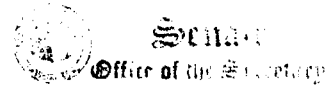


NINETEENTH CONGRESS OF THE)
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(In Substitution of Senate Bill Nos. 222, 726, and 1456)

Prepared jointly by the Committees on Public Order and Dangerous Drugs; Justice and Human Rights; and Finance with Senators Villar M., Dela Rosa, and Revilla Jr., as authors thereof

**AN ACT
ESTABLISHING THE PHILIPPINE NATIONAL POLICE FORENSIC DNA
DATABASE, APPROPRIATING FUNDS THEREFOR**

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 “PNP Forensic DNA
2 Database 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 reaffirms 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. *Definition of Terms.* - As used in this Act:

11 a. *Biological or **DEOXYRIBONUCLEIC ACID (DNA)** sample* refers to any
12 organic material originating from a person's body including those found in
13 inanimate objects, that is subjected to DNA testing;

- 1 b. *Buccal swab* refers to a sample of cellular material taken from the inside of a
2 person's mouth;
- 3 c. *Certified DNA Collector* refers to a police officer or a person who has
4 successfully completed the training prescribed and certified by the PNP Forensic
5 Group, in respect of the taking of buccal sample and biological DNA sample;
- 6 d. *Crime scene sample* refers to physical evidence retrieved from the crime scene
7 or any other place where evidence of the crime may be found and may include
8 physical evidence collected from the body of a person involved in an offense or
9 crime;
- 10 e. *DNA* refers to the chain of molecules found in every nucleated cell of the body.
11 The totality of an individual's DNA is unique for the individual, except in identical
12 twins;
- 13 f. *DNA evidence* refers to the totality of the DNA profiles, results and other genetic
14 information directly generated from DNA testing of biological samples;
- 15 g. *DNA profile* refers to genetic information derived from DNA testing of a
16 biological sample obtained from a person, which biological sample is clearly
17 identifiable as originating from that person;
- 18 h. *DNA profiling or DNA typing* refers to a process where a minute sample of
19 genetic DNA material is taken from a human biological and is given an analyzed
20 numeric value;
- 21 i. *DNA testing* refers to the generation of DNA profiles and the comparison of the
22 information obtained from the DNA testing of biological samples for the purpose
23 of determining, with reasonable certainty, whether or not the DNA obtained
24 from two or more distinct biological samples originates from the same person
25 (direct identification) or if the biological samples originate from related persons
26 (kinship analysis);
- 27 j. *Foreign law enforcement agency* refers to the law enforcement agency of a
28 foreign state and includes any recognized international organization established
29 by government or states of which the Philippines is an official member, or any
30 international organization;
- 31 k. *Forensic DNA analysis* refers to analysis of the DNA from a body sample or
32 crime scene sample to determine forensic DNA profile;

- 1 I. *Forensic DNA profiles* refer to the result obtained from forensic DNA analysis
2 on body sample or crime scene, providing a unique combination of genotype
3 obtained from DNA analysis testing of multiple loci to provide identity reference;
- 4 m. *Intimate sample* refers to (i) a sample of blood, semen or any other tissue or
5 fluid taken from a person's body, urine or pubic hair; or (ii) swab taken from
6 any part of a person's genitals (including pubic hair) or from a person's body
7 orifice other than the mouth; and
- 8 n. *Non-intimate sample* refers to (i) a sample of hair other than the pubic hair;
9 (ii) a sample taken from a nail or from under a nail; (iii) a swab taken from any
10 part of a person's body other than a part from which a swab taken would be
11 an intimate sample; or (iv) saliva.

12 **Sec. 4. Establishment of Philippine National *POLICE* Forensic DNA Database.**

13 –A forensic DNA database under the Philippine National Police (PNP), to be known as
14 the **PNP** Forensic DNA Database, shall be established. The database shall consist of
15 the following indices:

