



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

'22 JUL 18 P 3 :43

SENATE

RECEIVED BY: _____

S. No. 726

Introduced by SENATOR RONALD "BATO" DELA ROSA

**AN ACT
ESTABLISHING A FORENSIC DNA DATABASE IN THE PHILIPPINES,
APPROPRIATING FUNDS THEREFOR AND FOR OTHER PURPOSES**

EXPLANATORY NOTE

Article XIV, Section 10 of 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."

Undoubtedly, technology has been a helpful tool utilized by law enforcement officers in crime prevention, solution and correction - one of this is the Deoxyribonucleic Acid (DNA) technology. This has been scientifically proven to be an invaluable instrument in the identification of a person especially in establishing the identity and prosecution of criminals. It can be used to identify criminals with scientific accuracy when biological evidence exists. Conversely, it can also be used to clear suspects and exonerate persons mistakenly accused or convicted of crimes.

DNA analysis is found to have other several uses for forensic investigation, such as establishing paternity and other family relationships and the identification of disaster victims and missing persons.

In line with the growing demands of the government to identify its citizens systematically, the proposed national DNA database shall provide fast and accurate using scientific method of identification.

This bill will provide the statutory authority for the creation of a forensic National DNA Database in the country that will greatly contribute to the investigation and expeditious resolution of crimes, providing a reliable method of identification. This will be under the control and supervision by the PNP Crime Laboratory – DNA Laboratory Division. In the same manner, a National DNA Database Scientific Advisory Committee will also be created, composed of representatives from the PNP, NBI, DOST, DOH, and other government agencies engaged in forensic DNA testing.

The approval of this bill is in furtherance of our government's effort towards a fair justice system. Thus, I strongly urge the immediate passage of this bill.


RONALD "BATO" DELA ROSA



Senate

Office of the Secretary

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

1 Section 1. *Short Title.* – This Act shall be known as the "Forensic DNA Database
2 Act".

3 Sec. 2. *Declaration of Policy.* – It is hereby declared the policy of the State to
4 establish and maintain a fair, responsible, ethical and efficient criminal justice system.
5 The State likewise reaffirm the goals of the United Nations in the field of crime
6 prevention and criminal justice, specifically, more efficient and effective law
7 enforcement and administration of justice, respect for human rights and fundamental
8 freedoms, and the promotion of the highest standards of fairness, humanity, and
9 professional conduct.

10 Sec. 3. *Definitions.* - As used in this Act:

- 11 a. *Biological sample or DNA sample* refers to any organic material originating from
- 12 a person's body including those found in inanimate objects, that is susceptible
- 13 to DNA testing;
- 14 b. *Buccal swab* refers to a sample of cellular material taken from the inside of a
- 15 person's mouth;

- 1 c. *Certified DNA Collector* refers to a police officer or a person who has
2 successfully completed the training prescribed by the PNP Crime Laboratory, in
3 respect of the taking of buccal sample;
- 4 d. *Crime scene sample* refers to physical evidence retrieved from the crime scene
5 or any other place where evidence of the crime may be found and may include
6 physical evidence collected from the body of a person involved in an offense
7 or crime;
- 8 e. *DNA* refers to deoxyribonucleic acid, which is the chain of molecules found in
9 every nucleated cell of the body. The totality of an individual's DNA is unique
10 for the individual, except identical twins;
- 11 f. *DNA evidence* refers to constitutes the totality of the DNA profiles, results and
12 other genetic information directly generated from DNA testing of biological
13 samples;
- 14 g. *DNA profile* refers to genetic information derived from DNA testing of a
15 biological sample obtained from a person, which biological sample is clearly
16 identifiable as originating from that person;
- 17 h. *DNA profiling or DNA typing* refers to a process where a minute sample of
18 genetic DNA material is taken from a human tissue and is given a computerized
19 numeric value;
- 20 i. *Foreign law enforcement agency* refers to the law enforcement agency of
21 foreign state and includes any recognized international organization;
- 22 j. *Forensic DNA analysis* refers to analysis of the DNA from a body sample or
23 crime scene sample to determine forensic DNA profile;
- 24 k. *Forensic DNA profiles* refers to the result obtained from forensic DNA analysis
25 on body sample or crime scene, providing a unique string of alpha numeric
26 characters to provide identity reference;
- 27 l. *Intimate sample* refers to (i) a sample of blood, semen or any other tissue or
28 fluid taken from a person's body, urine or pubic hair; or (2) swab taken from
29 any part of a person's genitals (including pubic hair) or from a person's body
30 orifice other than the mouth.
- 31 m. *Non-intimate sample* refers to (i) a sample of hair other than the pubic hair;

1 (ii) a sample taken from a nail or from under a nail; (iii) a swab taken from any
2 part of a person's body other than a part from which a swab taken would be
3 an intimate sample; or (iv) saliva.

