

[First Reprint]  
SENATE, No. 2175

STATE OF NEW JERSEY

INTRODUCED JUNE 12, 1997

By Senators SACCO and SCOTT

1 AN ACT concerning DNA testing of certain<sup>1</sup>[juveniles] persons<sup>1</sup> 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:

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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<sup>1</sup>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 offenses<sup>1</sup>.

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

27

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

30 3. As used in this act:

31 "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:

<sup>1</sup> Senate SJU committee amendments adopted November 17, 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, 1998 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 <sup>1</sup>c. On or after January 1, 1998 every person found not guilty by  
46 reason of insanity of aggravated sexual assault or sexual assault under

1 N.J.S.2C:14-2 or aggravated criminal sexual contact or criminal sexual  
2 contact under N.J.S.2C:14-3, or any attempt to commit any of these  
3 crimes, or adjudicated not delinquent by reason of insanity for an act  
4 which, if committed by an adult, would constitute one of these crimes,  
5 shall have a blood sample drawn for purposes of DNA testing.<sup>1</sup>

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

7  
8 4. Section 6 of P.L.1994, c.136 (C.53:1-20.22) is amended to read  
9 as follows:

10 6. Each DNA sample required to be drawn pursuant section 4 of  
11 this act from persons who are incarcerated shall be drawn at the place  
12 of incarceration. DNA samples from persons who are not sentenced  
13 to a term of confinement shall be drawn at a prison or jail unit to be  
14 specified by the sentencing court. DNA samples from persons who are  
15 adjudicated delinquent shall be drawn at a<sup>1</sup>[juvenile facility to be]  
16 prison or jail identification and classification bureau<sup>1</sup> specified by the  
17 family court. Only a correctional health nurse technician, physician,  
18 registered professional nurse, licensed practical nurse, laboratory  
19 technician, phlebotomist or other health care worker with phlebotomy  
20 training shall draw any DNA sample to be submitted for analysis. No  
21 civil liability shall attach to any person authorized to draw blood by  
22 this section as a result of drawing blood from any person if the blood  
23 was drawn according to recognized medical procedures. No person  
24 shall be relieved from liability for negligence in the drawing of any  
25 DNA sample. No sample shall be drawn if the division has previously  
26 received an adequate blood sample from the convicted person or the  
27 juvenile adjudicated delinquent.

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

29  
30 5. Section 9 of P.L.1994, c.136 (C.53:1-20.25) is amended to read  
31 as follows:

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

46 (2) Any juvenile adjudicated delinquent whose DNA record or

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

15 <sup>1</sup>(3) Any person found not guilty by reason of insanity, or  
16 adjudicated not delinquent by reason of insanity, whose DNA record  
17 or profile has been included in the State DNA database and whose  
18 DNA sample is stored in the State DNA databank may apply for  
19 expungement on the grounds that the judgment that resulted in the  
20 inclusion of the person's DNA record or profile in the State database  
21 or the inclusion of the person's DNA sample in the State databank has  
22 been reversed and the case dismissed. The person, either individually  
23 or through an attorney, may apply to the court for expungement of the  
24 record. A copy of the application of expungement shall be served on  
25 the prosecutor for the county in which the judgment was obtained not  
26 less than 20 days prior to the date of the hearing on the application.  
27 A certified copy of the order reversing and dismissing the judgment  
28 shall be attached to an order expunging the DNA record or profile  
29 insofar as its inclusion rests upon that conviction.<sup>1</sup>

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

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

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43 6. This act shall take effect immediately.

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3 Expands provisions of P.L.1994, c.136 providing for taking of DNA

4 samples in certain cases.