

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

SENATE

S. No. 398

Introduced by Senator Antonio "Sonny" F. Trillanes IV

EXPLANATORY NOTE

Article XIV, Section 10 of the Constitution declares the essentiality of science and technology in national development and progress. It further states that research, development and its utilization shall be prioritized in view of supporting self-reliant scientific and technological capabilities which can contribute to the country's productive systems.

One of the most remarkable advances science and technology has brought into the light is the Deoxyribonucleic Acid (DNA) technology. This technology has been considered to be a powerful mechanism in determining a person's identity. In countries such as ours, DNA technology has become a useful tool in investigations and establishment of facts to resolve civil, criminal, and other regulatory procedures because of its reliability.

In recognition of the forensic DNA technology's importance, a system of safe storage of the documented results or other relevant data derived from this technology is indispensable.

This bill seeks to establish a Forensic DNA Databank which shall keep and maintain DNA profiles for the purpose of human identification in relation to forensic investigation. This bill also includes the procedures on giving, taking and storing DNA samples that may be used in assisting the recovery or identification of human remains from a disaster or for humanitarian purposes, and identification of living or deceased persons.

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


ANTONIO "SONNY" F. TRILLANES IV
Senator

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OFFICE

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Introduced by Senator Antonio "Sonny" F. Trillanes IV

AN ACT
TO PROVIDE FOR THE ESTABLISHMENT OF A FORENSIC DNA DATABANK, THE
TAKING OF DNA SAMPLES, FORENSIC DNA ANALYSIS, THE USE OF DNA
PROFILES AND INFORMATION IN RELATION THERETO, AND FOR OTHER
PURPOSES

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

ARTICLE I

PRELIMINARY

SECTION 1. Title. – This Act shall be known as the "*Deoxyribonucleic Acid (DNA)*
Identification Act."

SEC. 2. Declaration of Policy. – It is hereby declared the policy of the State to adopt
and impose policies that shall broaden the national capability to conduct DNA testing and
analyses for forensic applications. It shall also be the State's policy to establish a system of
storage for these analyses to be kept and maintained for the purpose of human identification in
relation to forensic investigation in the country.

SEC. 3. Definition of Terms. – For purposes of this Act, the followings terms shall
mean:

- a) "chemist" means any chemist accredited by the Department;
- b) "department" means the Department of Science and Technology (DOST);
- c) "secretary" means the Secretary of the Department of Science and Technology;

- 1 d) “foreign law enforcement agency” means the law enforcement agency of a foreign
2 state and includes an international organization established by the government of
3 states or an international organization;
- 4 e) “forensic DNA analysis” means any analysis carried out for the purpose of
5 determining a person’s identity;
- 6 f) “prescribed” means prescribed by the Secretary by regulations made under this Act;
- 7 g) “DNA Databank” means the Forensic DNA Databank established under section 4;
- 8 h) “DNA” means deoxyribonucleic acid;
- 9 i) “appropriate consent” means—
- 10 1) in relation to a person who is under the age of eighteen years, the consent in
11 writing of his parent or guardian;
- 12 2) in relation to a person who has attained the age of eighteen years, the consent
13 in writing of that person; or
- 14 3) in relation to a person in whom there is a condition of arrested or incomplete
15 development of mind or body whether such condition arises from inherent
16 causes or is induced by disease or injury and who is incapable of
17 understanding the general nature and effect of a forensic DNA analysis or is
18 incapable of indicating whether he consents or does not consent to give his
19 intimate sample or non-intimate sample, the consent in writing of his parent or
20 guardian;
- 21 j) “offense” means any act or omission punishable by any law for the time being in
22 force;
- 23 k) “Head of DNA Databank” means the Head of Forensic DNA Databank appointed
24 under section 8;
- 25 l) “Secretary” means the Secretary charged with the responsibility for internal security;
- 26 m) “detainee” means a person arrested and detained under existing laws;

