

# 53:1-20.18

## LEGISLATIVE HISTORY CHECKLIST

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**LAWS OF:** 2003               **CHAPTER:** 183

**NJSA:** 53:1-20.18       (DNA samples – convicted criminals)

**BILL NO:** A2617           (Substituted for S2066)

**SPONSOR(S):** Johnson and Conaway

**DATE INTRODUCED:** June 28, 2002

**COMMITTEE:**           **ASSEMBLY:** Law and Public Safety; Appropriations

**SENATE:** Budget and Appropriations

**AMENDED DURING PASSAGE:** Yes

**DATE OF PASSAGE:**       **ASSEMBLY:** June 12, 2003

**SENATE:** June 23, 2003

**DATE OF APPROVAL:** September 22, 2003

**FOLLOWING ARE ATTACHED IF AVAILABLE:**

[FINAL TEXT OF BILL](#) (4<sup>th</sup> reprint enacted)

### A2617

[SPONSOR'S STATEMENT:](#) (Begins on page 7 of original bill) [Yes](#)

**COMMITTEE STATEMENT:**                       **ASSEMBLY:** Yes [2-3-2003 \(Approp\)](#)  
[12-9-2002 \(L&PS\)](#)

**SENATE:** [Yes](#)

[FLOOR AMENDMENT STATEMENT:](#) [Yes](#)

[LEGISLATIVE FISCAL NOTE:](#) [Yes](#)

### S2066

[SPONSOR'S STATEMENT:](#) (Begins on 7 of original bill) [Yes](#)

**COMMITTEE STATEMENT:**                       **ASSEMBLY:** No

**SENATE:** Yes [11/25/02 \(L&PS\)](#)  
[5/15/03 \(Budget\)](#)

**FLOOR AMENDMENT STATEMENT:** No

**LEGISLATIVE FISCAL ESTIMATE:** No

**VETO MESSAGE:** No

**GOVERNOR'S PRESS RELEASE ON SIGNING:** No

**FOLLOWING WERE PRINTED:**

To check for circulating copies, contact New Jersey State Government Publications at the State Library (609) 278-2640 ext. 103 or <mailto:refdesk@njstatelib.org>.

**REPORTS:**

No

**HEARINGS:**

No

**NEWSPAPER ARTICLES:**

Yes

"Police lab to get convicts' DNA," 9-23-2003 Asbury Park Press, p.A11

"Convicts DNA to be stored," 9-23-2003 Asbury Park Press, p.A1

"Tickets to fund DNA sampling," 9-23-2003 Home News Tribune, pA3

"Banking on forensics," 9-23-2003 The Record, pA3

"Governor enacts law that will force DNA sampling," 9-23-2003 The Times, A8

"McGreevey signs DNA sampling bill into law," 9-23-2003 Courier-News pA1

P.L. 2003, CHAPTER 183, *approved September 22, 2003*  
Assembly, No. 2617 (*Fourth Reprint*)

1 AN ACT concerning DNA testing <sup>3</sup>[and],<sup>3</sup> amending <sup>3</sup>and  
2 supplementing<sup>3</sup> P.L.1994, c.136 <sup>3</sup>and amending R.S.39:5-41<sup>3</sup>.

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] It is the  
14 policy of this State to assist federal, state and local criminal justice and  
15 law enforcement agencies in the identification and detection of  
16 individuals who are the subjects of criminal investigations. It is  
17 therefore in the best interest of the State of New Jersey to establish a  
18 DNA database and a DNA databank containing blood or other  
19 biological samples submitted by [certain serious sexual offenders]  
20 every person convicted or found not guilty by reason of insanity of a  
21 crime. It is also in the best interest of the State of New Jersey to  
22 include in this DNA database and DNA databank blood or other  
23 biological samples submitted by [certain] juveniles adjudicated  
24 delinquent or adjudicated not delinquent by reason of insanity for  
25 [certain] acts, which if committed by an adult, would constitute  
26 [serious sexual offenses and blood samples submitted by certain  
27 persons found not guilty by reason of insanity, or adjudicated not  
28 delinquent by reason of insanity, of certain serious sexual offenses] a  
29 crime.

30 (cf: P.L.1997, c.341, s.1)

31

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

34 3. As used in this act:

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

38 "DNA" means deoxyribonucleic acid.

**EXPLANATION** - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is 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> Assembly ALP committee amendments adopted December 9, 2002.

<sup>2</sup> Assembly AAP committee amendments adopted February 3, 2003.

<sup>3</sup> Senate SBA committee amendments adopted May 15, 2003.

<sup>4</sup> Assembly floor amendments adopted June 12, 2003.

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

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

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

14 "FBI" means the Federal Bureau of Investigation.

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

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

20 (cf: P.L.1997, c.341, s.2)

21

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

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

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

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

45 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 or other biological sample collected  
6 for purposes of DNA testing.

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

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

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

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

1 purposes of DNA testing.

2 g. Every person convicted or found not guilty by reason of insanity  
3 of a crime shall have a blood sample drawn or other biological sample  
4 collected for purposes of DNA testing. If the person is sentenced to  
5 a term of imprisonment or confinement, the person shall have a blood  
6 sample drawn or other biological sample collected for purposes of  
7 DNA testing upon commencement of the period of imprisonment or  
8 confinement. If the person is not sentenced to a term of imprisonment  
9 or confinement, the person shall provide a DNA sample as a condition  
10 of the sentence imposed. A person who has been convicted or found  
11 not guilty by reason of insanity of a crime prior to the effective date of  
12 P.L. , c. (now pending before the Legislature as this bill) and who,  
13 on the effective date, is serving a sentence of imprisonment, probation,  
14 parole or other form of supervision as a result of the crime or is  
15 confined following acquittal by reason of insanity shall provide a DNA  
16 sample before termination of imprisonment, probation, parole,  
17 supervision or confinement, as the case may be.

18 h. Every juvenile adjudicated delinquent, or adjudicated not  
19 delinquent by reason of insanity, for an act which, if committed by an  
20 adult, would constitute a crime shall have a blood sample drawn or  
21 other biological sample collected for purposes of DNA testing. If  
22 under the order of disposition the juvenile is sentenced to some form  
23 of imprisonment, detention or confinement, the juvenile shall have a  
24 blood sample drawn or other biological sample collected for purposes  
25 of DNA testing upon commencement of the period of imprisonment,  
26 detention or confinement. If the order of disposition does not include  
27 some form of imprisonment, detention or confinement, the juvenile  
28 shall provide a DNA sample as a condition of the disposition ordered  
29 by the court. A juvenile who, prior to the effective date of P.L. , c.  
30 (now pending before the Legislature as this bill), has been adjudicated  
31 delinquent, or adjudicated not delinquent by reason of insanity for an  
32 act which, if committed by an adult, would constitute a crime and who  
33 on the effective date is under some form of imprisonment, detention,  
34 confinement, probation, parole or any other form of supervision as a  
35 result of the offense or is confined following an adjudication of not  
36 delinquent by reason of insanity shall provide a DNA sample before  
37 termination of imprisonment, detention, supervision or confinement,  
38 as the case may be.

