NINETEENTH CONGRESS OF THI REPUBLIC OF THE PHILIPPINES First Regular Session))	
	SENATE	
5	S. No. <u>1456</u>	RECEI



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Introduced by SENATOR RAMON BONG REVILLA, JR.

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

EXPLANATORY NOTE

Science and technology have proven to be beacons of change and innovation which help humankind in our daily activities. Much of our daily lives' comfort and convenience have been ushered in with the aid of science and technology. As much as we cannot deny the advantages that scientific and technological discoveries have birthed, so too, should we not avoid them. As the Supreme Court has already aptly proclaimed, we should not hesitate to accept scientific advances helpful to humankind, "and apply the results of science when competently obtained in aid of situations presented, since to reject said result is to deny progress."

This proposed measure seeks to establish a Forensic DNA Database in the country. In the landmark case of Agustin v. Court of Appeals, the Supreme Court had the opportunity to elucidate on DNA, to wit: "[d]eoxyribonucleic Acid, or DNA, is a molecule that encodes the genetic information in all living organisms. A person's DNA is the same in each cell and it does not change throughout a person's lifetime; the DNA in a person's blood is the same as the DNA found in his saliva, sweat, bone, the root and shaft of hair, earwax, mucus, urine, skin tissue, and vaginal and rectal cells. Most importantly, because of polymorphisms in human genetic structure, no two individuals have the same DNA, with the notable exception of identical twins." The significance of DNA lies in the uniqueness of the totality of the DNA of a person.

As early as 2002 DNA evidence has been considered by the Court in a rapeslay case of a 9-year old girl, where it admitted in evidence the DNA samples of the victim which were found in the bloodstained garments of the accused, as well as the vaginal swabs taken from the victim which were found to show the DNA profile of the accused who was subsequently convicted. It was the case considered by the Court to be the "first real breakthrough of DNA as admissible and authoritative evidence in Philippine jurisprudence."

The Supreme Court has, in 2007, already promulgated the Rule on DNA Evidence which allows DNA evidence to be offered or used as evidence in criminal and civil actions, as well as special proceedings. (Sec. 1, A.M. 06-11-05-SC). Case law is also rife with proof that the rights of every accused will remain to be protected as due process will always be maintained in the admission of DNA evidence. After all, even with the courts in assessing the probative value of DNA evidence will always have to yield to the guidelines set by the Supreme Court in People v. Vallejo, to wit:

- (a) How the samples were collected;
- (b) How they were handled;
- (c) The possibility of contamination of samples;
- (d) The procedure followed in analyzing the samples;
- (e) Whether the proper standards and procedure were followed in conducting the tests; and
 - (f) The qualification of the analyst who conducted the test.

The opportunity lies in our hands to ensure that we adapt to advancements that have already proven to be a useful tool not only in the advancement of justice, but as well as in establishing identities, paternity and filiation and genetic relations needed in cases for support, recognition and succession, among others. As reiterated in People v. Yatar, DNA print or identification technology has been "advanced as uniquely effective means to link a suspect to a crime, or to exonerate a wrongly accused suspect, where biological evidence has been left... It can assist immensely in effecting a more accurate account of the crime committed, efficiently facilitating the conviction of the guilty, securing the acquittal of the innocent, and ensuring the proper administration of justice in every case." Ultimately, it is a weapon in the administration of justice that not even death can erase.

Each second that we lose before we can legislate on this matter, we likewise lose the opportunity to resolve crimes and controversies which DNA evidence could easily solve and resolve. We should allow not a similar situation immortalized in the 2003 case of People v. Janson, where the Supreme Court lamented the lack of DNA evidence in capturing the perpetrator of the crime that it even thus remarked: "[h[ow we wish we had DNA or other scientific evidence to still our doubts!" As much as this proposed measure is trailblazing, the needs for its immediate legislation are urgent.

In view of the foregoing, immediate passage of this measure is most earnestly sought.

RAMON BONG REVILLA, JR.



NINETEENTH CONGRESS OF THE	
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SENATE

s. No. 1456



Introduced by SENATOR RAMON BONG REVILLA, JR.

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

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

- Section 1. *Short Title*. This Act shall be known as the "*Forensic DNA Database* Act".
- Sec. 2. *Declaration of Policy.* —It is hereby declared the policy of the State to establish and maintain a fair, responsible, ethical, and efficient criminal justice system.

