

NINETEENTH CONGRESS OF THE  
REPUBLIC OF THE PHILIPPINES  
*First Regular Session*

22 JUL -7 P5:53

SENATE  
S. No. 222

RECEIVED BY



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Introduced by Senator MARK A. VILLAR

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**AN ACT  
PROVIDING FOR THE ESTABLISHMENT OF A FORENSIC DNA  
DATABANK**

EXPLANATORY NOTE

The 1987 Constitution, provides that *"Science and technology are essential for national development and progress. The State shall give priority to research and development, invention, innovation, and their utilization; and to science and technology education, training, and services. It shall support indigenous, appropriate, and self-reliant scientific and technological capabilities, and their application to the country's productive systems and national life"*. (Article 14, Section 10)

Through the advancement of science, any type of organism can be identified by the examination of Deoxyribonucleic Acid or "DNA". This has made DNA samples one of the most important pieces of evidence from a crime scene. Recent advances in forensic DNA testing are now paving the way for reforming the manner by which cases are resolved in courts of law through the way suspected offenders are apprehended during criminal investigation.

Technologically-advanced countries have acknowledged DNA technology as vital to ensuring justice and accuracy in the justice system. Presently, DNA technology is largely used in our country to identify victims of calamities and to establish paternity and other filial relationships. This technology can be used to identify potential suspects whose DNA may match evidence left at a crime scene, exonerate persons wrongly

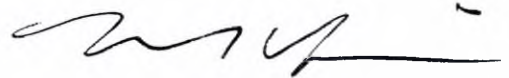
accused of crimes, and to identify victims of crime.

The criminal justice system can only be effective and successful in enmeshing perpetrators if the prosecutors can present proof beyond a reasonable doubt, which is the highest quantum of evidence - thus, the most challenging to prove.

Forensic experts or those who conduct in depth analysis of physical evidence has been sorely lacking in both logistical and legal support. The institution or acceptance of DNA as standard evidence will go a long way in helping forensic investigations to succeed.

This bill seeks to provide for the establishment of a Forensic DNA Databank, the taking of DNA samples, forensic DNA analysis, and the use of DNA profiles and any information related to it to aid the country's criminal justice system.

In view of the foregoing, the passage of this bill is earnestly sought.

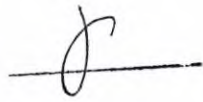


**MARK A. VILLAR**  
Senator

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**AN ACT  
PROVIDING FOR THE ESTABLISHMENT OF A FORENSIC DNA  
DATABANK**

*Be it enacted by the Senate and House of Representatives of the Philippines in  
Congress assembled:*

1       SECTION 1. *Short Title.* – This Act shall be known as the "*Forensic DNA*  
2       *Databank Act of 2022.*"

3       SEC. 2. *Declaration of Policy.* – The State recognizes that Deoxyribonucleic  
4       Acid (DNA) technology is an indispensable tool to ensure accuracy and fairness in  
5       the criminal justice system. When used to its full potential, DNA technology will  
6       permit the criminal justice system to identify criminals quickly and accurately. More  
7       crimes will be solved and persons mistakenly accused or convicted of crimes will be  
8       cleared if the criminal justice system is provided with the necessary funding,  
9       technology, and assistance it needs to reap the benefits of DNA technology.

10       SEC. 3. *Definitions of Terms.*

11               a) *Appropriate consent* means:

- 12                       1) in relation to a person who is under the age of eighteen  
13                       years, the consent in writing of his or her parent or guardian;  
14                       2) in relation to a person who has attained the age of eighteen  
15                       years, the consent in writing of that person; or

1 3) in relation to a person in whom there is a condition of  
2 arrested or incomplete development of mind or body whether  
3 such condition arises from inherent causes or is induced by  
4 disease or injury, and who is incapable of understanding the  
5 general nature and effect of a forensic DNA analysis or is  
6 incapable of indicating whether he or she consents or does  
7 not consent to give his or her intimate sample or non-intimate  
8 sample, the consent in writing of his or her parent or  
9 guardian.

