

CHAPTER 183

AN ACT concerning DNA testing, amending and supplementing P.L.1994, c.136 and amending R.S.39:5-41.

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

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

C.53:1-20.18 Findings, declarations regarding DNA databanks.

2. The Legislature finds and declares that DNA databanks are an important tool in criminal investigations and in deterring and detecting recidivist acts. It is the policy of this State to assist federal, state and local criminal justice and law enforcement agencies in the identification and detection of individuals who are the subjects of criminal investigations. It is therefore in the best interest of the State of New Jersey to establish a DNA database and a DNA databank containing blood or other biological samples submitted by every person convicted or found not guilty by reason of insanity of a crime. It is also in the best interest of the State of New Jersey to include in this DNA database and DNA databank blood or other biological samples submitted by juveniles adjudicated delinquent or adjudicated not delinquent by reason of insanity for acts, which if committed by an adult, would constitute a crime.

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

C.53:1-20.19 Definitions regarding DNA databanks.

3. As used in this act:

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

"DNA" means deoxyribonucleic acid.

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

"DNA Sample" means a blood or other biological sample provided by any person convicted of any offense enumerated in section 4 of P.L.1994, c.136 (C.53:1-20.20) or provided by any juvenile adjudicated delinquent for an act which, if committed by an adult, would constitute any offense enumerated in section 4 of P.L.1994, c.136 (C.53:1-20.20) or submitted to the division for analysis pursuant to a criminal investigation.

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

"FBI" means the Federal Bureau of Investigation.

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

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

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

C.53:1-20.20 DNA samples required; conditions.

4. a. On or after January 1, 1995 every person convicted of aggravated sexual assault and sexual assault under N.J.S.2C:14-2 or aggravated criminal sexual contact and criminal sexual contact under N.J.S.2C:14-3 or any attempt to commit any of these crimes and who is sentenced to a term of imprisonment shall have a blood sample drawn or other biological sample collected for purposes of DNA testing upon commencement of the period of confinement.

In addition, every person convicted on or after January 1, 1995 of these offenses, but who is not sentenced to a term of confinement, shall provide a DNA sample as a condition of the sentence imposed. A person who has been convicted and incarcerated as a result of a conviction of one or more of these offenses prior to January 1, 1995 shall provide a DNA sample before parole or release from incarceration.

b. On or after January 1, 1998 every juvenile adjudicated delinquent for an act which, if committed by an adult, would constitute aggravated sexual assault or sexual assault under N.J.S.2C:14-2 or aggravated criminal sexual contact or criminal sexual contact under

N.J.S.2C:14-3, or any attempt to commit any of these crimes, shall have a blood sample drawn or other biological sample collected for purposes of DNA testing.

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

d. On or after January 1, 2000 every person convicted of murder pursuant to N.J.S.2C:11-3, manslaughter pursuant to N.J.S.2C:11-4, aggravated assault of the second degree pursuant to paragraph (1) or (6) of subsection b. of N.J.S.2C:12-1, kidnapping pursuant to N.J.S.2C:13-1, luring or enticing a child in violation of P.L.1993, c.291 (C.2C:13-6), engaging in sexual conduct which would impair or debauch the morals of a child pursuant to N.J.S.2C:24-4, or any attempt to commit any of these crimes and who is sentenced to a term of imprisonment shall have a blood sample drawn or other biological sample collected for purposes of DNA testing upon commencement of the period of confinement.

In addition, every person convicted on or after January 1, 2000 of these offenses, but who is not sentenced to a term of confinement, shall provide a DNA sample as a condition of the sentence imposed. A person who has been convicted and incarcerated as a result of a conviction of one or more of these offenses prior to January 1, 2000 shall provide a DNA sample before parole or release from incarceration.

e. On or after January 1, 2000 every juvenile adjudicated delinquent for an act which, if committed by an adult, would constitute murder pursuant to N.J.S.2C:11-3, manslaughter pursuant to N.J.S.2C:11-4, aggravated assault of the second degree pursuant to paragraph (1) or (6) of subsection b. of N.J.S.2C:12-1, kidnapping pursuant to N.J.S.2C:13-1, luring or enticing a child in violation of P.L.1993, c.291 (C.2C:13-6), engaging in sexual conduct which would impair or debauch the morals of a child pursuant to N.J.S.2C:24-4, or any attempt to commit any of these crimes, shall have a blood sample drawn or other biological sample collected for purposes of DNA testing.

