



NEW YORK STATE SENATOR

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## Governor Cuomo, Senate Majority Leader Skelos, and Assembly Speaker Silver Announce Historic Agreement on Expansion of Dna Databank

DEAN G. SKELOS March 14, 2012

### *New Law Expands Access to DNA Testing and Discovery for Defendants*

Governor Andrew M. Cuomo, Senate Majority Leader Dean Skelos, and Assembly Speaker Sheldon Silver today announced an historic agreement that will make New York State the first “all crimes DNA” state in the nation, by requiring DNA samples be collected from anyone convicted of a felony or penal law misdemeanor. In addition, the bill also significantly expands defendants' access to DNA testing and comparison both before and after conviction in appropriate circumstances, as well as to discovery after conviction to demonstrate their innocence.

Governor Cuomo introduced the DNA Databank legislation as a centerpiece of his 2012 legislative agenda.

"It is a proven fact: DNA helps solve crimes, prosecute the guilty, and protects the innocent," said Governor Cuomo. "This bill will greatly improve law enforcement's ability to keep New York communities safe and bring justice to victims of violent crimes, as well as those who have been wrongly convicted. For too long, a limiting factor to our ability to solve crimes through DNA was the fact the law did not encompass all crimes. This new law will right

those wrongs. I commend Majority Leader Skelos and Speaker Silver for their leadership on this issue and thank the members of the Legislature for putting New Yorkers first."

Senate Majority Leader Dean G. Skelos said: "DNA is the 21st Century equivalent of a fingerprint and the most powerful law enforcement tool to catch and prosecute criminals and protect victims. The Senate fought to create the DNA Databank and I applaud the efforts of Governor Cuomo, the law enforcement community and victims' advocacy groups to expand it to include all crimes and make it even more effective."

Assembly Speaker Sheldon Silver said, "This legislation accomplishes two important objectives; it expands the DNA Databank to all crimes and it provides for more fair and equal access to DNA testing and the Databank for those who are wrongly charged with and convicted of crimes. When a person is wrongly convicted, the real perpetrator is allowed to remain free and potentially commit other crimes. Therefore, in addition to expanding the DNA Databank to help identify the true criminal, this legislation will, for the first time, provide wrongly convicted defendants with a fair opportunity to prove their innocence. Further, the expansion of the DNA Databank will help to make New York safer and provide an important tool for law enforcement. I thank Governor Cuomo for his leadership on this important issue."

Senator Steve Saland said, "Currently, not all misdemeanors and felonies require a DNA sample to be collected. The expansion is particularly critical when studies show that persons who commit serious crimes have also often committed other crimes including lower-level misdemeanors. This legislation will provide a powerful tool to bring closure to unsolved crimes and prevent further crimes from taking place, while providing a means by which a wrongfully convicted person can be exonerated, or a suspect eliminated. I appreciate the

efforts of the Governor and the Assembly to achieve an agreement on this bill."

Assemblyman Joseph R. Lentol said, "Expanding the Databank will help solve more crimes. This bill, by authorizing the courts to allow greater access to DNA testing and databanks comparisons, should also help reduce instances of wrongful prosecution and wrongful conviction. The person who is wrongly convicted is unjustly punished. The victim is given a false sense of security and has to relive the crime a second time when the truth comes out. And we are all put at risk when the real perpetrator is left free to commit other crimes. This legislation takes important steps to help prevent wrongful convictions while also expanding the DNA Databank to help law enforcement keep criminals off our streets. I praise the Governor for his hard work."

The agreement includes the following reforms to the criminal justice system:

- "All Crimes DNA" Expansion: This legislation will make New York the first state in the country to expand its DNA Databank so dramatically, a reform that promises to solve thousands of crimes and prevent thousands of others. Since its launch in 1996, New York State's DNA Databank has been a powerful tool both for preventing and solving crimes- including more than 2,900 convictions- and for proving innocence, including 27 individuals exonerated and countless suspects cleared early-on in investigations.

Previously, state law only permitted DNA to be collected from 48 percent of offenders convicted of a Penal Law crime. Among the exclusions were numerous crimes that statistics have shown to be precursors to violent offenses. As a result, New York State missed important opportunities to prevent needless suffering of crime victims and failed to use a

powerful tool that could be used to exonerate the innocent.

- **Expanded Access for Certain Criminal Defendants to DNA Testing:** This legislation will allow defendants in certain criminal cases to obtain DNA testing prior to trial to demonstrate their innocence. Further, under appropriate circumstances defendants convicted after a guilty plea will be allowed access to such testing. Together, these reforms will help to ensure that innocent defendants are not convicted or, if convicted after a plea, are able to demonstrate their actual innocence.
  
- **Expanded Access to Discovery for Certain Criminal Defendants After Trial:** In limited circumstances, defendants will be able to seek discovery of property and other materials to demonstrate their actual innocence after their conviction. Such discovery will provide the court with the evidence necessary to reach a proper decision on a defendant's motion for such relief.