10 *b) Authorized officer* means any police officer not below the rank of  
11 Police Superintendent.

12 *c) Deoxyribonucleic Acid (DNA)* is the chain of molecules found in  
13 every nucleated cell of the body. The totality of an individual's DNA  
14 is unique for the individual, except identical twins.

15 *d) DNA Databank* means the Forensic DNA Databank established  
16 under this Act.

17 *e) DNA profile* means genetic information derived from DNA testing of  
18 a biological sample obtained from a person, which biological  
19 sample is clearly identifiable as originating from that person.

20 *f) Forensic DNA analysis* means any analysis carried out for the  
21 purpose or determining a person's identity.

22 *g) Non-intimate sample* means:

- 23 1) A sample of hair other than the pubic hair;  
24 2) A sample taken from a nail or from under a nail;  
25 3) A swab taken from any part of a person's body other than a  
26 part from which a swab taken would be an intimate sample;  
27 or  
28 4) Saliva.

29 *h) Intimate sample* means:

- 30 1) sample of blood, semen or any other tissue or fluid taken  
31 from a person's body, urine, or pubic hair; or  
32 2) A swab taken from any part of a person's genitals (including

1                   pubic hair) or from a person's body orifice other than the  
2                   mouth.

3           SEC. 4. *Establishment of the DNA Databank.* – The Forensic DNA Databank  
4 (DNA Databank) is hereby established. The DNA Databank shall be under the  
5 Department of Justice.

6           SEC. 5. *DNA Databank Indices.* – The DNA Databank shall consist of the  
7 following indices:

8           a) crime scene index which shall contain DNA profiles and any information  
9           in relation thereto derived from an intimate sample or a non-intimate  
10          sample that is found-

11               i) On anything or at any place where an offense was committed;

12               ii) On or within the body of a victim of an offense;

13               iii) On anything worn or carried by the victim of an offense at the  
14               time when the offense was committed; or

15               iv) On or within the body of any person reasonably suspected of  
16               having committed an offense.

17          b) A suspected persons index which shall contain DNA profiles and any  
18          information in relation thereto derived from an intimate sample or a  
19          non-intimate sample taken from persons reasonably suspected of  
20          having committed an offense and includes suspects who have not been  
21          charged in any court for any offense;

22          c) A convicted offenders index which shall contain DNA profiles and any  
23          information in relation thereto derived from an intimate sample or a  
24          non-intimate sample taken from persons convicted of any offense  
25          under any law;

26          d) A detainee index which shall contain DNA profiles and any information  
27          in relation thereto derived from an intimate sample or a non-intimate  
28          sample taken from a detainee;



1 e) A missing persons index which shall contain DNA and any information  
2 in relation thereto derived from an intimate or a non-intimate sample  
3 taken from-

- 4 i) The body or parts the body of an unidentified deceased person;
- 5 ii) anything worn or carried by a missing person; or
- 6 iii) the next of kin of a missing person if so required; and

7 f) A voluntary index which shall contain DNA profiles and any information  
8 in relation thereto derived from an intimate sample or a non-intimate  
9 sample taken from a person who volunteers to submit the same for the  
10 purpose of storage of the DNA information in the DNA Databank and  
11 for such other purposes referred to in this Act.

12 SEC. 6. *Objectives of DNA Databank.* – The DNA Databank has the following  
13 objectives:

- 14 a) The primary objective of the DNA Databank is to keep and maintain  
15 the indices referred to in the recently preceding section for the purpose  
16 of human identification in relation to forensic investigation.
- 17 b) In addition, the DNA profiles and any information in relation thereto  
18 kept and maintained in the DNA Databank may be used in assisting –
  - 19 i) The recovery or identification of human remains from a disaster  
20 or for humanitarian purposes; and
  - 21 ii) The identification of living or deceased persons.