- 1 n) “government medical officer” means a registered medical practitioner in the public
2 service and includes a registered medical practitioner in any teaching hospital of a
3 university;
- 4 o) “police officer” means any member of the Philippine National Police;
- 5 p) “drug dependent” means a person, pursuant to the Comprehensive Dangerous Drugs
6 Act of 2002, who possesses a cluster of physiological, behavioral and cognitive
7 phenomena of variable intensity, in which his or her use of psychoactive drug takes
8 on a high priority thereby involving, among others, a strong desire or a sense of
9 compulsion to take the substance and the difficulties in controlling substance-taking
10 behavior in terms of its onset, termination, or levels of use;
- 11 q) “DNA profile” means genetic information derived from a forensic DNA analysis;
- 12 r) “non-intimate sample” means—
- 13 1) a sample of hair other than the pubic hair;
- 14 2) a sample taken from a nail or from under a nail;
- 15 3) a swab taken from any part of a person’s body other than a part from which a
16 swab taken would be an intimate sample; or
- 17 4) saliva;
- 18 s) “intimate sample” means—
- 19 1) a sample of blood, semen or any other tissue or fluid taken from a person’s
20 body, urine or pubic hair; or
- 21 2) a swab taken from any part of a person’s genitals (including pubic hair) or
22 from a person’s body orifice other than the mouth.

24 **ARTICLE II**

25 **FORENSIC DNA DATABANK**

26 **SEC. 4. *Establishment of DNA Databank.*** – A DNA databank, to be known as the
27 Forensic DNA Databank, shall be established. This shall be under the management, control and
28 supervision of the Head of DNA Databank.

1 The DNA Databank shall consist of the following indices:

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

4 1) on any thing or at any place where an offense was committed;

5 2) on or within the body of a victim of an offense;

6 3) on any thing worn or carried by the victim of an offense at the time when the
7 offense was committed; or

8 4) on or within the body of any person reasonably suspected of having
9 committed an offense;

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

14 c) a convicted offenders index which shall contain DNA profiles and any information in
15 relation thereto derived from an intimate sample or a non-intimate sample taken from
16 persons convicted of any offense under any written law;

17 d) a detainee index which shall contain DNA profiles and any information in relation
18 thereto derived from an intimate sample or a non-intimate sample taken from a
19 detainee;

20 e) a drug dependents index which shall contain DNA profiles and any information in
21 relation thereto derived from an intimate sample or a non-intimate sample taken from
22 a drug dependent;

23 f) a missing persons index which shall contain DNA profiles and any information in
24 relation thereto derived from an intimate sample or a non-intimate sample taken
25 from—

26 1) the body or parts of the body of an unidentified deceased person;

27 2) any thing worn or carried by a missing person; or

28 3) the next of kin of a missing person if so required; and

1 g) a voluntary index which shall contain DNA profiles and any information in relation
2 thereto derived from an intimate sample or a non-intimate sample taken from a person
3 who volunteers to submit the same for the purpose of storage of the DNA information
4 in the DNA Databank.

5
6 **SEC. 5. Objectives of DNA Databank.** – The primary objective of the DNA Databank is
7 to keep and maintain the indices referred to in Section 4 of this Act for the purpose of human
8 identification in relation to forensic investigation.

9 The DNA profiles and any information in relation thereto kept and maintained in the
10 DNA Databank may be used in assisting—

- 11 a) the recovery or identification of human remains from a disaster or for humanitarian
12 purposes; and
13 b) the identification of living or deceased persons.

14
15 **SEC. 6. Function of DNA Databank.** – The function of the DNA Databank is to store
16 DNA profiles and any information in relation thereto from any forensic DNA analysis carried out
17 by the National Bureau of Investigation (NBI) Forensic Chemical Division or the Philippine
18 National Police (PNP) Crime Laboratory or any agency or body as may be designated by the
19 Secretary from time to time.

20
21 **SEC. 7. Power of Secretary to Designate Agency or Body to Carry Out Forensic DNA**
22 **Analysis.** –

- 23 a) The power of the Secretary to designate any agency or body to carry out forensic
24 DNA analysis under Section 6 of this Act shall only be exercised in the event the NBI
25 Forensic Chemical Division or the PNP Crime Laboratory is unable to carry out any
26 forensic DNA analysis.

1 a) The Head of DNA Databank shall have the following functions:

- 2 1) to be responsible for the general conduct, administration and management of the
3 DNA Databank;
- 4 2) to establish mechanisms to facilitate the collection, storage and dissemination of
5 data in connection with DNA profiles and any information in relation thereto
6 stored in the DNA Databank;
- 7 3) to ensure that DNA profiles and any information in relation thereto are securely
8 stored and remain confidential;
- 9 4) to store and dispose of the intimate sample and non-intimate sample taken for the
10 purposes of forensic DNA analysis in accordance with the provisions of this Act
11 and as prescribed;
- 12 5) to co-operate with foreign law enforcement agency in accordance with the
13 provisions of this Act; and
- 14 6) to carry out any other functions conferred by or under this Act and to perform any
15 other functions that are supplemental, incidental, or consequential to any of the
16 functions specified in this section or in furtherance of the objectives of the DNA
17 Databank.
- 18 7) The Head of DNA Databank shall have all such powers as may be necessary for,
19 or in connection with, or incidental to, the performance of his functions under this
20 Act.

