

HOUSE No. 1350

By Mr. Casey of Winchester, petition of Paul C. Casey relative to the collection of DNA samples from individuals charged with felonies in the Commonwealth. The Judiciary.

The Commonwealth of Massachusetts

In the Year Two Thousand and Seven.

AN ACT RELATIVE TO THE COLLECTION OF DNA SAMPLES FROM INDIVIDUALS CHARGED WITH FELONIES IN THE COMMONWEALTH.

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. Chapter 22E of the General Laws is hereby
2 amended by striking out Section 3 and inserting in place thereof the
3 following section:—

4 Section 3. Whoever is arrested by virtue of process, or is taken
5 into custody by an officer and charged with the commission of a
6 felony shall submit to the department a DNA sample collected at the
7 time he is fingerprinted pursuant to Section 1A of Chapter 263, or if
8 already incarcerated, before his release from custody, whichever
9 occurs first. The sample shall be collected by a person authorized
10 under Section 4 of this chapter, in accordance with regulations or
11 procedures established by the director. The results of such sample
12 shall become part of the state DNA database. The submission of
13 such DNA sample shall not be stayed pending a sentence appeal,
14 motion for new trial, appeal to an appellate court or other post con-
15 viction motion or petition.

1 SECTION 2. Chapter 22E of the General Laws is hereby
2 amended by striking out subsection b of Section 4 and inserting in
3 place thereof the following subsection:—

4 (b) The cost of preparing, collecting and processing a DNA
5 sample shall only be assessed against the person required to submit a
6 DNA sample if such person is convicted of the charges against him,
7 unless such person is indigent as defined in Section 27A of Chapter

8 261. The cost of preparing, collecting and processing a DNA sample
9 shall be determined by the secretary for administration and finance
10 in consultation with the director and shall be paid to the department
11 and retained by it to offset costs associated with creating, main-
12 taining and administering the state DNA database.

1 SECTION 3. Chapter 22E of the General Laws is hereby
2 amended by striking out section 15 and inserting in place thereof the
3 following section:—

4 Section 15. Any person whose DNA record has been included in
5 the state DNA database may apply to the superior court to have such
6 record expunged on the grounds that he was acquitted of the charges
7 against him, a grand jury determines not to indict him, or the convic-
8 tion or judicial determination that resulted in the inclusion of the
9 person's DNA record in the state DNA database has been reversed
10 and the case dismissed; provided, however, that one year shall have
11 elapsed from the date of his release from custody or such person
12 shall have obtained, in writing, authorization from the district
13 attorney that no further prosecution is contemplated under the orig-
14 inal offense for which such person was convicted or for which the
15 original judicial determination was entered.