4 n. *Philippine National Forensic DNA Database* refers to the country's central
5 repository of DNA profiles established under this Act.

6 *Sec. 4. Establishment of Philippine National Forensic DNA Database. – A*
7 forensic DNA database under the Philippine National Police (PNP), to be known as the
8 Philippine National Forensic DNA Database shall be established. The database shall
9 consist of the following indices:

- 10 a. Crime scene index shall contain DNA profile derived from an intimate sample
11 or a non-intimate sample that is found on anything or at any place where an
12 offense was committed; on or within the body of a victim of an offense; or on
13 anything worn or carried by the victim or suspect at the time when the offense
14 was committed;
- 15 b. Arrested person index shall contain forensic DNA profiles derived from an
16 intimate or a non-intimate sample taken from arrested persons;
- 17 c. Convicted offenders index shall contain DNA profiles derived from an intimate
18 or a non-intimate sample taken from persons convicted of any offense under
19 any written law;
- 20 d. Detainee index which contains DNA profiles derived from an intimate or a
21 nonintimate sample taken from a detainee;
- 22 e. Elimination person index shall contain DNA profiles derived from an intimate or
23 non-intimate sample taken from persons who had lawful access to the crime
24 scene to be used for comparison with evidence for elimination purposes;
- 25 f. Law Enforcement Personnel index shall contain DNA profiles of all employees
26 of government's law agencies, derived by means of forensic
- 27 g. Military personnel index shall contain DNA profiles of all members of the Armed
28 Forces of the Philippines derived by means of forensic DNA analysis, from a
29 buccal or blood swab;
- 30 h. Missing person index shall contain DNA profiles and any information in relation
31 thereto derived from an intimate or a non-intimate sample taken from – (i)

1 anything worn or carried by a missing person; or (ii) the next of kin of a missing
2 person if so required;

3 i. Unidentified Human Remains Index shall contain DNA profiles and any
4 information in relation thereto derived from an intimate or a non-intimate
5 sample taken from the body or parts of the body of an unidentified deceased
6 person;

7 j. Voluntary person index shall contain DNA profiles and any information in
8 relation thereto derived from an intimate or a non-intimate sample taken from
9 a person who volunteers to submit the same for the purpose of storage of the
10 DNA information in the DNA Databank.

11 *Sec. 5. Objectives of the DNA Database.* – The objective of the DNA Database
12 is to establish, keep and maintain a comprehensive National DNA database in order to
13 perform comparative searches for the following purposes:

14 a. to serve as a tool for crime prevention and crime solution;

15 b. to identify person who might have been involved in the commission of an
16 offense;

17 c. to prove the innocence or guilt of person allegedly involved in the commission
18 of an offense;

19 d. to exonerate a person wrongly convicted of an offense; or

20 e. to assist in the identification of missing persons or unidentified human remains.

21 *Sec. 6. Management of DNA Database.* – The PNP Crime Laboratory (CL) – DNA
22 Laboratory Division shall manage the DNA databases, and shall have all such power
23 as may be necessary for, in connection with, or incidental to the performance of its
24 function under this Act, including the following:

25 a. To be primary responsible for the general conduct, administration, and
26 management of the DNA database;

27 b. To establish mechanisms to facilitate the connection, storage, and
28 dissemination of data in connection with DNA profiles and any information in
29 relation thereto stored in the DNA Database;

30 c. To ensure that DNA profiles and any information in relation thereto are securely
31 stored and remain confidential at all times;

- 1 d. To store and dispose samples taken for the purpose of forensic DNA analysis
- 2 in accordance with the provisions of this Act;
- 3 e. To cooperate with both local and foreign law enforcement agencies in
- 4 accordance with the provisions of this Act; and
- 5 f. To carry out any other functions conferred by or under this Act and to perform
- 6 any other functions that are incidental, or consequential to any of the functions
- 7 specified in this section or in furtherance of the objectives of the Philippine
- 8 National Forensic DNA Database.