 The State likewise reaffirms the goals of the United Nations in the field of crime prevention and criminal justice, specifically, more efficient, and effective law
- enforcement and administration of justice, respect for human rights and fundamental freedoms, and the promotion of the highest standards of fairness, humanity, and professional conduct.
- Sec. 3. Definitions, As used in this Act:

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- a. Biological sample or DNA sample refers to any organic material originating from a person's body including those found in inanimate objects, that is susceptible to DNA testing;
 - b. Buccal swab refers to a sample of cellular material taken from the inside of a person's mouth;
- 16 c. Certified DNA Collector refers to a police officer or a person who has 17 successfully completed the training prescribed by the PNP Crime Laboratory, in respect 18 of the taking of buccal sample;

d. Crime scene sample refers to physical evidence retrieved from the crime scene or any other place where evidence of the crime may be found and may include physical evidence collected from the body of a person involved in an offense or crime;

- e. DNA refers to deoxyribonucleic acid, which is the chain of molecules found in every nucleated cell of the body. The totality of an individual's DNA is unique for the individual, except identical twins;
- f. DNA evidence refers to the totality of the DNA profiles, results and other genetic information directly generated from DNA testing of biological samples;
- g. DNA profile refers to genetic information derived from DNA testing of a biological sample obtained from a person, which biological sample is clearly identifiable as originating from that person;
- h. DNA profiling or DNA typing refers to a process where a minute sample of genetic DNA material is taken from a human tissue and is given a computerized numeric value;
- i. Foreign law enforcement agency refers to the law enforcement agency of a foreign state and includes any recognized international organization;
- j. Forensic DNA analysis refers to analysis of the DNA from a body sample or crime scene sample to determine forensic DNA profile;
- k. Forensic DNA profile refers to result obtained from forensic DNA analysis on body sample or crime scene, providing a unique string of alphanumeric characters to provide identity reference;
- l. Intimate samples refers to (i) a sample of blood, semen, or any other tissue or fluid taken from a person's body, urine, or pubic hair; (ii) swab taken from any part of a person's genitals (including pubic hair) or from a person's body orifice other than the mouth;
- m. Non-intimate sample refers to (i) a sample of hair other than the pubic hair; (ii) a sample taken from a nail or from under a nail; (iii) a swab taken from any part of a person's body other than a part from which a swab taken would be an intimate sample; or (iv) saliva;
- n. Philippine National Forensic DNA Database refers to the country's central repository of DNA profiles established under this Act.

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

- a. Crime scene index shall contain DNA profile derived from an intimate sample or a non-intimate sample that is found on anything or at any place where an offense was committed; on or within the body of a victim of an offense; or on anything worn or carried by the victim or suspect at the time when the offense was committed;
- b. Arrested person index shall contain forensic DNA profiles derived from an intimate or a non-intimate sample taken from arrested persons;
- c. Convicted offenders index shall contain DNA profiles derived from an intimate or a non-intimate sample taken from persons convicted of any offense under any law;
- d. Detainee index which contains DNA profiles derived from an intimate or a non-intimate sample taken from a detainee;
- e. Elimination person index shall contain DNA profiles derived from an intimate or non-intimate sample taken from persons who had lawful access to the crime scene to be used for comparison with evidence for elimination purposes;
- f. Law Enforcement Personnel index shall contain DNA profiles of all employees of government's law agencies, derived by means of forensic;
- g. Military personnel index shall contain DNA profiles of all members of the Armed Forces of the Philippines derived by means of forensic DNA analysis, from a buccal or blood swab;
- h. Missing person index shall contain DNA profiles and any information in relation thereto derived from an intimate or a non-intimate sample taken from (i) anything worn or carried by a missing person; or (ii) the next of kin of a missing person if so required;
- i. Unidentified Human Remains Index shall contain DNA profiles and any information in relation thereto derived from an intimate or a non-intimate sample taken from the body or parts of the body of an unidentified deceased person;
- j. Voluntary person index shall contain DNA profiles and any information in relation thereto derived from an intimate or a non-intimate sample taken from a

- person who volunteers to submit the same for the purpose of storage of the DNA information in the DNA Databank.
- Sec. 5. *Objectives of the DNA Database*. —The objective of the DNA Database is to establish, keep and maintain a comprehensive National DNA database to perform comparative searches for the following purposes:
- a. To serve as a tool for crime prevention and crime solution;
- b. To identify a person who might have been involved in the commission of anoffense;
- c. To prove the innocence or guilt of a person allegedly involved in the commission of an offense;
 - d. To exonerate a person wrongly convicted of an offense; or