- 16 a. Crime scene index shall contain DNA profile derived from an intimate sample
17 or a non-intimate sample that is found on anything or at any place where an
18 offense was committed; or within the body of a victim of an offense; or on
19 anything worn or carried by the victim or suspect at the time when the offense
20 was committed;
- 21 b. Convicted offenders index shall contain DNA profiles derived from an intimate
22 or a non-intimate sample taken from persons convicted of any offense under
23 any written law;
- 24 c. Detainee index which contains DNA profiles derived from an intimate or a non-
25 intimate sample taken from a detainee or persons deprived of liberty;
- 26 d. Elimination person index shall contain DNA profiles derived from an intimate or
27 non-intimate sample taken from persons who had lawful access to the crime
28 scene to be used for comparison with evidence for elimination purposes;
- 29 e. Law Enforcement Personnel index shall contain DNA profiles of all employees
30 of government's law enforcement agencies, derived by means of forensic DNA
31 analysis, from a buccal or blood sample of a donor;

- 1 f. Military personnel index shall contain DNA profiles of all members of the Armed
2 Forces of the Philippines derived by means of forensic DNA analysis, from a
3 buccal or blood swab;
- 4 g. Missing person index shall contain DNA profiles and any information in relation
5 thereto derived from an intimate or a non-intimate sample taken from – (i)
6 anything worn, carried or used by a missing person; or (ii) biological relatives
7 of a missing person if so required;
- 8 h. Unidentified Human Remains Index shall contain DNA profiles and any
9 information in relation thereto derived from an intimate or a non-intimate
10 sample taken from the body or parts of the body of an unidentified deceased
11 person; and
- 12 i. Voluntary person index shall contain DNA profiles and any information in
13 relation thereto derived from an intimate or a non-intimate sample taken from
14 a person who volunteers to submit the same for the purpose of storage of the
15 DNA information in the DNA Databank.

16 *Sec. 5. Objectives of the DNA Database.* – The objective of the DNA Database
17 is to establish, keep and maintain a comprehensive national DNA database in order to
18 perform comparative searches for the following purposes:

- 19 a. serve as a tool for crime prevention and crime solution;
- 20 b. identify person/s who might have been involved in the commission of an
21 offense;
- 22 c. prove the innocence or guilt of a person allegedly involved in the commission
23 of an offense;
- 24 d. exonerate a person wrongly convicted of an offense; or
- 25 e. assist in the identification of missing persons or unidentified human remains.

26 *Sec. 6. Management of DNA Database.* – The PNP Forensic Group – DNA
27 Laboratory Division (PNP-FG DNA Laboratory Division) shall manage the DNA
28 databases, and shall have such power as may be necessary for, in connection with, or
29 incidental to the performance of its functions under this Act, including the following:

- 30 a. Primarily responsible for the general conduct, administration, and management
31 of the DNA database;

- 1 b. Establish mechanisms to facilitate the connection, storage, and dissemination
- 2 of data in connection with DNA profiles and any information in relation thereto
- 3 stored in the DNA Database;
- 4 c. Ensure that DNA profiles and any information in relation thereto are securely
- 5 stored and remain confidential at all times;
- 6 d. Store and dispose samples taken for the purpose of forensic DNA analysis in
- 7 accordance with the provisions of this Act;
- 8 e. Cooperate with both local and foreign law enforcement agencies in accordance
- 9 with the provisions of this Act; and
- 10 f. Carry out any other functions conferred by or under this Act and to perform
- 11 any other functions that are incidental, or consequential to any of the functions
- 12 specified in this section or in furtherance of the objectives of the Philippine
- 13 National Forensic DNA Database.

14 *Sec. 7. Access to and Confidentiality of DNA profiles and information.* – The
15 access to a communication or use of DNA profiles and any information in relation
16 thereto stored in the **PNP** Forensic DNA Database shall only be for the following
17 purposes:

- 18 a. administering the database;
- 19 b. comparing DNA profiles or information in the course of an investigation
- 20 conducted by any law enforcement agency or during judicial and quasi-judicial
- 21 proceedings; and
- 22 c. making the information available to a person to whom the information relates.

23 DNA profiles and all results or other information obtained from DNA testing
24 shall be confidential and covered by the provisions of Republic Act No. 10173
25 otherwise known as the "Data Privacy Act of 2012."

26 *Sec. 8. Biological Sample or Genetic Markers derived from DNA as Evidence.* -
27 Expert testimony or evidence relating to the use of these biological sample or genetic
28 markers contained in or derived from DNA for identification may be used as evidence
29 in any court or proceeding in the country subject to the judicial rules on DNA evidence.