9 *Sec. 7. Access and Confidentiality of DNA profiles and information.* – The DNA
10 database and any information contained therein shall only be accessed by authorized
11 personnel of the PNP CL DNA Laboratory on the following purposes:

- 12 a. administering the database;
- 13 b. comparing DNA profiles or information in the course of an investigation
- 14 conducted by any law-enforcement agency or during judicial and quasi-judicial
- 15 proceedings; and
- 16 c. making the information available to a person to whom the information relates.

17 DNA profiles and all results or other information obtained from DNA testing
18 shall be confidential, subject to the provisions of Republic Act No. 10173 otherwise
19 known as the "Data Privacy Act of 2012."

20 *Sec. 8. Biological Sample or Genetic Markers derived from DNA as Evidence.* -
21 Expert testimony or evidence relating to the use of these biological sample or genetic
22 markers contained in or derived from DNA for identification may be used as evidence
23 in any courts or proceedings in the country subject to the judicial rules on DNA
24 evidence.

25 *Sec. 9. Collection of DNA Sample.* – Only a certified PNP DNA Collector shall
26 collect a biological sample from any person who on or after the effective date of this
27 Act is:

- 28 a. convicted of a crime for any offense;
- 29 b. arrested for and formally charged of the crime before the court for an offense;
- 30 c. legally detained under law;
- 31 d. required to submit a DNA sample due to a judicial or quasi-judicial order
- 32 because they are a suspect in a crime;

- 1 e. needed to submit a DNA sample for elimination purposes;
- 2 f. an active member of law enforcement agency;
- 3 g. an active member of the Armed Forces of the Philippines; and
- 4 h. a person who is voluntarily providing a sample to be placed into the DNA
- 5 database.

6 *Sec. 10. Handling of Collected Biological Sample.* – The integrity of the collected
7 biological sample shall be maintained at all times through a clear, well documented
8 chain of custody from the time a biological sample is collected until its disposal. Such
9 chain of custody document shall be retained in the laboratory record to reflect the
10 integrity of the sample during its receipt, handling, storage, preparation, retention
11 and/or disposal to protect the interest of all parties.

12 *Sec. 11. Storage and disposal of biological samples* – PNP DNA Laboratory
13 Division shall preserve all biological samples, DNA profiles and results or other genetic
14 information obtained from the DNA testing. All biological samples collected under
15 Section 9 must be destroyed not later than six months after the DNA profile has been
16 generated.

17 *Sec. 12. Deletion of DNA Profile from the DNA Database Indices.* – A person
18 whose DNA profile is contained in the voluntary or missing person’s indices as may
19 request that their DNA profile, and any related information, be deleted from the DNA
20 databank at any time. Members of law enforcement agencies and the Armed Forces
21 of the Philippines may request the same upon retirement or resignation from the
22 service. The DNA Laboratory official in charge of the database shall, within six months
23 from the time of notification of such request, delete the DNA profile and any
24 information in relation to the profile.

25 *Sec. 13. Sample Given Voluntarily.* – Any person may voluntarily give written
26 consent to a certified DNA collector for the taking of his or her intimate or non-intimate
27 sample:

- 28 a. Before taking of intimate or non-intimate sample, the certified DNA collector
- 29 shall inform the person from whom the sample is to be taken:
 - 30 i. that the DNA profile and any information in relation thereto derived from
 - 31 the intimate sample or non-intimate sample may be stored in the National

1 Forensic DNA Database and may be used for the purposes of forensic DNA
2 analysis, police inquiry, and for such purposes referred to in this act;

- 3 ii. that he/she may make a request for an access to his or her information;
4 and
5 iii. that he/she may at any time demand the deletion of his/her DNA profile in
6 the database.

7 *Sec. 14. Support from Voluntary Citizens.* – To support the nationwide National
8 DNA Database, employees of both government and private institutions and private
9 citizens are hereby encouraged to submit DNA samples. The forensic DNA profiles and
10 any information in relation thereto shall be included in the voluntary person index.

11 *Sec. 15. National DNA Database Scientific Advisory Committee.* – A National
12 DNA Database Scientific Advisory Committee shall be established for purposes of
13 developing DNA testing database quality assurance standards for DNA testing and
14 data basing including standards for testing the proficiency of forensic laboratories and
15 forensic analysts conducting forensic DNA analysis.

