

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SEVENTEENTH CONGRESS
Second Regular Session

House Bill No. **7215**



Introduced by Representative ROBERT ACE S. BARBERS, 2nd District, Surigao del Norte

**AN ACT PROVIDING FOR THE ESTABLISHMENT OF THE PHILIPPINE DNA
DATABASE SYSTEM**

This bill seeks to institutionalize a national forensic DNA database to be known as the Philippine DNA Database System.

The most important function of a DNA database is to produce matches between the suspected individual and crime scene bio-makers. It provides evidence to support criminal investigations which can lead to the identity of potential suspect/s in criminal investigations. Forensic DNA can also assist in the identification of missing persons or unidentified human remains in times of accidents and calamities. In the Philippines, DNA technology is largely used to establish paternity and other family relationships.

The Philippine DNA Database System (PDDAS) shall be the central repository of DNA profiles in the Philippines. It shall contain the forensic DNA profiles of persons categorized under the following indices: crime scene index, suspected persons index, convicted offenders index, detainee index, drug dependents index, missing person index, voluntary persons index, uniformed personnel index, and government employees index. An inter-agency organization to be called the Philippine DNA Database Office, shall be responsible for the general conduct, administration, management, and all other functions relative to the furtherance of the objectives of the Philippine DNA Database System. It shall be composed of personnel from the Philippine National Police, National Bureau of Investigation, Philippine Drug Enforcement Agency and Armed Forces of the Philippines.

The Philippine DNA Database System and any information contained thereof shall only be accessed by the Philippine DNA Database Office. Any other law enforcement agencies who may wish to access information in the Philippine DNA Database System shall get prior clearance from the PDDO. Records collected and maintained for the purpose of identification of criminal suspects or offenders shall only be disclosed upon lawful order of the court. A Philippine DNA Database System Scientific Advisory Committee, to be headed by a representative from the University of the Philippines – Philippine General Hospital, shall be established to develop a DNA testing database quality assurance standards. Tampering, improper disclosure, improper access and use shall be penalized accordingly under this Act.

In view of the foregoing considerations, approval of this bill is highly recommended.

HON. ROBERT ACE S. BARBERS
2nd District, Surigao del Norte

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

**ARTICLE I
PRELIMINARY**

SECTION 1. *Short Title.* This Act shall be known as the "Philippine DNA Database System Act of 2018."

SECTION 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 reaffirm 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.

Towards this end, the State shall provide a statutory framework for the creation and establishment of a centralized and nationwide DNA database system for collection, storage, and maintenance of genetic identification information and empower pertinent government agencies to collect, analyze, type or profile, and record any and all genetic markers contained in or derived from DNA.

SECTION 3. *Definitions.* For purposes of this Act, the following terms shall mean:

- a. ***Buccal swab*** a sample of cellular material taken from the inside of a person's mouth;
- b. ***Certified DNA Collector*** – For purposes of this Act, any law enforcement personnel who has successfully completed the training as certified by his/her agency with respect to DNA collection;
- c. ***Crime scene sample***- physical evidence retrieved from the crime scene or any other place where evidence of the crime may be found and may include

- d. physical evidence collected from the body of a person;
- e. **Detainee** a person arrested and detained under existing laws;
- f. **Deoxyribonucleic acid or DNA** - a biochemical molecule found in the cells and makes each species unique;
- g. **DNA profile** - genetic information derived from a forensic DNA analysis;
- h. **DNA sample** - any biological specimen or sample of an individual which may either be intimate or non-intimate samples, on which a DNA analysis can be carried out;
- i. **DNA profiling or DNA typing**-a process where a minute sample of genetic DNA material is taken from a human tissue and is given a computerized numeric value in the form of a "bar code;"
- j. **Drug dependent**- a person, pursuant to the Comprehensive Dangerous Drug Act of 2002, who possesses a cluster of physiological, behavioral and cognitive phenomena of variable intensity, in which his or her use of psychoactive drug takes on a high priority thereby involving, among others, a strong desire or a sense of compulsion to take the substance and the difficulties in controlling substance-taking behavior in terms of its onset, termination, or levels of use;
- k. **Foreign law enforcement agency** - the law enforcement agency of foreign state and includes an international organization established by the government of states or an international organization;
- l. **Forensic DNA analysis** - analysis of the DNA from a body sample or crime scene sample to determine forensic DNA profile;
- m. **Forensic DNA profiles** - the result obtained from forensic DNA analysis on body sample or crime scene, providing a unique string of alpha numeric characters to provide identity reference;
- n. **Intimate sample** -
 - 1) A sample of blood, semen or any other tissue or fluid taken from a person's body, urine or pubic hair; or
 - 2) A swab taken from any part of a person's genitals (including pubic hair) or from a person's body orifice other than the mouth.
- o. **Non-intimate sample**-
 - 1) A sample of hair other than the pubic hair;
 - 2) A sample taken from a nail or from under a nail;