22 SEC. 7. *Functions of DNA Databank.* – The DNA Databank shall store DNA  
23 profiles and any information in relation thereto from any forensic DNA analysis  
24 earned out by the National Bureau of Investigation (NBI), the Philippine National  
25 Police (PNP), or any law enforcement agency or body that may be designated by the  
26 Secretary of Justice from time to time by order.

1           SEC. 8. *Appointment of Director of the Forensic DNA Databank.* – The  
2 President of the Philippines shall appoint a Director, who shall manage the Forensic  
3 DNA Databank for such period and on such terms and conditions as may be  
4 specified in the instrument of appointment. The Director shall report to the Secretary  
5 of Justice.

6           SEC. 9. *Board of Visitors.* – The President shall appoint a Board of Visitors  
7 composed of one (1) representative each from the Commission of Human Rights  
8 (CHR); The Department of Science and Technology (DOST); an accredited  
9 nongovernment organization whose main advocacy is human rights, crime  
10 prevention, or a similar advocacy; the University of the Philippines (UP); and a  
11 retired justice of the Supreme Court.

12           The Board of Visitors shall advise and make recommendations to the  
13 President on all matters pertaining to the Forensic DNA Databank and the use of  
14 forensic DNA technology in the criminal justice system.

15           SEC. 10. *Functions and Powers of the Director of the Forensic DNA*  
16 *Databank.* – The Director of the Forensic DNA Databank shall have the following  
17 functions:

- 18           a) To be responsible for the general conduct, administration, and  
19           management of the Forensic DNA Databank;
- 20           b) To establish mechanisms to facilitate the collection, storage and  
21           dissemination of data in connection with DNA profiles and any  
22           information in relation thereto stored in the Forensic DNA Databank;
- 23           c) To ensure that DNA profiles and any information in relation thereto  
24           are securely stored and remain confidential;
- 25           d) To store and dispose of the intimate sample and non-intimate sample  
26           taken for the purpose of forensic DNA analysis in accordance with the  
27           provisions of this Act and as prescribed;

- 1 e) To cooperate with foreign law enforcement agencies in accordance  
2 with the provisions of this Act; and  
3 f) To carry out any other functions conferred by or under this Act and to  
4 perform any other functions that are supplemental, incidental, or  
5 consequential to any of the functions specified in this section or in  
6 furtherance of the objectives of the DNA Databank.

7 The Director of the DNA Databank shall have such powers as may be  
8 necessary for, or in connection with, or incidental to, the performance of  
9 his or her functions under this Act.

10 SEC. 11. *Rectification of Particulars in DNA Profile and Information.* –

- 11 a) The Director of the Forensic DNA Databank shall be entitled to rectify  
12 the particulars in the DNA profiles and any information in relation  
13 thereto if -  
14 1) A clerical error has occurred; and  
15 2) Sufficient evidence is produced to satisfy him or her that the entry  
16 made is incorrect and on making the rectification he or she shall,  
17 where necessary, issue to the person entitled to the information  
18 derived from the analysis of a sample taken for him, the particulars  
19 so rectified.  
20 b) The powers under this section shall be exercised by the Director or the  
21 DNA Databank alone.  
22 c) Any rectification made pursuant to this section shall not be construed  
23 as an act of tampering, abetting, or attempting to tamper with any  
24 DNA profile or any information in relation thereto contained in the DNA  
25 Databank mentioned in section 20 of this Act.



1           SEC. 12. *Access of DNA Profile and Information.* - The access to a  
2 communication or use of DNA profiles and any information in relation thereto stored  
3 in the Forensic DNA Databank shall only be for the purposes of –

- 4           a) Forensic comparison with any other DNA profiles or information in the  
5           course of an investigation of any offense conducted by any  
6           enforcement agency;  
7           b) Administering the DNA Databank; or  
8           c) Making the information available to the person to whom the  
9           information relates.