21

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

- 23 a) The Head of DNA Databank shall be entitled to rectify the particulars in the DNA
24 profiles and any information in relation thereto if:
- 25 1) a clerical error has occurred; and
- 26 2) sufficient evidence is produced to satisfy him that the entry made is incorrect, and
27 on making the rectification he shall, where necessary, issue to the person entitled

1 to the information derived from the analysis of sample taken for him, the
2 particulars so rectified.

3 b) The powers under this section shall be exercised by the Head of DNA Databank alone.

4 c) Any rectification made pursuant to this section shall not be construed as an act of
5 tampering, abetting or attempting to tamper with any DNA profile or any information in
6 relation thereto contained in the DNA Databank.

7
8 **SEC. 11. Power of Secretary to Give Directions.** – The Secretary may give the Head of
9 DNA Databank directions of general character consistent with the provisions of this Act relating
10 to the performance of the functions and the exercise of the powers of the latter. Sequentially, the
11 Head of DNA Databank shall give effect to such directions.

12
13 **SEC. 12. Access of DNA Profile and Information.** –

14 a) The access to, a communication or use of DNA profiles and any information in relation
15 thereto stored in the DNA Databank by the Head of DNA Databank, Deputy Head of
16 DNA Databank, DNA Databank officers and any chemist shall only be for the purposes
17 of:

18 1) forensic comparison with any other DNA profiles or information in the course of
19 an investigation of any offence conducted by any enforcement agency;

20 2) administering the DNA Databank; or

21 3) making the information available to the person to whom the information relates.

22 b) For the avoidance of doubt, the access to, a communication or use of DNA profiles and
23 any information in relation thereto under subsection (a) by a chemist shall only be for the
24 purpose mentioned in paragraph (1) of that subsection.

25
26 **ARTICLE IV**

27 **TAKING, STORING, DISPOSING OF INTIMATE AND NON-INTIMATE SAMPLES**

28 **AND REMOVAL OF DNA PROFILE AND INFORMATION**

1 **SEC. 13. *Taking of Intimate Sample.*** –

2 a) The procedures for the taking of an intimate sample of any person under this Act shall be
3 in accordance with the provisions of this section and as prescribed by rules and
4 regulations.

5 b) An intimate sample of the following may be taken for forensic DNA analysis:

- 6 1) a person reasonably suspected of having committed an offense;
7 2) a detainee; or
8 3) a drug dependent.

9 The aforementioned may be taken for the said analysis only if:

- 10 i) an authorized officer authorizes it to be taken; and
11 ii) an appropriate consent in the prescribed form is given by the person from
12 whom an intimate sample is to be taken.

13 c) Subject to an appropriate consent being given under subparagraph (b)(ii), an authorized
14 officer shall only give his authorization under subparagraph (b)(i) if:

- 15 1) he has reasonable grounds for:
16 i) suspecting that the person from whom the intimate sample is to be taken has
17 committed an offense; and
18 ii) believing that the sample will tend to confirm or disprove the commission of
19 the offense by that person;
20 2) an arrest has been effected on or a detention order has been made against a
21 detainee under existing laws; or
22 3) an order or a decision has been made pursuant to the Comprehensive Dangerous
23 Drugs Act of 2002 against a drug dependent;

24 d) An authorized officer:

- 25 1) shall give his authorization under subsection (c) in writing; or
26 2) where it is impracticable to comply with paragraph (1), may give such
27 authorization orally, in which case he must confirm it in writing as soon as may
28 be possible.

- 1 e) A person from whom an intimate sample is taken shall be entitled to the information
2 derived from the analysis of the sample taken from him.
- 3 f) An intimate sample shall only be taken by a government medical officer.
- 4

5 **SEC. 14. *Taking of Non-intimate Sample.* –**

6 a) The procedures for the taking of a non-intimate sample of any person under this Act shall
7 be in accordance with the provisions of this section and as prescribed by rules and
8 regulations.

9 b) A non- intimate sample of:

10 1) a person reasonably suspected of having committed an offense;

11 2) a detainee; or

12 3) a drug dependent, may be taken only if an authorized officer authorizes it to be
13 taken.