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

42 (cf: P.L.2000, c.118, s.1)

43

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

46 5. Tests shall be performed on each blood or other biological

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

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

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

26 (cf: P.L.1994, c.136, s.5)

27

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

30 6. Each [DNA] blood sample required to be drawn or biological  
31 sample collected pursuant section 4 of [this act] P.L.1994, c.136  
32 (C.53:1-20.20) from persons who are incarcerated shall be drawn or  
33 collected at the place of incarceration. DNA samples from persons  
34 who are not sentenced to a term of confinement shall be drawn or  
35 collected at a prison or jail unit to be specified by the sentencing court.  
36 DNA samples from persons who are adjudicated delinquent shall be  
37 drawn or collected at a prison or jail identification and classification  
38 bureau specified by the family court. Only a correctional health nurse  
39 technician, physician, registered professional nurse, licensed practical  
40 nurse, laboratory or medical technician, phlebotomist or other health  
41 care worker with phlebotomy training shall draw any [DNA] blood  
42 sample to be submitted for analysis, and only a correctional health  
43 nurse technician, physician, registered professional nurse, licensed  
44 practical nurse, laboratory or medical technician or person who has  
45 received biological sample collection training in accordance with  
46 protocols adopted by the Attorney General <sup>2</sup> ,in consultation with the

1 Department of Corrections,<sup>2</sup> shall collect <sup>2</sup>or supervise the collection  
2 of<sup>2</sup> any other biological sample to be submitted for analysis. No civil  
3 liability shall attach to any person authorized to draw blood or collect  
4 a biological sample by this section as a result of drawing blood or  
5 collecting the sample from any person if the blood was drawn or  
6 sample collected according to recognized medical procedures. No  
7 person shall be relieved from liability for negligence in the drawing or  
8 collecting of any DNA sample. No sample shall be drawn or collected  
9 pursuant to section 4 of P.L.1994, c.136 (C.53:1-20.20) if the division  
10 has previously received [an adequate] a blood or biological sample  
11 from the convicted person or the juvenile adjudicated delinquent which  
12 was adequate for successful analysis and identification.  
13 (cf: P.L.1997, c.341, s.4)  
14

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

16 39:5-41. a. All fines, penalties and forfeitures imposed and collected  
17 under authority of law for any violations of R.S.39:4-63 and  
18 R.S.39:4-64 shall be forwarded by the judge to whom the same have  
19 been paid to the proper financial officer of a county, if the violation  
20 occurred within the jurisdiction of that county's central municipal  
21 court, established pursuant to N.J.S.2B:12-1 et seq. or the  
22 municipality wherein the violation occurred, to be used by the county  
23 or municipality to help finance litter control activities in addition to or  
24 supplementing existing litter pickup and removal activities in the  
25 municipality.

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



1 amount budgeted for the municipal court, whichever is less, may be  
2 used to upgrade case processing.

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

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

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

22 d. Notwithstanding the provisions of subsections a. and b. of this  
23 section, \$1.00 shall be added to the amount of each fine and penalty  
24 imposed and collected under authority of any law for any violation of  
25 the provisions of Title 39 of the Revised Statutes or any other motor  
26 vehicle or traffic violation in this State and shall be forwarded by the  
27 person to whom the same are paid to the State Treasurer. In addition,  
28 upon the forfeiture of bail, \$1.00 of that forfeiture shall be forwarded  
29 to the State Treasurer. The State Treasurer shall annually deposit  
30 those moneys so forwarded in the "Body Armor Replacement" fund  
31 established pursuant to section 1 of P.L.1997, c.177 (C.52:17B-4.4).  
32 Beginning in the fiscal year next following the effective date of this  
33 act, the State Treasurer annually shall allocate from those moneys so  
34 forwarded an amount not to exceed \$400,000 to the Department of  
35 Personnel to be expended exclusively for the purposes of funding the  
36 operation of the "Law Enforcement Officer Crisis Intervention  
37 Services" telephone hotline established and maintained under the  
38 provisions of P.L.1998, c.149 (C.11A:2-25 et al.).

39 e. Notwithstanding the provisions of subsections a. and b. of this  
40 section, \$1 shall be added to the amount of each fine and penalty  
41 imposed and collected under authority of any law for any violation of  
42 the provisions of Title 39 of the Revised Statutes or any other motor  
43 vehicle or traffic violation in this State and shall be forwarded by the  
44 person to whom the same are paid to the State Treasurer. The State  
45 Treasurer shall annually deposit those moneys so forwarded in the  
46 "New Jersey Spinal Cord Research Fund" established pursuant to

1 section 9 of P.L.1999, c.201 (C.52:9E-9). In order to comply with the  
2 provisions of Article VIII, Section II, paragraph 5 of the State  
3 Constitution, a municipal or county agency which forwards moneys to  
4 the State Treasurer pursuant to this subsection may retain an amount  
5 equal to 2% of the moneys which it collects pursuant to this subsection  
6 as compensation for its administrative costs associated with  
7 implementing the provisions of this subsection.

8 <sup>1</sup>f. Notwithstanding the provisions of subsection a. and b. of this  
9 section, \$2.00 shall be added to the amount of each fine and penalty  
10 imposed and collected by a court under authority of any law for any  
11 violation of the provisions of Title 39 of the Revised Statutes or any  
12 other motor vehicle or traffic violation in this State and shall be  
13 forwarded by the person to whom the same are paid to the State  
14 Treasurer. The State Treasurer shall annually deposit those monies so  
15 forwarded in the "New Jersey Forensic DNA Laboratory Fund"  
16 established pursuant to P.L. , c. (now pending before the  
17 Legislature as this bill). Prior to depositing the monies into the fund,  
18 the State Treasurer shall forward to the Administrative Office of the  
19 Courts an amount not to exceed \$475,000 from monies initially  
20 collected pursuant to this subsection to be used exclusively to establish  
21 a collection mechanism and to provide funding to update the  
22 Automated Traffic System Fund created pursuant to N.J.S.2B:12-30  
23 to implement the provisions of this subsection.<sup>1</sup>

24 <sup>3</sup>The authority to impose additional fines and penalties under this  
25 subsection shall <sup>4</sup>take effect 90 days after the effective date of P.L. ,  
26 c. (now pending before the Legislature as this bill) and shall<sup>4</sup>  
27 expire five years <sup>4</sup>[following the effective date of P.L. , c. (now  
28 pending before the Legislature as this bill)] thereafter<sup>4</sup> . Not later  
29 than the 180th day prior to such expiration, the Attorney General shall  
30 prepare and submit to the Governor and the Legislature a report on  
31 the collection and use of DNA samples under P.L.1994, c.136. The  
32 report shall cover the period beginning on that effective date and  
33 ending four years thereafter. The report shall indicate separately, for  
34 each one-year period during those four years that begins on that  
35 effective date or an anniversary thereof, the number of each type of  
36 biological sample taken and the total cost of taking that type of  
37 sample, and also the number of identifications and exonerations  
38 achieved through the use of the samples. In addition, the report shall  
39 evaluate the effectiveness, including cost effectiveness, of having the  
40 samples available to further police investigations and other forensic  
41 purposes.<sup>3</sup>

42 (cf: P.L.1999, c.201, s.10)

43  
44 <sup>1</sup>7. (New section) a. There is created in the Division of State  
45 Police in the Department of Law and Public Safety a separate special  
46 account to be known as the "New Jersey Forensic DNA Laboratory

1 Fund." All moneys paid to the Division of State Police pursuant to  
2 subsection f. of R.S.39:5-41 shall be deposited in the fund.

3 b. Moneys in the "New Jersey Forensic DNA Laboratory Fund"  
4 shall be used for the expenses of DNA laboratories, criminalistics and  
5 other forensic applications.<sup>1</sup>

6

7 <sup>1</sup>[6.] 8.<sup>1</sup> This act shall take effect immediately.