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- e. To assist in the identification of missing persons or unidentified human remains.
- Sec. 6. *Management of DNA Database.*—The PNP Forensic Group (FG) DNA Laboratory Division shall manage the DNA databases, and shall have all such power as may be necessary for, in connection with, or incidental to the performance of its function under this Act, including the following:
 - a. To be primary responsible for the general conduct, administration, and management of the DNA database;
 - b. To establish mechanisms to facilitate the connection, storage, and dissemination of data in connection with DNA profiles and any information in relation thereto stored in the DNA Database;
- c. To ensure that DNA profiles and any information in relation thereto are always securely stored and remain confidential.
 - d. To store and deposit samples taken for purposes of analysis in accordance with the provisions of this Act;
 - e. To cooperate with both local and foreign law enforcement agencies in accordance with the provisions of this Act; and
- f. To carry out any other functions conferred by or under this Act and to perform any other functions that are incidental or consequential to any of the functions specified in this section, or in furtherance of the objectives of the Philippine National Forensic DNA Database.

- 1 Sec. 7. Access and Confidentiality of DNA Profiles and Information. — The DNA database and any information contained therein shall only be accessed by authorized 2 personnel of the PNP Forensic Group DNA Laboratory on the following purposes: 3 a. Administering the database; 4 b. Comparing DNA profiles or information in the course of an investigation 5 6 conducted by any law-enforcement agency, or during judicial and quasi-judicial proceedings; and 7 c. Making the information available to a person to whom the information relates 8 DNA profiles and all results or other information obtained from DNA testing shall be 9 confidential, subject to the provisions of Republic Act No. 10173, otherwise known as 10 11 the "Data Privacy Act of 2012." Sec. 8. Biological Sample or Genetic Markers derived from DNA as Evidence.— 12 Expert testimony or evidence relating to the use of these biological samples or genetic 13 markers contained in or derived from DNA for identification may be used as evidence 14 in any court or proceeding in the country subject to the judicial rules on DNA evidence. 15 Sec. 9. Collection of DNA Sample. — Only a certified PNP DNA Collector shall 16 collect a biological sample from any person who, on or after the effective date of this 17 Act, is: 18 a. Convicted of a crime for any offense; 19
- b. Arrested for and formally charged of the crime before the court for an offense;
 - c. Legally detained under the law;

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- d. Required to submit a DNA sample due to a judicial or quasi-judicial order because they are a suspect in a crime;
 - e. Needed to submit a DNA sample for elimination purposes;
- 26 f. An active member of a law enforcement agency;
 - g. An active member of the Armed Forces of the Philippines; and
- h. A person who is voluntarily providing a sample to be placed into the DNA database.
 - Sec. 10. *Handling of Collected Biological Sample*. —The integrity of the collected biological sample shall be always maintained through a clear, well documented chain of custody from the time a biological sample is collected until its disposal. Such chain

of custody documents shall be retained in the laboratory record to reflect the integrity of the sample during its receipt, handling, storage, preparation, retention, and/or disposal to protect the interest of all parties.

Sec. 11. Storage and Disposal of Biological Samples — PNP DNA Laboratory Division shall preserve all biological samples, DNA profiles and results or other genetic information obtained from the DNA testing. All biological samples collected under Section 9 must be destroyed not later than six months after the DNA profile has been generated.

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

Sec. 13. Sample Given Voluntarily. — Any person may voluntarily give written consent to a certified DNA collector for the taking of his or her intimate or non-intimate sample provided that, before taking of intimate or non-intimate sample, the certified DNA collector shall inform the person from whom the sample is to be taken: (i) that the DNA profile and any information in relation thereto derived from the intimate sample or non-intimate sample may be stored in the National Forensic DNA Database and may be used for purposes of analysis, police inquiry, and for such purposes referred to in this act; (ii) that he/she may make a request for an access to his or her information; and (iii) that he/she may at any time demand the deletion of his/her DNA profile in the database.

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

Sec. 15. *National DNA Database Scientific Advisory Committee.* — A National DNA Database Scientific Advisory Committee shall be established for purposes of

developing DNA testing database quality assurance standards for DNA testing and data basing including standards for testing the proficiency of forensic laboratories and forensic analysts conducting forensic DNA analysis.