10          SEC. 13. *Taking the Intimate Sample.* – (a) An intimate sample of (1) a  
11 person reasonably suspected or having committed an offense; or (2) a detainee,  
12 may be taken for forensic DNA analysis only if -

- 13           i) an authorized officer authorizes it to be taken, and an appropriate  
14           consent in the prescribed form is given by the person whom an intimate  
15           sample is to be taken; or  
16           ii) a judge of the Regional Trial Court which has jurisdiction over the place  
17           where the offense was committed or the place where the detainee is  
18           detained orders the taking of the intimate sample.

19           b) Subject to an appropriate consent being an authorized officer shall only  
20 give his or her authorization if –

21           1) He or she has reasonable grounds for-

- 22           i) Suspecting that the person from whom the intimate sample is  
23           to be taken has committed an offense; and  
24           ii) Believing that the sample will tend to confirm or disprove the  
25           commission of an offense by that person; or

1                   2) An arrest has been effected on or a detention order has been  
2                   made against a detainee under the law.

3                   c) An authorized officer shall give his or her authorization in writing; or  
4                   where it is impracticable to give his or her authorization in writing,  
5                   may give such authorization orally, in which case he or she must  
6                   confirm it in writing as soon as may be possible.

7                   d) A person from whom an intimate sample is taken shall be entitled to  
8                   the information derived from the analysis of the sample taken from him  
9                   or her.

10                  e) An intimate sample shall only be taken by a government medical  
11                  officer.

12                  SEC. 14. *Taking of Non-Intimate Sample.* – (a) A non-intimate sample of (1)  
13                  a person reasonably suspected of having committed an offense; or (2) a detainee,  
14                  may be taken only if an authorized officer authorizes it to be taken.

15                  b) An Authorized officer shall only give his or her authorization under  
16                  subsection (a) if -

17                   1) He has reasonable grounds for –

18                   i) Suspecting that the person from whom the non-intimate  
19                   sample is to be taken has committed an offense; and

20                   ii) Believing that the sample will tend to confirm or disprove the  
21                   commission of an offense by that person;

22                   2) An arrest has been effected on or a detention has been made  
23                   against under the law;

24                  c) An authorized officer shall give his or her authorization under  
25                  subsection (a) in writing; or where it is impracticable to give his or her authorization  
26                  in writing, may give such authorization orally, in which case he or she must confirm  
27                  it in writing as soon as may be possible.

1 d) The person from whom a non-intimate sample is taken shall be entitled to  
2 the information derived from the analysis of the sample taken from him or her.

3 e) A non-intimate sample shall only be taken by a government medical  
4 officer or a police officer.

5 f) A police officer may use all means reasonably necessary for the purpose of  
6 taking or assisting the taking of a non-intimate sample from a person.

7 SEC. 15. *Refusal to Give Sample.* – If a person from whom a non-intimate  
8 sample is to be taken under this Act refuses to give such sample, refuses to allow  
9 such sample to be taken from him or her, or obstructs the taking of such sample  
10 from him or her, he or she commits an offense and shall, on conviction, be liable to  
11 a fine not exceeding ten thousand pesos (P10,000.00) or to imprisonment for a term  
12 not exceeding one (1) year or both.

13 SEC. 16. *Sample Given Voluntarily.* – (a) Any person, other than the person  
14 whose intimate sample or non-intimate sample maybe taken under sections 13 and  
15 14, may voluntarily give an appropriate consent in the prescribed form to a police  
16 officer not below the rank of Police Superintendent for the taking of his or her  
17 intimate sample or non-intimate sample.

18 b) Where an appropriate consent is given under subsection (a), a police  
19 officer not below the rank of Police Superintendent shall, before the taking of the  
20 intimate sample or non-intimate sample, inform the person from whom the sample is  
21 to be taken:

22 1) that the DNA profiles and any information in relation thereto derived  
23 from the intimate sample or non-intimate sample may be stored in the  
24 DNA Databank and may be used for the purposes of forensic DNA  
25 analysis, police inquiry, and for such purposes referred to in this Act;

26 2) that he or she may make a request to a police officer for an access  
27 to the information; and

28 3) that he or she may at any time withdraw his consent given under

subsection (a).