8

9

10

11

12 Expands list of crimes for which blood samples are collected for  
13 purposes of DNA testing.

# ASSEMBLY, No. 2617

## STATE OF NEW JERSEY 210th LEGISLATURE

INTRODUCED JUNE 28, 2002

**Sponsored by:**

**Assemblyman GORDON M. JOHNSON**

**District 37 (Bergen)**

**Assemblyman HERBERT CONAWAY, JR.**

**District 7 (Burlington and Camden)**

**Co-Sponsored by:**

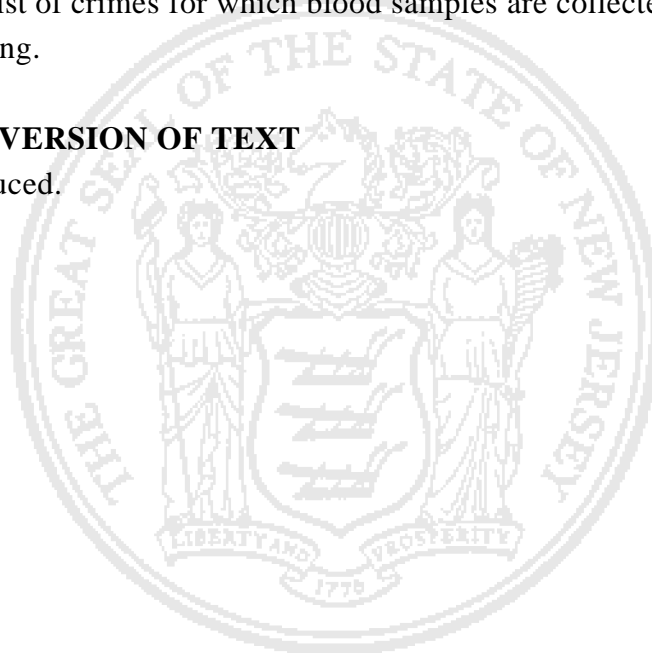
**Assemblyman Hackett, Assemblywomen Perez-Cinciarelli, Quigley,  
Assemblymen Fragueta, Van Drew, Burzichelli, Fisher, Diegnan, Gear,  
Assemblywoman Greenstein, Assemblymen Barnes, Wisniewski,  
Thompson and Eagler**

**SYNOPSIS**

Expands list of crimes for which blood samples are collected for purposes of DNA testing.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 12/13/2002)**

A2617 JOHNSON, CONAWAY

2

1 AN ACT concerning DNA testing and amending P.L.1994, c.136.

2

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

5

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

8 2. The Legislature finds and declares that DNA databanks are an  
9 important tool in criminal investigations and in deterring and detecting  
10 recidivist acts. [Several states have enacted laws requiring persons  
11 convicted of certain crimes, especially serious sexual offenses, to  
12 provide genetic samples for DNA profiling. Moreover, it] It is the  
13 policy of this State to assist federal, state and local criminal justice and  
14 law enforcement agencies in the identification and detection of  
15 individuals who are the subjects of criminal investigations. It is  
16 therefore in the best interest of the State of New Jersey to establish a  
17 DNA database and a DNA databank containing blood or other  
18 biological samples submitted by [certain serious sexual offenders]  
19 every person convicted or found not guilty by reason of insanity of a  
20 crime. It is also in the best interest of the State of New Jersey to  
21 include in this DNA database and DNA databank blood or other  
22 biological samples submitted by [certain] juveniles adjudicated  
23 delinquent or adjudicated not delinquent by reason of insanity for  
24 [certain] acts, which if committed by an adult, would constitute  
25 [serious sexual offenses and blood samples submitted by certain  
26 persons found not guilty by reason of insanity, or adjudicated not  
27 delinquent by reason of insanity, of certain serious sexual offenses] a  
28 crime.

29 (cf: P.L.1997, c.341, s.1)

30

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

33 3. As used in this act:

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

37 "DNA" means deoxyribonucleic acid.

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

42 "DNA Sample" means a blood or other biological sample provided

**EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.**

**Matter underlined thus is new matter.**

1 by any person convicted of any offense enumerated in section 4 of  
2 **[this act] P.L.1994, c.136 (C.53:1-20.20)** or provided by any juvenile  
3 adjudicated delinquent for an act which, if committed by an adult,  
4 would constitute any offense enumerated in section 4 of **[this act]**  
5 **P.L.1994, c.136 (C.53:1-20.20)** or submitted to the division for  
6 analysis pursuant to a criminal investigation.

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

9 "FBI" means the Federal Bureau of Investigation.

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

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

15 (cf: P.L.1997, c.341, s.2)

16  
17 3. Section 4 of P.L.1994, c.136 (C.53:1-20.20) is amended to read  
18 as follows:

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

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

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

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

1 for purposes of DNA testing.

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

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

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

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

43 g. Every person convicted or found not guilty by reason of insanity  
44 of a crime shall have a blood sample drawn or other biological sample  
45 collected for purposes of DNA testing. If the person is sentenced to  
46 a term of imprisonment or confinement, the person shall have a blood

1 sample drawn or other biological sample collected for purposes of  
2 DNA testing upon commencement of the period of imprisonment or  
3 confinement. If the person is not sentenced to a term of imprisonment  
4 or confinement, the person shall provide a DNA sample as a condition  
5 of the sentence imposed. A person who has been convicted or found  
6 not guilty by reason of insanity of a crime prior to the effective date of  
7 P.L. , c. (now pending before the Legislature as this bill) and who,  
8 on the effective date, is serving a sentence of imprisonment, probation,  
9 parole or other form of supervision as a result of the crime or is  
10 confined following acquittal by reason of insanity shall provide a DNA  
11 sample before termination of imprisonment, probation, parole,  
12 supervision or confinement, as the case may be.

13 h. Every juvenile adjudicated delinquent, or adjudicated not  
14 delinquent by reason of insanity, for an act which, if committed by an  
15 adult, would constitute a crime shall have a blood sample drawn or  
16 other biological sample collected for purposes of DNA testing. If  
17 under the order of disposition the juvenile is sentenced to some form  
18 of imprisonment, detention or confinement, the juvenile shall have a  
19 blood sample drawn or other biological sample collected for purposes  
20 of DNA testing upon commencement of the period of imprisonment,  
21 detention or confinement. If the order of disposition does not include  
22 some form of imprisonment, detention or confinement, the juvenile  
23 shall provide a DNA sample as a condition of the disposition ordered  
24 by the court. A juvenile who, prior to the effective date of P.L. , c.  
25 (now pending before the Legislature as this bill), has been adjudicated  
26 delinquent, or adjudicated not delinquent by reason of insanity for an  
27 act which, if committed by an adult, would constitute a crime and who  
28 on the effective date is under some form of imprisonment, detention,  
29 confinement, probation, parole or any other form of supervision as a  
30 result of the offense or is confined following an adjudication of not  
31 delinquent by reason of insanity shall provide a DNA sample before  
32 termination of imprisonment, detention, supervision or confinement,  
33 as the case may be.

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

37 (cf: P.L.2000, c.118, s.1)

38

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

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



1 the following purposes:

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

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

21 (cf: P.L.1994, c.136, s.5)

22

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

25 6. Each **[DNA] blood** sample required to be drawn or biological  
26 sample collected pursuant section 4 of **[this act] P.L.1994, c.136**  
27 (C.53:1-20.20) from persons who are incarcerated shall be drawn or  
28 collected at the place of incarceration. DNA samples from persons  
29 who are not sentenced to a term of confinement shall be drawn or  
30 collected at a prison or jail unit to be specified by the sentencing court.  
31 DNA samples from persons who are adjudicated delinquent shall be  
32 drawn or collected at a prison or jail identification and classification  
33 bureau specified by the family court. Only a correctional health nurse  
34 technician, physician, registered professional nurse, licensed practical  
35 nurse, laboratory or medical technician, phlebotomist or other health  
36 care worker with phlebotomy training shall draw any **[DNA] blood**  
37 sample to be submitted for analysis, and only a correctional health  
38 nurse technician, physician, registered professional nurse, licensed  
39 practical nurse, laboratory or medical technician or person who has  
40 received biological sample collection training in accordance with  
41 protocols adopted by the Attorney General shall collect any other  
42 biological sample to be submitted for analysis. No civil liability shall  
43 attach to any person authorized to draw blood or collect a biological  
44 sample by this section as a result of drawing blood or collecting the  
45 sample from any person if the blood was drawn or sample collected  
46 according to recognized medical procedures. No person shall be

1 relieved from liability for negligence in the drawing or collecting of  
2 any DNA sample. No sample shall be drawn or collected pursuant to  
3 section 4 of P.L.1994, c.136 (C.53:1-20.20) if the division has  
4 previously received [an adequate] a blood or biological sample from  
5 the convicted person or the juvenile adjudicated delinquent which was  
6 adequate for successful analysis and identification.