30 *Sec. 9. Mandatory Collection of DNA Sample.* – The following shall be required
31 to provide biological sample:

- 32 a. those convicted by final judgment for violation of any criminal law;

- 1 b. those persons who have a pending criminal case before any court of competent
- 2 jurisdiction;
- 3 c. those who are legally detained under the law;
- 4 d. those ordered by a judicial or quasi-judicial order to submit their DNA sample
- 5 in relation to a pending case;
- 6 e. active members of law enforcement agencies; and
- 7 f. active members of the Armed Forces of the Philippines.

8 *Sec. 10. Voluntary Collection of DNA Sample.* – Any person may voluntarily
9 give written consent for the taking of one’s intimate or non-intimate sample.

10 Before taking of any sample, the certified DNA collector shall inform the person
11 from whom the sample is to be taken of the following:

- 12 i. the DNA profile and any information in relation thereto derived from the
- 13 intimate sample or non-intimate sample may be stored in the National
- 14 Forensic DNA Database and may be used for the purposes of forensic DNA
- 15 analysis, police inquiry, and for such purposes referred to in this act;
- 16 ii. any person may make a request for access to one’s information; and
- 17 iii. any person may at any time demand the deletion of one’s DNA profile in
- 18 the database.

19 Furthermore, any person may submit a written request to the PNP-FG
20 Laboratory Division for DNA testing as defined in this Act: *Provided*, That at least one
21 (1) of the DNA profile to be used in the requested DNA testing is the DNA profile of
22 who requested the test or of any person under his/her legal guardianship.

23 For this purpose, the PNP is hereby authorized to collect reasonable fees for
24 the collection of DNA sample, processing, and corresponding issuance of DNA test
25 result and other certifications.

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

1 *Sec. 12. Storage and disposal of biological samples* – The PNP DNA Laboratory
2 Division shall preserve all biological samples, DNA profiles and results or other genetic
3 information obtained from the DNA testing. All biological samples collected under
4 Section 9 must be destroyed not later than six (6) months after the DNA profile has
5 been generated.

6 *Sec. 13. Deletion of DNA Profile from the DNA Database Indices.* – A person
7 whose DNA profile is contained in the voluntary or missing person’s indices may
8 request that their DNA profile, and any related information, be deleted from the DNA
9 database at any time. Members of law enforcement agencies and the Armed Forces
10 of the Philippines may request the same upon retirement or resignation from the
11 service.

12 The DNA Laboratory official in charge of the database shall, within six (6)
13 months from the time of notification of such request, delete the DNA profile and any
14 information in relation to the profile.

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

19 *Sec. 15. National DNA Database Scientific Advisory Committee.* – A National
20 DNA Database Scientific Advisory Committee (Committee) shall be established for
21 purposes of developing DNA testing database quality assurance standards for DNA
22 testing and data basing including standards for testing the proficiency of forensic
23 laboratories and forensic analysts conducting forensic DNA analysis.

24 *Sec. 16. Committee Members.* - The Committee shall be composed of nine (9)
25 members, with recognized expertise and competence to understand, develop and
26 adopt DNA quality assurance standards necessary for the maintenance of the DNA
27 database. Committee representatives shall be composed of one (1) representative
28 from the PNP, one (1) representative from the Department of the Interior and Local
29 Government (DILG), one (1) representative from the Department of Justice (DOJ),
30 one (1) representative from the Department of Science and Technology (DOST), one
31 (1) representative from the Department of Health (DOH), one (1) representative from
32 the Data Privacy Commission (DPC), one (1) representative from the Commission on

1 Human Rights (CHR), and two (2) representatives from other government agencies
2 or institutions actively engaged in forensic DNA testing. The Committee shall be
3 chaired by an official from the PNP being the repository of the database. The PNP-FG
4 Laboratory Division shall act as the secretariat of the Committee.