14 c) An authorized officer shall only give his authorization under subsection (b) if:

15 1) he has reasonable grounds for:

16 i. suspecting that the person from whom the non-intimate sample is to be
17 taken has committed an offense; and

18 ii. believing that the sample will tend to confirm or disprove the commission
19 of the offense by that person;

20 2) an arrest has been effected on or a detention order has been made against a
21 detainee under existing laws; or

22 3) an order or a decision has been made pursuant to the Comprehensive Dangerous
23 Drugs Act of 2002 against a drug dependent.

24 d) An authorized officer:

25 1) shall give his authorization under subsection (b) in writing; or

26 2) where it is impracticable to comply with paragraph (1), may give such
27 authorization orally, in which case he must confirm it in writing as soon as
28 possible.

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

3 f) A non-intimate sample shall only be taken by:

4 1) a government medical officer; or

5 2) a police officer or a chemist.

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

8
9 **SEC. 15. Refusal to Give Sample.** – If a person from whom a non-intimate sample shall
10 be taken shall do the following, he shall commit an offense, and, shall, on conviction, be liable to
11 a fine not exceeding Twenty Thousand Pesos (P20,000.00) or to imprisonment for a term not
12 exceeding one (1) year or to both:

13 a) refusal to give such sample;

14 b) refusal to allow such sample to be taken from that person or

15 c) obstruction of the taking of such sample from that person.

16
17 **SEC. 16. Sample Given Voluntarily.** –

18 a) Any person, other than the person whose intimate sample or non-intimate sample may be
19 taken under Sections 13 and 14, may voluntarily give an appropriate consent in the
20 prescribed form to an authorized police officer for the taking of his intimate sample or
21 non-intimate sample.

22 b) Where an appropriate consent is given under subsection (a), an authorized police officer
23 shall, before the taking of the intimate sample or non-intimate sample, inform the person
24 from whom the sample is to be taken:

25 1) that the DNA profiles and any information in relation thereto derived from the
26 intimate sample or non-intimate sample may be stored in the DNA Databank and
27 may be used for the purposes of forensic DNA analysis, police inquiry and for
28 such purposes referred to in Section 12;

- 1 2) that he may make a request to a police officer for an access to the information;
2 and
3 3) that he may at any time withdraw his consent given under subsection (a).

4
5 **SEC. 17. DNA Sample of Prisoner.** – An intimate sample or a non-intimate sample may
6 be taken for forensic DNA analysis from any person who is serving his term of imprisonment in
7 connection with an offense of which he has been convicted.

8
9 **SEC. 18. Storage and Disposal of Intimate and Non-intimate Samples.** –

- 10 a) The Head of DNA Databank shall safely and securely store all intimate samples and non-
11 intimate samples that are collected for the purpose of forensic DNA analysis, the portions
12 of the samples that the Head of DNA Databank consider appropriate and without delay
13 destroy any remaining portions.
14 b) The procedures for the storage and disposal of an intimate sample and a non-intimate
15 sample shall be as prescribed.

16
17 **SEC. 19. Removal of DNA Profile and Information from Suspected Persons Index.** –

18 Where an intimate sample or a non-intimate sample has been taken in accordance with this Act
19 from a person reasonably suspected of having committed an offense and:

- 20 a) investigations reveal that he was not involved in the commission of any offense;
21 b) the charge against him in respect of any offense is withdrawn;
22 c) he is discharged by a court of an offense with which he has been charged, at trial or on
23 appeal;
24 d) he is acquitted of an offense with which he has been charged, at trial or on appeal; or
25 e) he is not charged in any court for any offense within a period of one year from the date of
26 taking of such sample from him, the Head of DNA Databank shall, within six months of
27 so being notified by the Officer in Charge of a Police District of the fact referred to in

1 paragraph (a), (b),(c), (d), or (e), remove the DNA profile and any information in relation
2 thereto of such person from the DNA Databank.

3
4 **ARTICLE V**

5 **OFFENSES**

6 **SEC. 20. *Offense of Tampering, Abetting or Attempting to Tamper with Sample.* –**

- 7 a) A person commits an offense if he tampers or causes to be tampered with any intimate
8 sample or non-intimate sample taken for the purposes of this Act.
- 9 b) Any person who contravenes subsection (a) commits an offense and shall, on conviction,
10 be liable to imprisonment for a term not exceeding five (5) years or to a fine not
11 exceeding One Hundred Thousand Pesos (P100,000.00) or to both.
- 12 c) Any person who abets the commission of or who attempts to commit the offense under
13 this section shall be guilty of that offense and shall, on conviction, be liable to the
14 punishment provided for that offense.

