procedures. No person shall be relieved from liability for negligence  
12 in the drawing of any DNA sample. No sample shall be drawn if the  
13 division has previously received an adequate blood sample from the  
14 convicted person or the juvenile adjudicated delinquent.

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

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

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

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

1 that conviction.

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

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

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15 6. This act shall take effect immediately.

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#### 18 STATEMENT

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20 This bill amends the provisions of P.L.1994, c.136, N.J.S.53:1-  
21 20.18 et seq., to include certain juveniles within the provisions. The  
22 bill provides authority for the taking of DNA samples from certain  
23 juveniles adjudicated delinquent for acts, which if committed by an  
24 adult, constitute aggravated sexual assault or sexual assault under  
25 N.J.S.2C:14-2 or aggravated criminal sexual contact or criminal sexual  
26 contact under N.J.S.2C:14-3 or any attempt to commit any of these  
27 crimes. The bill provides that the family court shall specify where the  
28 sample shall be drawn.

29 The bill would also clarify that any juvenile adjudicated delinquent  
30 whose sample is stored in the State database may apply for  
31 expungement on the ground that the adjudication that resulted in the  
32 inclusion of the juvenile's DNA record in the State's database has been  
33 reversed and the case has been dismissed. This provision parallels  
34 what is provided currently for adult convictions.

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