f. On or after January 1, 2000 every person found not guilty by reason of insanity of murder pursuant to N.J.S.2C:11-3, manslaughter pursuant to N.J.S.2C:11-4, aggravated assault of the second degree pursuant to paragraph (1) or (6) of subsection b. of N.J.S.2C:12-1, kidnapping pursuant to N.J.S.2C:13-1, luring or enticing a child in violation of P.L.1993, c.291 (C.2C:13-6), engaging in sexual conduct which would impair or debauch the morals of a child pursuant to N.J.S.2C:24-4, or any attempt to commit any of these crimes, or adjudicated not delinquent by reason of insanity for an act which, if committed by an adult, would constitute one of these crimes, shall have a blood sample drawn or other biological sample collected for purposes of DNA testing.

g. Every person convicted or found not guilty by reason of insanity of a crime shall have a blood sample drawn or other biological sample collected for purposes of DNA testing. If the person is sentenced to a term of imprisonment or confinement, the person shall have a blood sample drawn or other biological sample collected for purposes of DNA testing upon commencement of the period of imprisonment or confinement. If the person is not sentenced to a term of imprisonment or confinement, the person shall provide a DNA sample as a condition of the sentence imposed. A person who has been convicted or found not guilty by reason of insanity of a crime prior to the effective date of P.L.2003, c.183 and who, on the effective date, is serving a sentence of imprisonment, probation, parole or other form of supervision as a result of the crime or is confined following acquittal by reason of insanity shall provide a DNA sample before termination of imprisonment, probation, parole, supervision or confinement, as the case may be.

h. Every juvenile adjudicated delinquent, or adjudicated not delinquent by reason of insanity, for an act which, if committed by an adult, would constitute a crime shall have a blood sample drawn or other biological sample collected for purposes of DNA testing. If under the order of disposition the juvenile is sentenced to some form of imprisonment, detention or confinement, the juvenile shall have a blood sample drawn or other biological sample collected for purposes

of DNA testing upon commencement of the period of imprisonment, detention or confinement. If the order of disposition does not include some form of imprisonment, detention or confinement, the juvenile shall provide a DNA sample as a condition of the disposition ordered by the court. A juvenile who, prior to the effective date of P.L.2003, c.183, has been adjudicated delinquent, or adjudicated not delinquent by reason of insanity for an act which, if committed by an adult, would constitute a crime and who on the effective date is under some form of imprisonment, detention, confinement, probation, parole or any other form of supervision as a result of the offense or is confined following an adjudication of not delinquent by reason of insanity shall provide a DNA sample before termination of imprisonment, detention, supervision or confinement, as the case may be.

i. Nothing in this act shall be deemed to limit or preclude collection of DNA samples as authorized by court order or in accordance with any other law.

4. Section 5 of P.L.1994, c.136 (C.53:1-20.21) is amended to read as follows:

C.53:1-20.21 Purposes of DNA samples.

5. Tests shall be performed on each blood or other biological sample submitted pursuant to section 4 of P.L.1994, c.136 (C.53:1-20.20) in order to analyze and type the genetic markers contained in or derived from the DNA. Except insofar as the use of the results of these tests for such purposes would jeopardize or result in the loss of federal funding, the results of these tests shall be used for the following purposes:

- a. For law enforcement identification purposes;
- b. For development of a population database;
- c. To support identification research and protocol development of forensic DNA analysis methods;
- d. To assist in the recovery or identification of human remains from mass disasters or for other humanitarian purposes;
- e. For research, administrative and quality control purposes;
- f. For judicial proceedings, by order of the court, if otherwise admissible pursuant to applicable statutes or rules;
- g. For criminal defense purposes, on behalf of a defendant, who shall have access to relevant samples and analyses performed in connection with the case in which the defendant is charged; and
- h. For such other purposes as may be required under federal law as a condition for obtaining federal funding.

The DNA record of identification characteristics resulting from the DNA testing conducted pursuant to this section shall be stored and maintained in the State DNA database and forwarded to the FBI for inclusion in CODIS. The DNA sample itself will be stored and maintained in the State DNA databank.

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

C.53:1-20.22 Drawing of DNA samples; conditions.

