

**HB0370/133025/5**

BY: Delegate Pena-Melnyk

AMENDMENTS TO HOUSE BILL 370, AS AMENDED  
(First Reading File Bill)

AMENDMENT NO. 1

On page 2 of the House Judiciary Committee Amendments (HB0370/532016/1) in line 5 of Amendment No. 1, before “providing” insert “requiring DNA records and samples generated as part of a criminal investigation or prosecution to be expunged automatically from every local, State, and federal data base within a certain time period under certain circumstances;”; strike beginning with “is” in line 6 down through “proceeding” in line 8 and substitute “qualifies for expungement and is matched at a certain time may not be utilized for a determination of probable cause and is not admissible in any proceeding for any reason”.

On page 3 of the House Judiciary Committee Amendments, in line 5 of Amendment No. 1, strike “2-511.1, 2-513, and” and substitute “2-513 and”.

AMENDMENT NO. 2

On page 6 of the House Judiciary Committee Amendments, in line 4 of Amendment No. 2, strike “**CHARGE**”; and in lines 5 and 6, in each instance, strike “**TITLE 10, SUBTITLE 1**”.

On pages 6 and 7 of the House Judiciary Committee Amendments, in Amendment No. 3, strike beginning with “**(C)**” in line 3 on page 6 down through “**PROCEEDING.**” in line 5 on page 7.

AMENDMENT NO. 3

On pages 4 and 5 of the bill, strike beginning with “An” in line 24 on page 4 down through “repository.]” in line 3 on page 5 and substitute:

(Over)

“(1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, ANY DNA RECORDS AND SAMPLES GENERATED AS PART OF A CRIMINAL INVESTIGATION OR PROSECUTION SHALL BE EXPUNGED AUTOMATICALLY FROM THE STATE DNA DATA BASE IF:

(I) THE INDIVIDUAL IS RELEASED WITHOUT CHARGE;

(II) A CRIMINAL ACTION BEGUN AGAINST THE INDIVIDUAL RELATING TO THE CRIME DOES NOT RESULT IN A CONVICTION OF THE INDIVIDUAL;

(III) THE CONVICTION IS REVERSED OR VACATED; OR

(IV) THE INDIVIDUAL IS GRANTED AN UNCONDITIONAL PARDON.

(2) A DNA RECORD OR SAMPLE MAY NOT BE EXPUNGED AUTOMATICALLY FROM THE STATE DNA DATA BASE IF THE CRIMINAL ACTION IS PUT ON THE STET DOCKET OR THE INDIVIDUAL RECEIVES PROBATION BEFORE JUDGMENT.

(B) ANY DNA RECORD OR SAMPLE EXPUNGED IN ACCORDANCE WITH THIS SECTION SHALL BE EXPUNGED FROM EVERY DATA BASE INTO WHICH IT HAS BEEN ENTERED, INCLUDING LOCAL, STATE, AND FEDERAL DATA BASES.

(C) AN EXPUNGEMENT UNDER THIS SECTION SHALL OCCUR WITHIN 60 DAYS OF AN EVENT LISTED IN SUBSECTION (A) OF THIS SECTION.

(D) A LETTER DOCUMENTING EXPUNGEMENT OF THE DNA SAMPLE AND DESTRUCTION OF THE DNA SAMPLE SHALL BE SENT BY THE DIRECTOR TO

THE DEFENDANT AND THE DEFENDANT'S ATTORNEY AT THE ADDRESS SPECIFIED BY THE COURT IN THE ORDER OF EXPUNGEMENT.

(E) A RECORD OR SAMPLE THAT QUALIFIES FOR EXPUNGEMENT UNDER THIS SECTION AND IS MATCHED CONCURRENT WITH OR SUBSEQUENT TO THE DATE OF QUALIFICATION FOR EXPUNGEMENT:

(1) MAY NOT BE UTILIZED FOR A DETERMINATION OF PROBABLE CAUSE REGARDLESS OF WHETHER IT IS EXPUNGED TIMELY; AND

(2) IS NOT ADMISSIBLE IN ANY PROCEEDING FOR ANY PURPOSE.

(F) THE DIRECTOR SHALL ADOPT PROCEDURES TO COMPLY WITH THIS SECTION.”.