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

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

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

Sec. 19. *Improper Disclosure of DNA Samples and Records.*—Any person who, by virtue of employment or official position, has possession of, or access to, individually identifiable DNA information indexed or otherwise contained in the DNA database system and who knowingly and willfully discloses such information in any

- manner to any person or agency not legally entitled to receive it to the prejudice and detriment of the public or person from whom the said DNA sample or information was taken shall suffer the penalty of eight (8) years and one (1) day imprisonment or a
- fine not lower than Five Hundred Fifty Thousand Pesos (Php500,000.00) or both, at
- 5 the discretion of the court.

- Sec. 20. *Refusal to Give Sample.* Any person who unjustly refuses to give a non-intimate sample or obstructs the taking of such sample from, when legally ordered by competent authority to do so, shall be liable to a fine not exceeding three hundred thousand pesos (Php 300,000.00) or imprisonment for a term not exceeding six (6) years or both.
 - Sec. 21. *Cooperation with Other Law Enforcement Agencies.* The PNP, NBI and other law enforcement agencies shall establish a system to ensure coordination and integration of the DNA database in their respective agencies.
 - Sec. 22. *Cooperation with Foreign Law Enforcement Agency.* The PNP may, upon request by a foreign law enforcement agency, compare a DNA profile received from the foreign law enforcement agency with the DNA profiles in the DNA Database to determine whether such DNA profile is already contained in the DNA Database and communicate any relevant information.
 - Sec. 23. *Transitional.* Any existing DNA profile and any information in relation thereto kept and maintained by the Philippine National Police, immediately before the effectivity of this Act shall form part of Philippine Database in accordance with this Act.
 - Sec. 24. *Appropriations.* The amount necessary for the effective implementation of the provisions of this Act shall be taken from the current year's appropriation of the PNP. Thereafter, such sum as may be needed for the continued implementation of this Act shall be included in the annual General Appropriations Act.
 - Sec. 25. *Implementing Rules and Regulations.* Within one hundred and twenty (120) days upon the effectivity of this Act, the Philippine National Police, in consultation with government agencies and other law enforcement offices, shall formulate the necessary rules and regulations for the effective implementation of this Act.

- Sec. 26. Separability Clause. If any portion or provision of this Act is declared invalid or unconstitutional, the remainder of this Act or any provisions not affected thereby shall remain in force and effect.
- Sec. 27. Repealing Clause. All existing laws, orders, rules and regulations or parts thereof deemed inconsistent with, or contrary to, the provisions of this Act are hereby repealed or modified accordingly.
- Sec. 28. Effectivity. This Act shall take effect fifteen (15) days following the 7 date of its complete publication in the Official Gazette or in two (2) newspapers of general circulation in the Philippines. 9

Approved,

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NINETEENTH CONGRESS OF THE)	
REPUBLIC OF THE PHILIPPINES)	
First Regular Session)	
SENATE		
S. No		

Introduced by SENATOR RAMON BONG REVILLA, JR.

AN ACT

TO PROFESSIONALIZE THE PRACTICE OF PRISON MANAGEMENT AND SET FOR THAT PURPOSE THE QUALIFICATIONS FOR SUPERINTENDENTS OF THE NATIONAL PRISON SYSTEM AND WARDENS OF PROVINCIAL, CITY OR MUNICIPAL JAILS

EXPLANATORY NOTE

Article II, Section 11 of the 1987 Constitution emphasizes that "The State values the dignity of every human person and guarantees respect for human rights"

Our prison population is perhaps our country's most neglected sector, and their welfare is possibly one of the lowest on the list of our nation's priorities due to our country's limited resources. However, even though they have broken the laws of the land, they are still entitled to their basic human rights and still deserve the care and attention of the State.

The Prison System is one of the major pillars of the criminal justice system. In the country, it is composed of the Bureau of Corrections (BUCOR), the Bureau of Jail Management and Penology (BJMP), the local government units (LGUs) with regard to provincial and sub provincial jails, and the Philippine National Police (PNP) which likewise maintains detention facilities in its different police stations nationwide.