7 (cf: P.L.1997, c.341, s.4)

8  
9 6. This act shall take effect immediately.

10  
11  
12 STATEMENT

13  
14 This bill would expand the list of criminal offenses for which a  
15 conviction requires the taking of blood samples for DNA testing  
16 purposes.

17 The "DNA Database and Databank Act of 1994," P.L.1994, c.136  
18 (C.53:1-20.17 et seq.), established a DNA database and databank of  
19 adult sex offenders convicted of aggravated sexual assault, sexual  
20 assault, aggravated criminal sexual contact, criminal sexual contact or  
21 an attempt to commit any of these sex offenses. P.L.1997, c.341  
22 expanded the scope of the act to apply to juveniles adjudicated  
23 delinquent for an act which, if committed by an adult, would constitute  
24 one of these sex offenses, as well as to adults and juveniles found or  
25 adjudicated not guilty by reason of insanity for such an offense.

26 The act was further expanded by P.L.2000, c.118 to also require  
27 blood be drawn for convictions of: murder; manslaughter; second  
28 degree aggravated assault when the person attempts to cause or causes  
29 serious bodily injury to another or causes bodily injury while fleeing or  
30 attempting to flee a law enforcement officer; kidnapping, luring or  
31 enticing a child; engaging in sexual conduct which would impair or  
32 debauch the morals of a child, or an attempt to commit any of these  
33 crimes. P.L.2000, c.118 also clarified that the DNA sample could be  
34 from a blood sample drawn from the convicted person or some other  
35 biological sample collected from that person.

36 Under this bill, persons convicted or found not guilty by reason of  
37 insanity of any crime would be required to submit blood or biological  
38 samples for DNA testing upon imprisonment or confinement. If they  
39 are not sentenced to a term of imprisonment or confinement, these  
40 persons would be required to submit a DNA sample as a condition of  
41 their sentence. Persons convicted of these crimes prior to the effective  
42 date of the bill who currently are serving a sentence of imprisonment,  
43 probation, parole or other form of supervision as a result of the crime  
44 or are confined following acquittal by reason of insanity also would be  
45 required to submit DNA samples before termination of the period of  
46 imprisonment, probation, parole, supervision or confinement, as the

1 case may be.

2 The bill also would require juveniles adjudicated delinquent, or  
3 adjudicated not delinquent by reason of insanity, for an act which, if  
4 committed by an adult, would constitute a crime, to have a blood  
5 sample drawn or other biological sample collected for purposes of  
6 DNA testing upon imprisonment, detention or confinement.  
7 Adjudicated juveniles who currently are under some form of  
8 imprisonment, detention or supervision as a result of such a crime or  
9 are confined following acquittal by reason of insanity also would be  
10 required to provide a DNA sample before termination of the period of  
11 imprisonment, detention, supervision or confinement.

12 The bill updates several sections of the DNA Database and  
13 Databank Act to reflect changes made in P.L.2000, c.118 which  
14 provided that the source of the DNA sample could be a biological  
15 sample other than blood. Additionally, the bill specifies that these  
16 biological samples may be collected by a correctional health nurse  
17 technician, physician, registered professional nurse, licensed practical  
18 nurse, laboratory or medical technician or other person who has  
19 received biological sample collection training in accordance with  
20 protocols adopted by the Attorney General.

21 It is the sponsor's belief that expanding this State's DNA database  
22 would greatly enhance the ability of law enforcement to solve crimes.  
23 Other states which collect DNA samples for a wider range of crimes  
24 have experienced a large increase in database "hits," particularly with  
25 respect to property crimes, such as burglary.

# ASSEMBLY APPROPRIATIONS COMMITTEE

## STATEMENT TO

[First Reprint]

## ASSEMBLY, No. 2617

with Assembly committee amendments

# STATE OF NEW JERSEY

DATED: FEBRUARY 3, 2003

The Assembly Appropriations Committee reports favorably Assembly Bill No. 2617 (1R), with committee amendments.

Assembly Bill No. 2617 (1R), as amended, expands the list of criminal offenses for which a conviction requires the taking of blood samples for DNA testing purposes.

The "DNA Database and Databank Act of 1994," P.L.1994, c.136 (C.53:1-20.17 et seq.), established a DNA database and databank of adult sex offenders convicted of aggravated sexual assault, sexual assault, aggravated criminal sexual contact, criminal sexual contact or an attempt to commit any of these sex offenses. P.L.1997, c.341 expanded the scope of the act to apply to juveniles adjudicated delinquent for an act which, if committed by an adult, would constitute one of these sex offenses, as well as to adults and juveniles found or adjudicated not guilty by reason of insanity for such an offense.

The act was further expanded by P.L.2000, c.118 to also require blood be drawn for convictions of: murder; manslaughter; second degree aggravated assault when the person attempts to cause or causes serious bodily injury to another or causes bodily injury while fleeing or attempting to flee a law enforcement officer; kidnapping, luring or enticing a child; engaging in sexual conduct which would impair or debauch the morals of a child, or an attempt to commit any of these crimes. That act also clarified that the DNA sample could be from a blood sample drawn from the convicted person or some other biological sample collected from that person.

Under the bill, persons convicted or found not guilty by reason of insanity of any crime would be required to submit blood or biological samples for DNA testing upon imprisonment or confinement. If they are not sentenced to a term of imprisonment or confinement, these persons would be required to submit a DNA sample as a condition of their sentence. Persons convicted of these crimes prior to the effective date of the bill who currently are serving a sentence of imprisonment, probation, parole or other form of supervision as a result of the crime or are confined following acquittal by reason of insanity also would be

required to submit DNA samples before termination of the period of imprisonment, probation, parole, supervision or confinement, as the case may be.

The bill also requires juveniles adjudicated delinquent, or adjudicated not delinquent by reason of insanity, for an act which, if committed by an adult, would constitute a crime, to have a blood sample drawn or other biological sample collected for purposes of DNA testing upon imprisonment, detention or confinement. Adjudicated juveniles who currently are under some form of imprisonment, detention or supervision as a result of such a crime or are confined following acquittal by reason of insanity also would be required to provide a DNA sample before termination of the period of imprisonment, detention, supervision or confinement.

The bill updates several sections of the DNA Database and Databank Act to reflect changes made in P.L.2000, c.118 which provided that the source of the DNA sample could be a biological sample other than blood; specifies that these biological samples may be collected by a correctional health nurse technician, physician, registered professional nurse, licensed practical nurse, laboratory or medical technician or other person who has received biological sample collection training in accordance with protocols adopted by the Attorney General; and provide funding through a \$2 surcharge to traffic offenses.

According to the sponsor, expanding this State's DNA database will greatly enhance the ability of law enforcement to solve crimes. Other states which collect DNA samples for a wider range of crimes have experienced a large increase in database "hits," particularly with respect to property crimes, such as burglary and robbery.

FISCAL IMPACT:

The Attorney General's Office has estimated a cost of approximately \$7.6 million for salary, sampling and forensic lab costs. The \$2 surcharge, based on the "Body Armor Fund" surcharge, is estimated to raise \$8.2 million to be deposited in the New Jersey Forensic DNA Laboratory Fund, less \$475,000 for the Administrative Office of the Courts in the first year.

COMMITTEE AMENDMENTS:

The amendments are technical in nature concerning the collection of biological samples as recommended by the Attorney General's Office.

# ASSEMBLY LAW AND PUBLIC SAFETY COMMITTEE

## STATEMENT TO

### **ASSEMBLY, No. 2617**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: DECEMBER 9, 2002

The Assembly Law and Public Safety Committee reports favorably and with committee amendments Assembly Bill No. 2617.

Assembly Bill No. 2617 expands the list of criminal offenses for which a conviction requires the taking of blood samples for DNA testing purposes.