SEC. 17. *DNA Sample of Prisoners.* – An intimate sample or a non-intimate sample may be taken for forensic DNA analysis from any person who is serving his or her term or imprisonment in connection with an offense of which or she has been convicted.

SEC. 18. *Storage and Disposal of Intimate and Non-Intimate Sample.* –

- a) The Director of the DNA Databank shall safely and securely store all intimate samples and non-intimate samples that are collected for the purpose or forensic DNA analysis, the portions of the samples that the Director of the DNA Databank consider appropriate and without delay destroy any remaining portions.
- b) Intimate sample shall be prescribed by the appropriate rules and regulations.

SEC. 19. *Removal of DNA Profile and Information from Suspected Persons Index.* – Where an intimate sample or a non-intimate sample has been taken in accordance with this Act from a person reasonably suspected of having committed an offense and -

- a) investigations reveal that he or she was not involved in the commission of any offense;
- b) the charge against him or her in respect of any offense is withdrawn;
- c) he or she is discharged by a count of an offense with which he or she has been charged, at trial or on appeal;
- d) he or she is acquitted of an offense with which he or she has been charged, at trial, or an appeal; or
- e) he or she is not charged in any court for any offense within a period of one (1) year from the date of taking of such sample from him or her, the Director of the DNA Databank shall within six (6) months or so



1 being notified by the officer in charge of a police district of the fact  
2 referred to in paragraph (a), (b), (c), (d), or (e), remove the DNA  
3 profile and any information in relation thereto of such person from the  
4 DNA Databank.

5 SEC. 20. *Offense of Tampering, Abetting, or Attempting to Tamper with*  
6 *Sample.* – (a) A person commits an offense if he or she tampers or causes to be  
7 tampered with any intimate sample or non-intimate sample taken for the purposes  
8 of this Act.

9 a) Any person who contravenes subsection (a) commits an offense and shall on  
10 conviction, be liable to imprisonment for a term not exceeding five (5) years or to a  
11 fine not exceeding fifty thousand pesos (P50,000.00) or to both.

12 b) Any person who abets the commission or who attempts to commit the offense  
13 under this section shall be guilty of that offense and shall, on conviction be liable to  
14 the punishment provided for that offense: *Provided*, that any term of imprisonment  
15 imposed shall not exceed one-half of the maximum term provided for the offense.

16 SEC. 21. *Unauthorized Use or Communication of DNA Profile or Information.* –

17 a) No person who receives a DNA profile for entry in the DNA Databank or who  
18 has access to information contained in the DNA Databank shall not use or  
19 communicate such DNA profile or any information in relation thereto other than  
20 for the purpose of this Act.

21 b) Any person who contravenes subsection (a) commits an offense and shall, on  
22 conviction, be liable to imprisonment for a term not exceeding five (5) years or to  
23 a fine not exceeding fifty thousand pesos (P 50,000.00) or to both.

24 SEC. 22. *Confidentiality.* – (a) The Director and staff of the DNA Databank, or  
25 any person who for any reason, has by any means access any data, record, book,  
26 register, correspondence, documents whatsoever, or material or information,  
27 relating to the DNA profiles and any information in relation thereto in the DNA



Databank, which he or she has acquired in the performance of his or her functions or the exercise of his or her powers, shall not give, divulge, reveal, publish, or otherwise disclose to any person, such document, material or information unless the disclosure is required or authorized -

- 1) under this Act or regulations made under this Act;
- 2) under other laws;
- 3) by any court; or
- 4) for the performance of his or her functions or the exercise of his or her powers under this Act or regulations made under this Act.

(b) Any person who contravenes subsection (a) commits an offense and shall, on conviction, be liable to imprisonment for a term not exceeding five (5) years or to a fine not exceeding fifty thousand pesos (P50,000.00) or to both.