16 *Sec. 16. Committee Members.* - The Committee shall be composed of nine (9)
17 members, with recognized expertise and competence to understand, develop and
18 adopt DNA quality assurance standards necessary for the maintenance of the DNA
19 database. Committee representatives shall be composed of three (3) representatives
20 from the PNP, two (2) representatives from the National Bureau of Investigation (NBI),
21 one (1) representative from the Department of Science and Technology (DOST), one
22 (1) representative from the Department of Health (DOH), and two (2) representatives
23 from other government agencies or institutions actively engaged in forensic DNA
24 testing. The Committee shall be chaired by an official from the PNP being the
25 repository of the database.

26 *Sec. 17. Tampering of DNA Records.* – Any person who shall knowingly make
27 any false entry or alter any DNA record or profile indexed or otherwise contained in
28 the DNA database system, or who shall intentionally destroy, mutilate, conceal,
29 remove or otherwise impair the verity or availability of DNA records or profile without
30 authority, shall suffer the penalty of twelve (12) years and one (1) day imprisonment
31 with perpetual absolute disqualification for public office and a fine not less than Six
32 Hundred Thousand Pesos (Php600,000.00) at the discretion of the court.

1 Sec. 18. *Tampering, Abetting, or Attempting to Tamper DNA Samples.* – Any
2 person who shall knowingly tampers or causes to be tampered with any intimate
3 sample or non-intimate sample taken for the purposes of this Act or aids the
4 commission of or attempts to tamper any intimate or non-intimate sample taken for
5 the purposes of this Act, shall suffer the penalty of twelve (12) years and one (1) day
6 imprisonment with perpetual absolute disqualification for public office or a fine not
7 less than Six Hundred Thousand Pesos (Php600,000.00) or both, at the discretion of
8 the court.

9 Sec. 19. *Improper Disclosure of DNA Samples and Records.* – Any person who,
10 by virtue of employment or official position, has possession of, or access to,
11 individually identifiable DNA information indexed or otherwise contained in the DNA
12 database system and who knowingly and willfully discloses such information in any
13 manner to any person or agency not legally entitled to receive it to the prejudice and
14 detriment of the public or person from whom the said DNA sample or information was
15 taken shall suffer the penalty of eight (8) years and one (1) day imprisonment or a
16 fine not lower than Five Hundred Fifty Thousand Pesos (Php500,000.00) or both, at
17 the discretion of the court.

18 Sec. 20. *Refusal to Give Sample.* – Any person who unjustly refuses to give a
19 non-intimate sample or obstructs the taking of such sample from, when legally ordered
20 by competent authority to do so, shall be liable to a fine not exceeding three hundred
21 thousand pesos (Php 300,000.00) or imprisonment for a term not exceeding six (6)
22 years or both.

23 Sec. 21. *Cooperation with Other Law Enforcement Agency.* – The PNP, NBI and
24 other law enforcement agency shall establish a system to ensure coordination and
25 integration of the DNA database in their respective agencies.

26 Sec. 22. *Cooperation with Foreign Law Enforcement Agency.* – The PNP may,
27 upon request by a foreign law enforcement agency, compare a DNA profile received
28 from the foreign law enforcement agency with the DNA profiles in the DNA Database
29 in order to determine whether such DNA profile is already contained in the DNA
30 Database and communicate any relevant.

31 Sec. 23. *Transitional.* – Any existing DNA profile and any information in relation
32 thereto kept and maintained by the Philippine National Police, immediately before the

1 effectivity of this Act shall form part of the Philippine Forensic DNA Database in
2 accordance with this Act.

3 Sec. 24. *Appropriations.* – The amount necessary for the effective
4 implementation of the provisions of this Act shall be taken from the current year’s
5 appropriation of the PNP. Thereafter, such sum as may be needed for the continued
6 implementation of this Act shall be included in the annual General Appropriations Act.

7 Sec. 25. *Implementing Rules and Regulations.* – Within one hundred and
8 twenty (120) days, the Philippine National Police in consultation with government
9 agencies other law enforcement offices shall formulate the necessary rules and
10 regulations for the effective implementation of this Act.

11 Sec. 26. *Separability Clause.* – If any portion or provision of this Act is declared
12 unconstitutional, the remainder of this Act or any provisions not affected thereby shall
13 remain in force and effect.

14 Sec. 27. *Repealing Clause.* – All existing laws, orders, rules and regulations or
15 parts thereof deemed inconsistent with the provisions of this Act are hereby repealed
16 or modified accordingly.

17 Sec. 28. *Effectivity.* – This Act shall take effect fifteen (15) days following the
18 date of its publication in the Official Gazette or in at least two (2) newspapers of
19 general circulation, whichever comes first.

Approved,