The country's resources may be limited, but that should not hinder the State to find ways to alleviate the living conditions of persons deprived of liberty (PDL). Most of their places of detention and imprisonment have become severely congested, filthy, and inhumane. These things become factors that are contributory to the deterioration

of a man's psyche. Our jails should not only be places of detention and imprisonment, it should also be a place of rehabilitation and correction for our convicted. This cannot be achieved with "indifferent" management. As long as our prison system is headed by people who are indifferent, prisons will not be able to achieve what they are meant to do, which is to rehabilitate and correct, instead they will become a breeding ground for repeating offenders and hardened criminals.

This bill seeks to professionalize the practice of prison management and corrections administration and set the qualifications of superintendents and wardens of prisons all over the country to ensure that the officials heading our penal system are duly capable and competent in performing their responsibilities. An enlightened management leads to an overall better jail system that can properly utilize the little amount allocated for the sector.

The country's penal system and the officials that head the organization play significant roles in the administration of justice in our country.

In view of the foregoing, immediate passage of this measure is most earnestly sought.

RAMON BONG REVILLA, JR.

NINETEENTH CONGRESS OF THE REPUBLIC OF THE PHILIPPINES First Regular Session)
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Introduced by SENATOR RAMON BONG REVILLA, JR.

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AN ACT

TO PROFESSIONALIZE THE PRACTICE OF PRISON MANAGEMENT AND SET FOR THAT PURPOSE THE QUALIFICATIONS FOR SUPERINTENDENTS OF THE NATIONAL PRISON SYSTEM AND WARDENS OF PROVINCIAL, CITY OR **MUNICIPAL JAILS**

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

- Section 1. Short Title, This Act shall be known as the "Professionalization of 1 Prison Management Act of 2022'. 2
- Sec. 2. Qualifications of Superintendents of Prisons in the National Prison 3 System. - All Superintendents of Prisons or Colonies or Prison Farms of the National Prison System shall have the following qualifications at the time of their appointment:
 - a. Holder of a Bachelor's Degree in Law, preferably a Member of the Philippine Bar; or a Bachelor's degree in Public Administration, or its equivalent with at least twelve (12) unit in Psychology or Sociology;
 - b. Training and experience of at least five (5) years in corrections and prison management; and
 - c. Of good moral character with reputation in the community for probity and fairmindedness and who has never been convicted of a criminal offense nor charged administratively for an act involving moral turpitude.
 - Sec. 3. Qualifications of Wardens of Provincial, City or Municipal Jails. All wardens of Provincial, City or Municipal Jails shall have the following qualifications:

- a. Holder of a Bachelor's Degree in Law, Public Administration, Psychology or its equivalent, with at least twelve (12) units in Behavioral Sciences, Sociology or Psychology;
- b. Training and experience of at least three (3) years in corrections and prison
 management;

- c. Of good moral character with a reputation in the community for probity and fair-mindedness and who has never been convicted of a criminal offense nor charged administratively.
- Sec. 4. Jail Management and Correction Administration Training. The Philippine National Police (PNP) and/or the Philippine National Police Academy (PNPA) shall conduct courses and seminars on Jail Management and correction administration for nominees and incumbents of Prison Superintendent or Jail Warden positions. Incumbent Superintendents and Wardens shall be required to pass courses for jail management and corrections administration in order to retain their positions. When feasible, Superintendents and Wardens shall be sent for training abroad in jail management and corrections administration.
 - Sec. 5. Equivalence of Position, Rank, Salary and Privileges. Superintendents of the National Prison System shall enjoy the position, rank, salary and privileges of an Assistant Bureau Director; provincial, city and municipal jail wardens shall enjoy the position, rank, salary and privileges of a Division Head of a Bureau: Provided, That said Superintendents or Wardens shall have the qualifications herein set forth: Provided, further, That the incumbents shall have to first qualify for the requirement of the position herein set forth before they can enjoy the position, rank, salary, privileges herein set forth: Provided, finally, That said incumbents shall continue to discharge the duties of Superintendent or Warden until reassigned, retired or separated from office, or otherwise replaced by the appointing authority by a qualified official.
 - Sec. 6. *Repealing Clause.* Any provision of law, presidential decree, executive order, rule or regulation contrary to, or inconsistent with, the provisions of this Act is hereby repealed or modified accordingly.

Sec. 7. *Effectivity Clause.* - This Act shall take effect upon approval and completion of its publication in the *Official Gazette* or at least two (2) newspapers of general circulation in the Philippines.

Approved,