6. Each blood sample required to be drawn or biological sample collected pursuant to section 4 of P.L.1994, c.136 (C.53:1-20.20) from persons who are incarcerated shall be drawn or collected at the place of incarceration. DNA samples from persons who are not sentenced to a term of confinement shall be drawn or collected at a prison or jail unit to be specified by the sentencing court. DNA samples from persons who are adjudicated delinquent shall be drawn or collected at a prison or jail identification and classification bureau specified by the family court. Only a correctional health nurse technician, physician, registered professional nurse, licensed practical nurse, laboratory or medical technician, phlebotomist or other health care worker with phlebotomy training shall draw any blood sample to be submitted for analysis, and only a correctional health nurse technician, physician, registered professional nurse, licensed practical nurse, laboratory or medical technician or person who has received biological sample collection training in accordance with protocols adopted by the Attorney General, in consultation with the

Department of Corrections, shall collect or supervise the collection of any other biological sample to be submitted for analysis. No civil liability shall attach to any person authorized to draw blood or collect a biological sample by this section as a result of drawing blood or collecting the sample from any person if the blood was drawn or sample collected according to recognized medical procedures. No person shall be relieved from liability for negligence in the drawing or collecting of any DNA sample. No sample shall be drawn or collected pursuant to section 4 of P.L.1994, c.136 (C.53:1-20.20) if the division has previously received a blood or biological sample from the convicted person or the juvenile adjudicated delinquent which was adequate for successful analysis and identification.

6. R.S.39:5-41 is amended to read as follows:

Fines, penalties; forfeitures, disposition of; exceptions.

39:5-41. a. All fines, penalties and forfeitures imposed and collected under authority of law for any violations of R.S.39:4-63 and R.S.39:4-64 shall be forwarded by the judge to whom the same have been paid to the proper financial officer of a county, if the violation occurred within the jurisdiction of that county's central municipal court, established pursuant to N.J.S.2B:12-1 et seq. or the municipality wherein the violation occurred, to be used by the county or municipality to help finance litter control activities in addition to or supplementing existing litter pickup and removal activities in the municipality.

b. Except as otherwise provided by subsection a. of this section, all fines, penalties and forfeitures imposed and collected under authority of law for any violations of the provisions of this Title, other than those violations in which the complaining witness is the director, a member of his staff, a member of the State Police, a member of a county police department and force or a county park police system in a county that has established a central municipal court, an inspector of the Board of Public Utilities, or a law enforcement officer of any other State agency, shall be forwarded by the judge to whom the same have been paid as follows: one-half of the total amount collected to the financial officer, as designated by the local governing body, of the respective municipalities wherein the violations occurred, to be used by the municipality for general municipal use and to defray the cost of operating the municipal court; and one-half of the total amount collected to the proper financial officer of the county wherein they were collected, to be used by the county as a fund for the construction, reconstruction, maintenance and repair of roads and bridges, snow removal, the acquisition and purchase of rights-of-way, and the purchase, replacement and repair of equipment for use on said roads and bridges therein. Up to 25% of the money received by a municipality pursuant to this subsection, but not more than the actual amount budgeted for the municipal court, whichever is less, may be used to upgrade case processing.

All fines, penalties and forfeitures imposed and collected under authority of law for any violations of the provisions of this Title, in which the complaining witness is a member of a county police department and force or a county park police system in a county that has established a central municipal court, shall be forwarded by the judge to whom the same have been paid to the financial officer, designated by the governing body of the county, for all violations occurring within the jurisdiction of that court, to be used for general county use and to defray the cost of operating the central municipal court.

Whenever any county has deposited moneys collected pursuant to this section in a special trust fund in lieu of expending the same for the purposes authorized by this section, it may withdraw from said special trust fund in any year an amount which is not in excess of the amount expended by the county over the immediately preceding three-year period from general county revenues for said purposes. Such moneys withdrawn from the trust fund shall be accounted for and used as are other general county revenues.

c. (Deleted by amendment, P.L.1993, c.293.)

