

SENATE No. 1176

The Commonwealth of Massachusetts

PRESENTED BY:

Bruce E. Tarr

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to the expansion of the state DNA database.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Bruce E. Tarr</i>	<i>First Essex and Middlesex</i>
<i>Richard J. Ross</i>	<i>Norfolk, Bristol and Middlesex</i>
<i>Michael R. Knapik</i>	<i>Second Hampden and Hampshire</i>
<i>Robert L. Hedlund</i>	<i>Plymouth and Norfolk</i>
<i>Bradley H. Jones, Jr.</i>	<i>20th Middlesex</i>

SENATE No. 1176

By Mr. Tarr, a petition (accompanied by bill, Senate, No. 1176) of Bruce E. Tarr, Richard J. Ross, Michael R. Knapik, Robert L. Hedlund and other members of the General Court for legislation to expand the state DNA database. Public Safety and Homeland Security.

The Commonwealth of Massachusetts

In the Year Two Thousand Thirteen

An Act relative to the expansion of the state DNA database.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 3 of chapter 22E of the General Laws, as appearing in the 2010
2 official edition, is hereby amended by striking the text thereof, and inserting in place thereof
3 following: -

4 (a) Any person who is convicted of an offense that is punishable by imprisonment in the
5 state prison and any person adjudicated a youthful offender by reason of an offense that would be
6 punishable by imprisonment in the state prison if committed by an adult shall submit a DNA
7 sample to the department.

8 (b) Any person who is arrested by virtue of process, or is taken into custody by an officer
9 and charged with the commission of: (i) an offense listed in clause (i) of subsection (b) of section
10 25 of chapter 279; or (ii) section 17 or section 18 of chapter 266, and who upon arrest has been
11 arraigned pursuant to the applicable court rules under the Massachusetts Rules of Criminal
12 Procedure, shall submit a DNA sample to the department.

13 (c) The trial court and probation department shall work in conjunction with the director to
14 establish and implement a system for the electronic notification to the department whenever a
15 person is required to submit a DNA sample under this section. The sample shall be collected by
16 a person authorized under section 4 of this chapter subsequent to arraignment, in accordance
17 with regulations or procedures established by the director. The results of such sample shall be
18 made part of the state DNA database.

19 SECTION 2. Section 11 of chapter 22E of the General Laws, as appearing in the 2010
20 Official Edition, as amended by chapter 192 of the acts of 2012, is hereby amended by striking
21 the text thereof and inserting in place thereof the following:-

22 Any person required to provide a DNA sample pursuant to this chapter and who fails to
23 provide such DNA sample shall be subject to punishment by a fine of not more than \$2,000 or
24 imprisonment in a jail or house of correction for not more than six months, or both.

25 SECTION 3. Section 12 of chapter 22E of the General Laws, as appearing in the 2010
26 official edition, is hereby amended, in line 6, by striking out the figure “\$1,000” and inserting in
27 its place thereof the following figure:- “\$2,000”; and

28 further, in line 7, by striking out the words “six months” and inserting in place thereof the
29 following:- 1 year.

30 SECTION 4. Section 13 of chapter 22E of the General Laws, as appearing in the 2010
31 official edition, is hereby amended by striking, in line 4, the figure “\$1,000” and inserting in its
32 place thereof the following:- “\$2,000”; and further, in line 5, by striking the words “six
33 months” and inserting in place thereof the following:- 1 year.

34 SECTION 5. Section 15 of chapter 22E of the General Laws, as appearing in the 2010
35 official edition, is hereby amended by adding the following subsections:-

36 (b) The department shall destroy the DNA sample and any records of a person related to
37 the sample that were taken in connection with a particular alleged designated crime if the sample
38 was collected post-arraignment under subsection (b) of section 3, and any of the following
39 occurs: the felony charge which required the DNA sample is downgraded to a misdemeanor by
40 the prosecuting attorney upon a plea agreement or the person is convicted of a lesser offense that
41 is a misdemeanor other than one constituting abuse as defined in section 1 of chapter 209A or a
42 sex offense for which registration is required pursuant to sections 178C to 178P of chapter 6; (ii)
43 the person is acquitted after a trial of the charges which required the taking of the DNA sample;
44 or (iii) the charges which required the taking of the DNA sample are dismissed by either the
45 court or the state after arraignment unless good cause is shown why the sample should not be
46 destroyed.

47 (c) If the person has more than one entry in the state DNA database, CODIS, or the state
48 DNA data bank, only the entry related to the dismissed case shall be deleted.

49 (d) The trial court and probation department shall work in conjunction with the director to
50 establish and implement a system for the electronic notification to the department whenever a
51 DNA sample is required to be destroyed pursuant to this section. The department shall notify the
52 person upon destroying the DNA sample and completing its responsibilities under this
53 subsection.

54 (e) If a DNA sample is matched to another DNA sample during the course of a criminal
55 investigation, the record of the match shall not be expunged even if the sample itself is expunged
56 in accordance with the provisions of this section.