15 *Provided, That any term of imprisonment imposed shall not exceed one-half of the maximum*
16 *term provided for the offense.*

17
18 **SEC. 21. *Unauthorized Use or Communication of DNA Profile or Information.* –**

- 19 a) No person who receives a DNA profile for entry in the DNA Databank or who has access
20 to information contained in the DNA Databank shall, except in accordance with Sections
21 12 and 24 of this Act, use or communicate such DNA profile or any information in
22 relation thereto to be used or communicated other than for the purpose of this Act.
- 23 b) Any person who contravenes subsection (a) commits an offense and shall, on conviction,
24 be liable to imprisonment for a term not exceeding five (5) years or to a fine not
25 exceeding One Hundred Thousand Pesos (P100,000.00) or to both.

26
27 **SEC. 22. *Obligation of Secrecy.* –**

1 a) The Head of DNA Databank, Deputy Head of DNA Databank and DNA Databank
2 officers or any person who for any reason, has by any means access to any data, record,
3 book, register, correspondence, document whatsoever, or material or information, relating
4 to the DNA profiles and any information in relation thereto in the DNA Databank which
5 he has acquired in the performance of his functions or the exercise of his powers, shall
6 not give, divulge, reveal, publish or otherwise disclose to any person, such document,
7 material or information unless the disclosure is required or authorized:

8 1) under this Act or regulations made under this Act;

9 2) under any written law;

10 3) by any court; or

11 4) for the performance of his functions or the exercise of his powers under this Act
12 or regulations made under this Act.

13 b) Any person who contravenes subsection (a) commits an offense and shall, on conviction,
14 be liable to imprisonment for a term not exceeding five (5) years or to a fine not
15 exceeding One Hundred Thousand Pesos (P100,000.00) or to both.

16
17 **SEC. 23. *Offense of Tampering, Abetting or Attempting to Tamper with DNA Profile***
18 ***or Information. –***

19 a) A person commits an offense if he tampers or causes to be tampered with any DNA
20 profile or any information in relation thereto in the possession, custody or control of the
21 DNA Databank.

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

24 1) such DNA profile or any information in relation thereto is altered or erased,

25 2) any new DNA profile or any information in relation thereto is introduced or added
26 to such DNA profile or any information in relation thereto; or

1 **SEC. 26. *Protection Against Actions and Legal Proceedings.*** – No action, suit,
2 prosecution or other proceedings shall lie or be brought, instituted or maintained in any court
3 against:

- 4 a) the Secretary;
- 5 b) the Head of DNA Databank;
- 6 c) the Deputy Head of DNA Databank;
- 7 d) DNA Databank officers;
- 8 e) a government medical officer; or
- 9 f) a chemist,

10 in respect of any act, neglect, default or omission done by him in good faith in carrying out his
11 powers, functions and responsibilities under this Act in such capacity.

12

13 **SEC. 27. *Regulations.*** –

14 a) The Secretary may make regulations as may be necessary or expedient to give full effect
15 to, or for carrying out, the provisions of this Act.

16 b) Without prejudice to the generality of subsection (a), regulations may be made:

- 17 1) to prescribe the procedures in taking and disposing of intimate sample and non-
18 intimate sample;
- 19 2) to prescribe any form for the purpose of this Act;
- 20 3) to regulate the management, administration and control of the DNA Databank;
- 21 and
- 22 4) to provide for any matter which under this Act is required or permitted to be
23 prescribed or which is necessary or expedient to be prescribed.

24

25 **SEC. 28. *Savings and Transitional.*** – Any existing DNA profile and any information in
26 relation thereto kept and maintained by the National Bureau of Investigation (NBI) Forensic
27 Chemical Division or the Philippine National Police (PNP) Crime Laboratory, immediately
28 before the coming into operation of this Act shall, on the coming into operation of this Act, be

1 deemed to have been kept and maintained in and to form part of the DNA Databank established
2 under this Act in accordance with indices applying.

3

4 **SEC. 29. *Separability Clause.*** – If any provision of this Act shall at any time be found to
5 be unconstitutional or invalid, the remainder thereof not affected by such declaration shall
6 remain in full force and effect.

7 **SEC. 30. *Repealing Clause.*** – All laws, decrees, rules or regulations inconsistent with
8 the provisions of this Act are hereby repealed or modified accordingly.

9

10 **SEC. 31. *Effectivity Clause.*** – This Act shall take effect after fifteen (15) days following
11 its complete publication in two (2) newspapers of general circulation.

Approved,