The "DNA Database and Databank Act of 1994," P.L.1994, c.136 (C.53:1-20.17 et seq.), established a DNA database and databank of adult sex offenders convicted of aggravated sexual assault, sexual assault, aggravated criminal sexual contact, criminal sexual contact or an attempt to commit any of these sex offenses. P.L.1997, c.341 expanded the scope of the act to apply to juveniles adjudicated delinquent for an act which, if committed by an adult, would constitute one of these sex offenses, as well as to adults and juveniles found or adjudicated not guilty by reason of insanity for such an offense.

The act was further expanded by P.L.2000, c.118 to also require blood be drawn for convictions of: murder; manslaughter; second degree aggravated assault when the person attempts to cause or causes serious bodily injury to another or causes bodily injury while fleeing or attempting to flee a law enforcement officer; kidnapping, luring or enticing a child; engaging in sexual conduct which would impair or debauch the morals of a child, or an attempt to commit any of these crimes. P.L.2000, c.118 also clarified that the DNA sample could be from a blood sample drawn from the convicted person or some other biological sample collected from that person.

Under the bill, persons convicted or found not guilty by reason of insanity of any crime would be required to submit blood or biological samples for DNA testing upon imprisonment or confinement. If they are not sentenced to a term of imprisonment or confinement, these persons would be required to submit a DNA sample as a condition of their sentence. Persons convicted of these crimes prior to the effective date of the bill who currently are serving a sentence of imprisonment, probation, parole or other form of supervision as a result of the crime or are confined following acquittal by reason of insanity also would be required to submit DNA samples before termination of the period of

imprisonment, probation, parole, supervision or confinement, as the case may be.

The bill also requires juveniles adjudicated delinquent, or adjudicated not delinquent by reason of insanity, for an act which, if committed by an adult, would constitute a crime, to have a blood sample drawn or other biological sample collected for purposes of DNA testing upon imprisonment, detention or confinement. Adjudicated juveniles who currently are under some form of imprisonment, detention or supervision as a result of such a crime or are confined following acquittal by reason of insanity also would be required to provide a DNA sample before termination of the period of imprisonment, detention, supervision or confinement.

The bill updates several sections of the DNA Database and Databank Act to reflect changes made in P.L.2000, c.118 which provided that the source of the DNA sample could be a biological sample other than blood. Additionally, the bill specifies that these biological samples may be collected by a correctional health nurse technician, physician, registered professional nurse, licensed practical nurse, laboratory or medical technician or other person who has received biological sample collection training in accordance with protocols adopted by the Attorney General.

According to the sponsor, expanding this State's DNA database will greatly enhance the ability of law enforcement to solve crimes. Other states which collect DNA samples for a wider range of crimes have experienced a large increase in database "hits," particularly with respect to property crimes, such as burglary and robbery.

#### COMMITTEE AMENDMENTS:

The committee amended the bill to provide the funding necessary to implement the provisions of the bill. The amendments apply a \$2 surcharge to traffic offenses to be deposited in the "New Jersey Forensic DNA Laboratory Fund." Monies in this fund are to be used for the expenses of DNA laboratories, criminalistics and other forensic applications.

# SENATE BUDGET AND APPROPRIATIONS COMMITTEE

## STATEMENT TO

[Second Reprint]

## **ASSEMBLY, No. 2617**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: MAY 15, 2003

The Senate Budget and Appropriations Committee reports favorably and with committee amendments Assembly Bill No. 2617 (2R).

This bill expands the list of criminal offenses for which a conviction requires the taking of blood or other biological samples for DNA testing purposes and provides funding for DNA forensic procedures.

The "DNA Database and Databank Act of 1994," P.L.1994, c.136 (C.53:1-20.17 et seq.), established a DNA database and databank of adult sex offenders convicted of aggravated sexual assault, sexual assault, aggravated criminal sexual contact, criminal sexual contact or an attempt to commit any of these sex offenses. P.L.1997, c.341 expanded the scope of the act to apply to juveniles adjudicated delinquent for an act which, if committed by an adult, would constitute one of these sex offenses, as well as to adults and juveniles found or adjudicated not guilty by reason of insanity for such an offense.

The act was further expanded by P.L.2000, c.118 to also require blood be drawn for convictions of: murder; manslaughter; second degree aggravated assault when the person attempts to cause or causes serious bodily injury to another or causes bodily injury while fleeing or attempting to flee a law enforcement officer; kidnapping, luring or enticing a child; engaging in sexual conduct which would impair or debauch the morals of a child, or an attempt to commit any of these crimes. The act of 2000 also clarified that the DNA sample could be from a blood sample drawn from the convicted person or some other biological sample collected from that person.

Under this bill, persons convicted or found not guilty by reason of insanity of any crime would be required to submit blood or biological samples for DNA testing upon imprisonment or confinement. If they are not sentenced to a term of imprisonment or confinement, these persons would be required to submit a DNA sample as a condition of their sentence. Persons convicted of these crimes prior to the effective date of the bill who currently are serving a sentence of imprisonment, probation, parole or other form of supervision as a result of the crime or are confined following acquittal by reason of insanity also would be



required to submit DNA samples before termination of the period of imprisonment, probation, parole, supervision or confinement, as the case may be.

The bill also requires juveniles adjudicated delinquent, or adjudicated not delinquent by reason of insanity, for an act which, if committed by an adult, would constitute a crime, to have a blood sample drawn or other biological sample collected for purposes of DNA testing upon imprisonment, detention or confinement. Adjudicated juveniles who currently are under some form of imprisonment, detention or supervision as a result of such a crime or are confined following acquittal by reason of insanity also would be required to provide a DNA sample before termination of the period of imprisonment, detention, supervision or confinement.

The bill updates several sections of the DNA Database and Databank Act to reflect changes made in P.L.2000, c.118 which provided that the source of the DNA sample could be a biological sample other than blood; specifies that these biological samples may be collected by a correctional health nurse technician, physician, registered professional nurse, licensed practical nurse, laboratory or medical technician or other person who has received biological sample collection training in accordance with protocols adopted by the Attorney General; and provide funding through a \$2 surcharge to traffic offenses. Authority to impose the surcharge would expire five years from the date of the legislation's enactment; the bill provides that the Attorney General is to report to the Governor and Legislature, not later than 180 days prior to the expiration, on the annual volume and cost of DNA sampling under the databank statute and the effectiveness of the sampling program.

According to the sponsor, expanding this State's DNA database will greatly enhance the ability of law enforcement to solve crimes. Other states which collect DNA samples for a wider range of crimes have experienced a large increase in database "hits," particularly with respect to property crimes, such as burglary and robbery.

The provisions of this bill, as amended, are identical to those of Senate Bill No. 2066 Sca, which the committee also reports this day.

#### COMMITTEE AMENDMENTS

Committee amendments to this bill require preparation of the report on experience with the sampling program and make a technical correction in the title.

#### FISCAL IMPACT

The Attorney General's Office has estimated a cost of approximately \$7.6 million for salary, sampling and forensic lab costs. The \$2 surcharge, based on the "Body Armor Fund" surcharge, is estimated to raise \$8.2 million to be deposited in the New Jersey Forensic DNA Laboratory Fund, less \$475,000 for the Administrative Office of the Courts in the first year.

STATEMENT TO  
[Third Reprint]  
**ASSEMBLY, No. 2617**

with Assembly Floor Amendments  
(Proposed By Assemblyman JOHNSON)

ADOPTED: JUNE 12, 2003

Assembly Bill 2617(3R) expands the list of criminal offenses for which a conviction requires the taking of blood or other biological samples for DNA testing purposes and provides for a \$2 surcharge on traffic offenses to fund DNA forensic procedures.

These Assembly amendments provide that the imposition of the \$2 surcharge for traffic offenses will take effect 90 days following the bill's enactment. Delaying the effective date of this provision will allow the Administrative Office of the Courts to take administrative action necessary to effectively collect the surcharge while allowing collection of blood and biological samples to proceed immediately upon the bill's enactment.