*SEC. 23. Offense of Tampering, Abetting, or Attempting to Tamper with DNA Profile or Information.* – (a) A person commits an offense if he or she tampers or causes to be tampered with any DNA profile or any information in relation thereto in the possession, custody, or control of the Forensic DNA Databank.

b) For the purposes of this section, tampering with any DNA profile or any information in relation thereto includes the following:

- (1) such DNA profile or any information in relation thereto is altered or erased;
- (2) any new DNA profile or any information in relation thereto is introduced or added to such DNA profile or any information in relation thereto; or
- (3) Any event occurs which impairs the ability of the Head, the Deputy Head, or officers or the DNA Databank to have access to such DNA profiles or any information in relation thereto.

c) Any person who commits an offense under this section shall, on conviction, be liable to imprisonment for a term not exceeding five (5) years or to a fine not exceeding fifty thousand pesos (P50,000.00), or both.

1 d) Any person who abets the commission of or who attempts to commit the  
2 offense under this section shall be guilty of that offense and shall, on conviction, be  
3 liable to the punishment provided for that offense: Provided that any term  
4 imprisonment imposed shall not exceed one-half of the maximum term provided for  
5 the offense.

6 SEC. 24. *Cooperation with Foreign Law Enforcement Agencies.* –

7 a) The Director of the Forensic DNA Databank may, upon request by a foreign  
8 law enforcement agency, compare a DNA profile received from the foreign law  
9 enforcement agency with the DNA profiles already contained in the DNA Databank  
10 and communicate any relevant information to the foreign law enforcement agency.

11 b) The Director of the DNA Databank may, upon request by a foreign law  
12 enforcement agency in the course of an investigation of an offense or prosecution of  
13 a criminal offense in that foreign state, communicate a DNA profile contained in the  
14 DNA Databank to that foreign law enforcement agency.

15 c) For the purpose of this section, "foreign law enforcement agency" means the  
16 law enforcement agency of a foreign state and includes an international  
17 organization.

18 SEC. 25. *Information from the DNA Databank to be conclusive.* – Any  
19 information from the DNA Databank shall be admissible as s conclusive proof of the  
20 DNA identification in any proceedings in any court.

21 SEC. 26. *Protection Against Actions and Legal Proceedings.* – No action suit  
22 prosecution or other proceedings shall lie or be brought, instituted, or maintained in  
23 any court against the Director and officers of the Forensic DNA Databank,  
24 government medical officer, or any public officer in respect of any act, neglect,  
25 default, or omission done by him or her in good faith in carrying out his or her  
26 powers functions, and responsibilities under this Act.

1           SEC. 27. *Reportorial Requirement* – Within two (2) years after the  
2 establishment of the Forensic DNA Databank, its Director shall submit a report to  
3 Congress on the costs and means to implement the provisions of this Act.  
4 Thereafter, the Director of the Forensic DNA Databank shall submit an annual report  
5 to Congress.

6           SEC 28. *Implementing Rules and Regulations*. – Not later than one hundred  
7 twenty (120) days after the date of the enactment of this Act, the Secretary of  
8 Justice in consultation with the Secretary of Science and Technology and the  
9 Commissioner of Human Rights, shall promulgate rules and regulations to  
10 implement this Act

11           SEC 29. *Appropriations*. – To carry out the provisions of this Act, there are  
12 authorized to be appropriated such sums as may be necessary for each fiscal year.  
13 The Forensic DNA Databank must be established within two (2) years from the date  
14 of the effectivity of this Act.

15           SEC 30. *Separability Clause*. – If any portion or provision of this Act is  
16 declared unconstitutional, the remainder of this Act or any provision not affected  
17 thereby shall remain in force and effect.

18           SEC 31. *Repealing Clause*. – Any law, presidential decree or issuance,  
19 executive order, letter of instruction, rule or regulation inconsistent with the  
20 provisions of this Act is hereby repealed or modified accordingly.

21           SEC 32. *Effectivity*. – This Act shall take effect fifteen (15) days following its  
22 complete publication in a newspaper of general circulation.

Approved,