d. Notwithstanding the provisions of subsections a. and b. of this section, \$1 shall be added to the amount of each fine and penalty imposed and collected under authority of any law for any violation of the provisions of Title 39 of the Revised Statutes or any other motor vehicle or traffic violation in this State and shall be forwarded by the person to whom the same are paid to

the State Treasurer. In addition, upon the forfeiture of bail, \$1 of that forfeiture shall be forwarded to the State Treasurer. The State Treasurer shall annually deposit those moneys so forwarded in the "Body Armor Replacement" fund established pursuant to section 1 of P.L.1997, c.177 (C.52:17B-4.4). Beginning in the fiscal year next following the effective date of this act, the State Treasurer annually shall allocate from those moneys so forwarded an amount not to exceed \$400,000 to the Department of Personnel to be expended exclusively for the purposes of funding the operation of the "Law Enforcement Officer Crisis Intervention Services" telephone hotline established and maintained under the provisions of P.L.1998, c.149 (C.11A:2-25 et al.).

e. Notwithstanding the provisions of subsections a. and b. of this section, \$1 shall be added to the amount of each fine and penalty imposed and collected through a court under authority of any law for any violation of the provisions of Title 39 of the Revised Statutes or any other motor vehicle or traffic violation in this State and shall be forwarded by the person to whom the same are paid to the State Treasurer. The State Treasurer shall annually deposit those moneys so forwarded in the "New Jersey Spinal Cord Research Fund" established pursuant to section 9 of P.L.1999, c.201 (C.52:9E-9). In order to comply with the provisions of Article VIII, Section II, paragraph 5 of the State Constitution, a municipal or county agency which forwards moneys to the State Treasurer pursuant to this subsection may retain an amount equal to 2% of the moneys which it collects pursuant to this subsection as compensation for its administrative costs associated with implementing the provisions of this subsection.

f. Notwithstanding the provisions of subsections a. and b. of this section, during the period beginning on the effective date of this act and ending five years thereafter, \$1 shall be added to the amount of each fine and penalty imposed and collected through a court under authority of any law for any violation of the provisions of Title 39 of the Revised Statutes or any other motor vehicle or traffic violation in this State and shall be forwarded by the person to whom the same are paid to the State Treasurer. The State Treasurer shall annually deposit those moneys so forwarded in the "Autism Medical Research and Treatment Fund" established pursuant to section 1 of P.L.2003, c.144 (C.30:6D-62.2).

g. Notwithstanding the provisions of subsection a. and b. of this section, \$2 shall be added to the amount of each fine and penalty imposed and collected by a court under authority of any law for any violation of the provisions of Title 39 of the Revised Statutes or any other motor vehicle or traffic violation in this State and shall be forwarded by the person to whom the same are paid to the State Treasurer. The State Treasurer shall annually deposit those moneys so forwarded in the "New Jersey Forensic DNA Laboratory Fund" established pursuant to P.L.2003, c.183. Prior to depositing the moneys into the fund, the State Treasurer shall forward to the Administrative Office of the Courts an amount not to exceed \$475,000 from moneys initially collected pursuant to this subsection to be used exclusively to establish a collection mechanism and to provide funding to update the Automated Traffic System Fund created pursuant to N.J.S.2B:12-30 to implement the provisions of this subsection.

The authority to impose additional fines and penalties under this subsection shall take effect 90 days after the effective date of P.L.2003, c.183 and shall expire five years thereafter. Not later than the 180th day prior to such expiration, the Attorney General shall prepare and submit to the Governor and the Legislature a report on the collection and use of DNA samples under P.L.1994, c.136. The report shall cover the period beginning on that effective date and ending four years thereafter. The report shall indicate separately, for each one-year period during those four years that begins on that effective date or an anniversary thereof, the number of each type of biological sample taken and the total cost of taking that type of sample, and also the number of identifications and exonerations achieved through the use of the samples. In addition, the report shall evaluate the effectiveness, including cost effectiveness, of having the samples available to further police investigations and other forensic purposes.

C.53:1-20.28a "New Jersey Forensic DNA Laboratory Fund."

7. a. There is created in the Division of State Police in the Department of Law and Public Safety a separate special account to be known as the "New Jersey Forensic DNA Laboratory Fund." All moneys paid to the Division of State Police pursuant to subsection g. of R.S.39:5-41

shall be deposited in the fund.

b. Moneys in the "New Jersey Forensic DNA Laboratory Fund" shall be used for the expenses of DNA laboratories, criminalistics and other forensic applications.

8. This act shall take effect immediately.

Approved September 22, 2003.