**FISCAL NOTE**  
[Third Reprint]  
**ASSEMBLY, No. 2617**  
**STATE OF NEW JERSEY**  
**210th LEGISLATURE**

DATED: JUNE 27, 2003

**SUMMARY**

**Synopsis:** Expands list of crimes for which blood samples are collected for purposes of DNA testing.

**Type of Impact:** Revenues gained by fines and penalties would defray program costs.

**Agencies Affected:** Department of Law and Public Safety, Division of State Police; Department of Corrections; Juvenile Justice Commission; Administrative Office of the Courts.

**Executive Estimate**

<b>Fiscal Impact</b>	<b>FY 04</b>	<b>FY 05</b>	<b>FY 06</b>
<b>State Cost</b>	\$8,085,606	\$7,660,606	\$7,660,606
<b>State Revenue</b>	\$8,200,000	\$8,200,000	\$8,200,000

- ! The Office of Legislative Services (OLS) **concurs** with the Executive estimate.
- ! Expands the list of criminal offenses for which a conviction requires the taking of blood samples for DNA testing purposes.
- ! Provides funding for DNA forensic procedures by adding a \$2 fee to the amount of each traffic fine and penalty imposed and the revenue generated is estimated to raise \$8,200,000 per year.
- ! Monies received through fines and penalties will fund the "New Jersey Forensic DNA Laboratory Fund." The Office of the Attorney General estimates that the New Jersey Forensic DNA Laboratory will cost \$7,660,606 per year. That cost includes the expense of collecting DNA samples in the Department of Corrections and the Juvenile Justice Commission, as well as entities under the supervision of the courts.
- ! Provides for an expiration and requires an evaluation of the collection and use of DNA samples after five years from the effective date.
- ! Earmarks \$475,000 to the Administrative Office of the Courts to fund the Automated Traffic System Fund in the first year.

## **BILL DESCRIPTION**

Assembly Bill No. 2617 [3R] of 2002 expands the list of criminal offenses for which a conviction requires the taking of a blood sample for DNA testing purposes under the "DNA Database and Databank Act of 1994," P.L.1994, c.136 (C.53:1-20.17 et seq.). This bill provides funding to implement the provisions of this legislation by imposing a \$2 surcharge to each traffic offense. Fine revenue generated from the \$2 surcharge would be earmarked to the newly created "New Jersey Forensic DNA Laboratory Fund." The fund will cover the expenses of DNA laboratories, criminalistics and other forensic applications. In addition, this bill earmarks a maximum of \$475,000 of the initial revenue generated by the \$2 surcharge to the Administrative Office of the Courts to fund the Automated Traffic System Fund.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

The Office of the Attorney General in the Department of Law and Public Safety estimated to implement this bill set-up costs are not needed as the building and the initial products needed have already been procured.

The office estimates the cost of implementing this bill at \$7,660,606 annually after enactment. This figure includes the salary 50 lab personnel and benefits at \$3,510,206; overtime cost to reduce the current case backlog at \$200,000; outsourcing CODIS samples at \$1,200,000; and forensic laboratory equipment renewal at \$2,750,400. That cost includes the expense of collecting DNA samples in the Department of Corrections and the Juvenile Justice Commission, as well as entities under the supervision of the courts.

### ***OFFICE OF LEGISLATIVE SERVICES***

The Office of Legislative Services (OLS) **concurs** with the Executive estimate. Currently, the individuals who are subject to DNA testing are liable for the cost of such procedure. However, the majority of the individuals are offenders who are incarcerated and the State is only able to recoup a minimal amount of the costs incurred. It is estimated that 27,500 new cases will be generated by this legislation. The cost to conduct a DNA sample analysis is currently an average of \$40 per sample.

The estimated revenue generated from the \$2 surcharge on traffic fines is \$8,200,000 per year. This estimate was determined by reviewing the current revenue generated by the Body Armor Replacement Fund, which is funded through a \$1 surcharge per traffic fine collected. The revenue collected for this fund was \$4,319,100 in 2002 and \$4,188,151 in 2001.

The Administrative Office of the Courts (AOC) would receive a maximum of \$475,000 for the Automated Traffic System Fund from the initial funds raised through the \$2 surcharge. The Office of Legislative Services estimates, based on prior legislation, that the AOC requires \$255,000 to complete the update to the ATS system.

Section: *Law and Public Safety*

Analyst: *Kristin A. Brunner,*  
*Assistant Fiscal Analyst*

Approved: *Alan R. Kooney*  
*Legislative Budget and Finance Officer*

This fiscal note has been prepared pursuant to P.L.1980, c.67.

# SENATE, No. 2066

## STATE OF NEW JERSEY 210th LEGISLATURE

INTRODUCED NOVEMBER 14, 2002

**Sponsored by:**

**Senator NICHOLAS J. SACCO**  
**District 32 (Bergen and Hudson)**  
**Senator JOSEPH CONIGLIO**  
**District 38 (Bergen)**

**Co-Sponsored by:**

**Senators Sweeney and Turner**

**SYNOPSIS**

Expands list of crimes for which blood samples are collected for purposes of DNA testing.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 2/28/2003)**

S2066 SACCO, CONIGLIO

2

1 AN ACT concerning DNA testing and amending P.L.1994, c.136.

2

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

5

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

8 2. The Legislature finds and declares that DNA databanks are an  
9 important tool in criminal investigations and in deterring and detecting  
10 recidivist acts. [Several states have enacted laws requiring persons  
11 convicted of certain crimes, especially serious sexual offenses, to  
12 provide genetic samples for DNA profiling. Moreover, it] It is the  
13 policy of this State to assist federal, state and local criminal justice and  
14 law enforcement agencies in the identification and detection of  
15 individuals who are the subjects of criminal investigations. It is  
16 therefore in the best interest of the State of New Jersey to establish a  
17 DNA database and a DNA databank containing blood or other  
18 biological samples submitted by [certain serious sexual offenders]  
19 every person convicted or found not guilty by reason of insanity of a  
20 crime. It is also in the best interest of the State of New Jersey to  
21 include in this DNA database and DNA databank blood or other  
22 biological samples submitted by [certain] juveniles adjudicated  
23 delinquent or adjudicated not delinquent by reason of insanity for  
24 [certain] acts, which if committed by an adult, would constitute  
25 [serious sexual offenses and blood samples submitted by certain  
26 persons found not guilty by reason of insanity, or adjudicated not  
27 delinquent by reason of insanity, of certain serious sexual offenses] a  
28 crime.

29 (cf: P.L.1997, c.341, s.1)

30

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

33 3. As used in this act:

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

37 "DNA" means deoxyribonucleic acid.

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

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

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

10 "FBI" means the Federal Bureau of Investigation.

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

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

16 (cf: P.L.1997, c.341, s.2)

17  
18 3. Section 4 of P.L.1994, c.136 (C.53:1-20.20) is amended to read  
19 as follows:

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

27 In addition, every person convicted on or after January 1, 1995 of  
28 these offenses, but who is not sentenced to a term of confinement,  
29 shall provide a DNA sample as a condition of the sentence imposed.  
30 A person who has been convicted and incarcerated as a result of a  
31 conviction of one or more of these offenses prior to January 1, 1995  
32 shall provide a DNA sample before parole or release from  
33 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 or other biological sample collected for  
40 purposes of DNA testing.

41 c. On or after January 1, 1998 every person found not guilty by  
42 reason of insanity of aggravated sexual assault or sexual assault under  
43 N.J.S.2C:14-2 or aggravated criminal sexual contact or criminal sexual  
44 contact under N.J.S.2C:14-3, or any attempt to commit any of these  
45 crimes, or adjudicated not delinquent by reason of insanity for an act  
46 which, if committed by an adult, would constitute one of these crimes,



1 shall have a blood sample drawn or other biological sample collected  
2 for purposes of DNA testing.

