

OFFICE OF LEGISLATIVE RESEARCH
PUBLIC ACT SUMMARY



PA 11-207—HB 6489
Judiciary Committee
Appropriations Committee

AN ACT REQUIRING DNA TESTING OF PERSONS ARRESTED FOR THE COMMISSION OF A SERIOUS FELONY

SUMMARY: Beginning October 1, 2011, this act requires people arrested for any of 39 serious felony offenses to provide a DNA sample before they are released from custody if the arrestee was previously convicted of a felony and has not already provided a DNA sample. The law enforcement agency that makes the arrest sets the time and place for collecting, and collects, the sample if it has the resources to do so. The Department of Public Safety’s (DPS) Division of Scientific Services must analyze the samples as available resources allow.

The act eliminates the requirement for (1) convicted felons and (2) offenders convicted or found not guilty by reason of mental disease or defect of sex offenses that generally require registration with DPS to provide a sample before they are released from custody or commitment or are sentenced without confinement, as applicable, if they provided a sample at the time of their arrest.

The act expands the circumstances under which the Division of Scientific Services must expunge a DNA profile from the DNA data bank and the State Police forensic laboratory must purge all record of it. It eliminates the requirement for offenders to request the expungement or purging.

Lastly, the act makes technical changes.
EFFECTIVE DATE: October 1, 2011

PROVIDING DNA SAMPLES

Upon Arrest

The act requires people arrested for selected felony offenses to provide a DNA sample before they are released from custody if the arrestee was previously convicted of any felony and has not previously provided a sample. Table 1 lists these felonies.

Table 1: Felonies Requiring DNA Testing Upon Arrest under the Act

Murder	Capital Felony	Felony Murder	Arson Murder
First- and Second-Degree Manslaughter	First- and Second-Degree Manslaughter with a Firearm	Second-Degree Manslaughter with a Motor Vehicle	Misconduct with a Motor Vehicle
First- and Second-Degree Assault	First- and Second-Degree Assault of Elderly, Disabled,	Second-Degree Assault with a Firearm	Second-Degree Assault of Elderly,

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	or Pregnant Person		Disabled, or Pregnant Person with a Firearm
First-Degree Sexual Assault	Aggravated First-Degree Sexual Assault	Spousal Rape	Third-Degree Sexual Assault with a Firearm
First- and Second-Degree Kidnapping	First- and Second-Degree Kidnapping with a Firearm	First-Degree Unlawful Restraint	Home Invasion
First- and Second-Degree Burglary	Second- and Third-Degree Burglary with a Firearm	First- and Second-Degree Arson	First-, Second-, and Third-Degree Robbery
Assault of Public Safety, Emergency Medical, or Public Transit Personnel	Prison Rioting	Inciting Prison Rioting	First-Degree Stalking

After Sentencing

Under prior law, convicted felons, convicted sex offenders required to register with DPS, and offenders found not guilty of such sex offenses by reason of mental disease or defect had to provide a DNA sample before they were released from prison or confinement or sentenced if their sentence did not include incarceration, as applicable. The act limits this requirement to those offenders who did not provide a sample at the time of their arrest.

By law, offenders convicted of a criminal offense against a minor, nonviolent sexual offense, or sexually violent offense must register as a sex offender with DPS.

DESTROYING DNA SAMPLES

The act expands the circumstances under which the Division of Scientific Services must expunge a DNA profile from the DNA data bank and requires the division to complete the expungement when the circumstances are present, rather than upon the offender’s request. If a court (1) reverses the criminal conviction or finding of not guilty by reason of mental disease or defect that constituted grounds for collecting the sample or (2) or acquits an arrestee who has submitted a sample the act requires the division to expunge its records.

Likewise, the act requires the State Police Forensic Laboratory to purge all records and identifiable information and destroy all samples submitted and included in its data bank upon receipt of a certified copy of a court order acquitting an accused of the charge against him or her or dismissing or nolling the charge that formed the basis for inclusion in the data bank. By law, the laboratory must purge records upon receipt of a certified copy of a court order reversing and dismissing the conviction or commitment.

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BACKGROUND

Related Act

PA 11-144 (1) allows the Department of Correction commissioner to use reasonable force to collect DNA samples, (2) requires people who must provide a sample to submit a second sample if the first one is not of sufficient quality, and (3) amends the law on disseminating information from the DNA data bank.

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