5 **Sec. 17. Prohibited Acts AND PENALTIES.** – Any **PERSON FOUND GUILTY**
6 **OF COMMITTING ANY OF THE PROHIBITED ACTS ENUMERATED**
7 **HEREUNDER AND OTHER** violation of the provisions of this Act, shall suffer the
8 corresponding penalties herein provided:

9 a. *Tampering of DNA Records.* – Any person who shall knowingly make any
10 false entry or alter any DNA record or profile indexed or otherwise contained
11 in the DNA database system, or who shall intentionally destroy, mutilate,
12 conceal, remove or otherwise impair the verity or availability of DNA records
13 or profile without authority, shall suffer the penalty of twelve (12) years and
14 one (1) day imprisonment or a fine of not more than Six Hundred Thousand
15 Pesos (Php600,000.00) or both, at the discretion of the court;

16 b. *Tampering, Abetting, or Attempting to Tamper DNA Samples.* – Any person
17 who shall knowingly tamper with or cause the tampering with of any
18 intimate sample or non-intimate sample taken for the purposes of this Act
19 or shall aid in the tampering with or in the attempts to tamper with any
20 intimate or non-intimate sample taken for the purposes of this Act, shall
21 suffer the penalty of twelve (12) years and one (1) day imprisonment with
22 perpetual absolute disqualification for public office or a fine of not more
23 than Six Hundred Thousand Pesos (Php600,000.00) or both, at the
24 discretion of the court;

25 c. *Improper Disclosure of DNA Samples and Records.* – Any person who, by
26 virtue of employment or official position, has possession of, or access to,
27 individually identifiable DNA information indexed or otherwise contained in
28 the DNA database system and who knowingly and willfully discloses such
29 information in any manner to any person or agency not legally entitled to
30 receive it to the prejudice and detriment of the public or person from whom
31 the said DNA sample or information was taken shall suffer the penalty of
32 eight (8) years and one (1) day imprisonment or a fine not more than Five

1 Hundred Fifty Thousand Pesos (Php550,000.00) or both, at the discretion
2 of the court;

3 d. *Refusal to Give Sample.* – Any person who unjustly refuses to give a non-
4 intimate sample or obstructs the taking of such sample from, when legally
5 ordered by competent authority to do so, shall suffer the penalty of six (6)
6 years and one (1) day imprisonment or a fine of not more than Three
7 Hundred Thousand Pesos (Php300,000.00) or both, at the discretion of the
8 court;

9 e. Other violations of the provisions of this Act or the rules and regulations
10 promulgated by the concerned government agencies shall suffer the penalty
11 of six (6) years and one (1) day imprisonment or a fine of not more than
12 One Hundred Thousand Pesos (Php100,000.00) or both, at the discretion
13 of the court.

14 *Sec. 18. Cooperation with Other Law Enforcement Agencies.* – The PNP,
15 National Bureau of Investigation (NBI) and other law enforcement agencies shall
16 establish a system to ensure coordination and integration of the DNA database in their
17 respective agencies.

18 *Sec. 19. Cooperation with Foreign Law Enforcement Agency.* – The PNP may,
19 upon request by a foreign law enforcement agency, compare a DNA profile received
20 from the foreign law enforcement agency with the DNA profiles in the DNA Database
21 in order to determine whether such DNA profile is already contained in the DNA
22 Database and communicate any relevant information to the foreign law enforcement
23 agency.

24 *Sec. 20. Transitional Provision.* – Any existing DNA profile and any information
25 in relation thereto kept and maintained by the PNP, immediately before the effectivity
26 of this Act, shall form part of the **PNP** Forensic DNA Database in accordance with this
27 Act.

28 *Sec. 21. Appropriations.* – The amount necessary for the effective
29 implementation of the provisions of this Act shall be taken from the current year's
30 appropriation of the PNP. Thereafter, such sums as may be needed for the continued
31 implementation of this Act shall be included in the annual General Appropriations Act.

1 *Sec. 22. Implementing Rules and Regulations.* – **WITHIN ONE HUNDRED**
2 **TWENTY (120) DAYS FROM THE EFFECTIVITY OF THIS ACT,** the PNP, in
3 consultation with government agencies and other law enforcement offices, shall
4 promulgate the rules and regulations to effectively implement the provisions of this
5 Act.

6 *Sec. 23. Separability Clause.* – If any portion or provision of this Act is declared
7 unconstitutional, the remainder of this Act or any provisions not affected thereby shall
8 remain in force and effect.

9 *Sec. 24. Repealing Clause.* – Any law, presidential decree or issuance, executive
10 order, letter of instruction, rule or regulation inconsistent with the provisions of this
11 Act is hereby repealed or modified accordingly.

12 *Sec. 25. Effectivity.* – This Act shall take effect after fifteen (15) days following
13 its complete publication in the Official Gazette or in a newspaper of general circulation.

Approved,