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

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

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

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

44 g. Every person convicted or found not guilty by reason of insanity  
45 of a crime shall have a blood sample drawn or other biological sample  
46 collected for purposes of DNA testing. If the person is sentenced to

1 a term of imprisonment or confinement, the person shall have a blood  
2 sample drawn or other biological sample collected for purposes of  
3 DNA testing upon commencement of the period of imprisonment or  
4 confinement. If the person is not sentenced to a term of imprisonment  
5 or confinement, the person shall provide a DNA sample as a condition  
6 of the sentence imposed. A person who has been convicted or found  
7 not guilty by reason of insanity of a crime prior to the effective date of  
8 P.L. , c. (now pending before the Legislature as this bill) and who,  
9 on the effective date, is serving a sentence of imprisonment, probation,  
10 parole or other form of supervision as a result of the crime or is  
11 confined following acquittal by reason of insanity shall provide a DNA  
12 sample before termination of imprisonment, probation, parole,  
13 supervision or confinement, as the case may be.

14 h. Every juvenile adjudicated delinquent, or adjudicated not  
15 delinquent by reason of insanity, for an act which, if committed by an  
16 adult, would constitute a crime shall have a blood sample drawn or  
17 other biological sample collected for purposes of DNA testing. If  
18 under the order of disposition the juvenile is sentenced to some form  
19 of imprisonment, detention or confinement, the juvenile shall have a  
20 blood sample drawn or other biological sample collected for purposes  
21 of DNA testing upon commencement of the period of imprisonment,  
22 detention or confinement. If the order of disposition does not include  
23 some form of imprisonment, detention or confinement, the juvenile  
24 shall provide a DNA sample as a condition of the disposition ordered  
25 by the court. A juvenile who, prior to the effective date of P.L. ,  
26 c. (now pending before the Legislature as this bill), has been  
27 adjudicated delinquent, or adjudicated not delinquent by reason of  
28 insanity for an act which, if committed by an adult, would constitute  
29 a crime and who on the effective date is under some form of  
30 imprisonment, detention, confinement, probation, parole or any other  
31 form of supervision as a result of the offense or is confined following  
32 an adjudication of not delinquent by reason of insanity shall provide a  
33 DNA sample before termination of imprisonment, detention,  
34 supervision or confinement, as the case may be.

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

38 (cf: P.L.2000, c.118, s.1)

39

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

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

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6

- 1 in the loss of federal funding, the results of these tests shall be used for  
2 the following purposes:
- 3 a. For law enforcement identification purposes;
  - 4 b. For development of a population database;
  - 5 c. To support identification research and protocol development of  
6 forensic DNA analysis methods;
  - 7 d. To assist in the recovery or identification of human remains from  
8 mass disasters or for other humanitarian purposes;
  - 9 e. For research, administrative and quality control purposes;
  - 10 f. For judicial proceedings, by order of the court, if otherwise  
11 admissible pursuant to applicable statutes or rules;
  - 12 g. For criminal defense purposes, on behalf of a defendant, who  
13 shall have access to relevant samples and analyses performed in  
14 connection with the case in which the defendant is charged; and
  - 15 h. For such other purposes as may be required under federal law  
16 as a condition for obtaining federal funding.

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

22 (cf: P.L.1994, c.136, s.5)

23

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

26 6. Each [DNA] blood sample required to be drawn or biological  
27 sample collected pursuant section 4 of [this act] P.L.1994, c.136  
28 (C.53:1-20.20) from persons who are incarcerated shall be drawn or  
29 collected at the place of incarceration. DNA samples from persons  
30 who are not sentenced to a term of confinement shall be drawn or  
31 collected at a prison or jail unit to be specified by the sentencing court.  
32 DNA samples from persons who are adjudicated delinquent shall be  
33 drawn or collected at a prison or jail identification and classification  
34 bureau specified by the family court. Only a correctional health nurse  
35 technician, physician, registered professional nurse, licensed practical  
36 nurse, laboratory or medical technician, phlebotomist or other health  
37 care worker with phlebotomy training shall draw any [DNA] blood  
38 sample to be submitted for analysis, and only a correctional health  
39 nurse technician, physician, registered professional nurse, licensed  
40 practical nurse, laboratory or medical technician or person who has  
41 received biological sample collection training in accordance with  
42 protocols adopted by the Attorney General shall collect any other  
43 biological sample to be submitted for analysis. No civil liability shall  
44 attach to any person authorized to draw blood or collect a biological  
45 sample by this section as a result of drawing blood or collecting the  
46 sample from any person if the blood was drawn or sample collected

1 according to recognized medical procedures. No person shall be  
2 relieved from liability for negligence in the drawing or collecting of  
3 any DNA sample. No sample shall be drawn or collected pursuant to  
4 section 4 of P.L.1994, c.136 (C.53:1-20.20) if the division has  
5 previously received [an adequate] a blood or biological sample from  
6 the convicted person or the juvenile adjudicated delinquent which was  
7 adequate for successful analysis and identification.

8 (cf: P.L.1997, c.341, s.4)

9  
10 6. This act shall take effect immediately.

11  
12  
13 STATEMENT

14  
15 This bill would expand the list of criminal offenses for which a  
16 conviction requires the taking of blood samples for DNA testing  
17 purposes.

18 The "DNA Database and Databank Act of 1994," P.L.1994, c.136  
19 (C.53:1-20.17 et seq.), established a DNA database and databank of  
20 adult sex offenders convicted of aggravated sexual assault, sexual  
21 assault, aggravated criminal sexual contact, criminal sexual contact or  
22 an attempt to commit any of these sex offenses. P.L.1997, c.341  
23 expanded the scope of the act to apply to juveniles adjudicated  
24 delinquent for an act which, if committed by an adult, would constitute  
25 one of these sex offenses, as well as to adults and juveniles found or  
26 adjudicated not guilty by reason of insanity for such an offense.

27 The act was further expanded by P.L.2000, c.118 to also require  
28 blood be drawn for convictions of: murder; manslaughter; second  
29 degree aggravated assault when the person attempts to cause or causes  
30 serious bodily injury to another or causes bodily injury while fleeing or  
31 attempting to flee a law enforcement officer; kidnapping, luring or  
32 enticing a child; engaging in sexual conduct which would impair or  
33 debauch the morals of a child, or an attempt to commit any of these  
34 crimes. P.L.2000, c.118 also clarified that the DNA sample could be  
35 from a blood sample drawn from the convicted person or some other  
36 biological sample collected from that person.

37 Under this bill, persons convicted or found not guilty by reason of  
38 insanity of any crime would be required to submit blood or biological  
39 samples for DNA testing upon imprisonment or confinement. If they  
40 are not sentenced to a term of imprisonment or confinement, these  
41 persons would be required to submit a DNA sample as a condition of  
42 their sentence. Persons convicted of these crimes prior to the effective  
43 date of the bill who currently are serving a sentence of imprisonment,  
44 probation, parole or other form of supervision as a result of the crime  
45 or are confined following acquittal by reason of insanity also would be  
46 required to submit DNA samples before termination of the period of

1 imprisonment, probation, parole, supervision or confinement, as the  
2 case may be.

3 The bill also would require juveniles adjudicated delinquent, or  
4 adjudicated not delinquent by reason of insanity, for an act which, if  
5 committed by an adult, would constitute a crime, to have a blood  
6 sample drawn or other biological sample collected for purposes of  
7 DNA testing upon imprisonment, detention or confinement.  
8 Adjudicated juveniles who currently are under some form of  
9 imprisonment, detention or supervision as a result of such a crime or  
10 are confined following acquittal by reason of insanity also would be  
11 required to provide a DNA sample before termination of the period of  
12 imprisonment, detention, supervision or confinement.

13 The bill updates several sections of the DNA Database and  
14 Databank Act to reflect changes made in P.L.2000, c.118 which  
15 provided that the source of the DNA sample could be a biological  
16 sample other than blood. Additionally, the bill specifies that these  
17 biological samples may be collected by a correctional health nurse  
18 technician, physician, registered professional nurse, licensed practical  
19 nurse, laboratory or medical technician or other person who has  
20 received biological sample collection training in accordance with  
21 protocols adopted by the Attorney General.

22 It is the sponsor's belief that expanding this State's DNA database  
23 would greatly enhance the ability of law enforcement to solve crimes.  
24 Other states which collect DNA samples for a wider range of crimes  
25 have experienced a large increase in database "hits," particularly with  
26 respect to property crimes, such as burglary.

SENATE LAW AND PUBLIC SAFETY AND VETERANS'  
AFFAIRS COMMITTEE

STATEMENT TO

**SENATE, No. 2066**

**STATE OF NEW JERSEY**

DATED: NOVEMBER 25, 2002

The Senate Law and Public Safety and Veterans' Affairs Committee reports favorably Senate Bill No. 2066.

This bill would expand the list of criminal offenses for which a conviction requires the taking of blood samples for DNA testing purposes.

The "DNA Database and Databank Act of 1994," P.L.1994, c.136 (C.53:1-20.17 et seq.), established a DNA database and databank of adult sex offenders convicted of aggravated sexual assault, sexual assault, aggravated criminal sexual contact, criminal sexual contact or an attempt to commit any of these sex offenses. P.L.1997, c.341 expanded the scope of the act to apply to juveniles adjudicated delinquent for an act which, if committed by an adult, would constitute one of these sex offenses, as well as to adults and juveniles found or adjudicated not guilty by reason of insanity for such an offense.

The act was further expanded by P.L.2000, c.118 to also require blood be drawn for convictions of: murder; manslaughter; second degree aggravated assault when the person attempts to cause or causes serious bodily injury to another or causes bodily injury while fleeing or attempting to flee a law enforcement officer; kidnapping, luring or enticing a child; engaging in sexual conduct which would impair or debauch the morals of a child, or an attempt to commit any of these crimes. P.L.2000, c.118 also clarified that the DNA sample could be from a blood sample drawn from the convicted person or some other biological sample collected from that person.

Under this bill, persons convicted or found not guilty by reason of insanity of any crime would be required to submit blood or biological samples for DNA testing upon imprisonment or confinement. If they are not sentenced to a term of imprisonment or confinement, these persons would be required to submit a DNA sample as a condition of their sentence. Persons convicted of these crimes prior to the effective date of the bill who currently are serving a sentence of imprisonment, probation, parole or other form of supervision as a result of the crime or are confined following acquittal by reason of insanity also would be required to submit DNA samples before termination of the period of

imprisonment, probation, parole, supervision or confinement, as the case may be.

The bill also would require juveniles adjudicated delinquent, or adjudicated not delinquent by reason of insanity, for an act which, if committed by an adult, would constitute a crime, to have a blood sample drawn or other biological sample collected for purposes of DNA testing upon imprisonment, detention or confinement. Adjudicated juveniles who currently are under some form of imprisonment, detention or supervision as a result of such a crime or are confined following acquittal by reason of insanity also would be required to provide a DNA sample before termination of the period of imprisonment, detention, supervision or confinement.

The bill updates several sections of the DNA Database and Databank Act to reflect changes made in P.L.2000, c.118 which provided that the source of the DNA sample could be a biological sample other than blood. Additionally, the bill specifies that these biological samples may be collected by a correctional health nurse technician, physician, registered professional nurse, licensed practical nurse, laboratory or medical technician or other person who has received biological sample collection training in accordance with protocols adopted by the Attorney General.

According to the sponsor, expanding this State's DNA database would greatly enhance the ability of law enforcement to solve crimes. Other states which collect DNA samples for a wider range of crimes have experienced a large increase in database "hits," particularly with respect to property crimes, such as burglary.

# SENATE BUDGET AND APPROPRIATIONS COMMITTEE

## STATEMENT TO

### **SENATE, No. 2066**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: MAY 15, 2003

The Senate Budget and Appropriations Committee reports favorably and with committee amendments Senate Bill No. 2066.

This bill expands the list of criminal offenses for which a conviction requires the taking of blood or other biological samples for DNA testing purposes and provides funding for DNA forensic procedures.

The "DNA Database and Databank Act of 1994," P.L.1994, c.136 (C.53:1-20.17 et seq.), established a DNA database and databank of adult sex offenders convicted of aggravated sexual assault, sexual assault, aggravated criminal sexual contact, criminal sexual contact or an attempt to commit any of these sex offenses. P.L.1997, c.341 expanded the scope of the act to apply to juveniles adjudicated delinquent for an act which, if committed by an adult, would constitute one of these sex offenses, as well as to adults and juveniles found or adjudicated not guilty by reason of insanity for such an offense.

The act was further expanded by P.L.2000, c.118 to also require blood be drawn for convictions of: murder; manslaughter; second degree aggravated assault when the person attempts to cause or causes serious bodily injury to another or causes bodily injury while fleeing or attempting to flee a law enforcement officer; kidnapping, luring or enticing a child; engaging in sexual conduct which would impair or debauch the morals of a child, or an attempt to commit any of these crimes. The act of 2000 also clarified that the DNA sample could be from a blood sample drawn from the convicted person or some other biological sample collected from that person.

Under this bill, persons convicted or found not guilty by reason of insanity of any crime would be required to submit blood or biological samples for DNA testing upon imprisonment or confinement. If they are not sentenced to a term of imprisonment or confinement, these persons would be required to submit a DNA sample as a condition of their sentence. Persons convicted of these crimes prior to the effective date of the bill who currently are serving a sentence of imprisonment, probation, parole or other form of supervision as a result of the crime or are confined following acquittal by reason of insanity also would be required to submit DNA samples before termination of the period of



imprisonment, probation, parole, supervision or confinement, as the case may be.

The bill also requires juveniles adjudicated delinquent, or adjudicated not delinquent by reason of insanity, for an act which, if committed by an adult, would constitute a crime, to have a blood sample drawn or other biological sample collected for purposes of DNA testing upon imprisonment, detention or confinement. Adjudicated juveniles who currently are under some form of imprisonment, detention or supervision as a result of such a crime or are confined following acquittal by reason of insanity also would be required to provide a DNA sample before termination of the period of imprisonment, detention, supervision or confinement.

The bill updates several sections of the DNA Database and Databank Act to reflect changes made in P.L.2000, c.118 which provided that the source of the DNA sample could be a biological sample other than blood; specifies that these biological samples may be collected by a correctional health nurse technician, physician, registered professional nurse, licensed practical nurse, laboratory or medical technician or other person who has received biological sample collection training in accordance with protocols adopted by the Attorney General; and provide funding through a \$2 surcharge to traffic offenses. Authority to impose the surcharge would expire five years from the date of the legislation's enactment; the bill provides that the Attorney General is to report to the Governor and Legislature, not later than 180 days prior to the expiration, on the annual volume and cost of DNA sampling under the databank statute and the effectiveness of the sampling program.

According to the sponsor, expanding this State's DNA database will greatly enhance the ability of law enforcement to solve crimes. Other states which collect DNA samples for a wider range of crimes have experienced a large increase in database "hits," particularly with respect to property crimes, such as burglary and robbery.

The provisions of this bill, as amended, are identical to those of Assembly Bill No. 2617 (2R) Sca, which the committee also reports this day.

#### COMMITTEE AMENDMENTS

Committee amendments to this bill (1) incorporate the provisions imposing the \$2 surcharge on traffic offenders to fund the collection of biological samples and creating a "New Jersey Forensic DNA Laboratory Fund" to receive amounts collected through the surcharge, (2) require preparation of the report on experience with the sampling program, (3) provide that the training protocols for biological sample collection that the bill directs the Attorney General to adopt shall be developed in consultation with the Department of Corrections, and (4) make a technical correction in the title.

**FISCAL IMPACT**

The Attorney General's Office has estimated a cost of approximately \$7.6 million for salary, sampling and forensic lab costs. The \$2 surcharge, based on the "Body Armor Fund" surcharge, is estimated to raise \$8.2 million to be deposited in the New Jersey Forensic DNA Laboratory Fund, less \$475,000 for the Administrative Office of the Courts in the first year.