- 3) A swab taken from any part of a person's body other than apart from which a swab taken would be an intimate sample; or
 - 4) Saliva.
- p. **Offense** - any act or omission punishable by law;
 - q. **Philippine DNA Database System (PDDO)** - is the country's central repository of DNA profiles created under this Act;
 - r. **Philippine DNA Database Office (PDDO)** – an inter-agency organization composed of personnel from the Philippine National Police, National Bureau of Investigation, Philippine Drug Enforcement Agency and Armed Forces of the Philippines;
 - s. **Uniformed personnel** – any members of the AFP, BJMP, BFP, PNP, PCG, and other law enforcement agencies.

ARTICLE II PHILIPPINE DNA DATABASE SYSTEM

SECTION 4. Establishment of the Philippine DNA Database System. There shall be an established forensic DNA database, to be known as the Philippine DNA Database System (PDDAS). The database shall consist of the following indices:

- a. **Crime scene index** which shall contain forensic DNA profile and any information in relation thereto derived from an intimate sample or a non-intimate sample that is found—
 - 1) on anything or at any place where an offense was committed;
 - 2) on or within the body of a victim of an offense; or
 - 3) on anything worn or carried by the victim or within the body of any person reasonably suspected at the time when the offense was committed.
- b. **Suspected persons index** which shall contain forensic DNA profiles derived from an intimate or a non-intimate sample taken from persons reasonably suspected of having committed an offense and includes suspects who have not been charged in any court for any offense;
- c. **Convicted offenders index** which shall contain forensic DNA profiles derived from an intimate or a non-intimate sample taken from persons convicted of any offense under any written law;
- d. **Detainee index** which shall contain forensic DNA profiles derived from an

intimate or a non-intimate sample taken from a detainee;

- e. ***Drug dependents index*** which shall contain forensic DNA profiles derived from an intimate or a non-intimate sample taken from a drug dependent;
- f. ***Missing persons index*** which shall contain forensic DNA profiles and any information in relation thereto derived from an intimate or a non-intimate sample taken from—
 - 1) the body or parts of the body of an unidentified deceased person;
 - 2) anything worn or carried by a missing person; or
 - 3) the next of kin of a missing person if so required; and
- g. ***Voluntary persons index*** which shall contain forensic 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.
- h. ***Uniformed personnel index*** which shall contain forensic DNA profiles of all government uniformed personnel, derived by means of forensic DNA analysis, from a buccal or blood swab.
- i. ***Government employees index*** which shall contain forensic DNA profiles of all government personnel, derived by means of forensic DNA analysis, from a buccal or blood swab.

SECTION 5. Objectives of the Philippine DNA Database System. The objective of the Philippine DNA Database System is to establish, keep and maintain a comprehensive National DNA database in order to perform comparative searches for the following purposes:

- a. to serve as a tool for crime prevention and crime solution;
- b. to identify person who might have been involved in the commission of an offense;
- c. to prove the innocence or guilt of person allegedly involved in the commission of an offense;
- d. to exonerate a person wrongly convicted of an offense;
- e. to assist in the identification of missing persons or unidentified human remains; or
- f. to establish paternity and family relations and genealogy

ARTICLE III
MANAGEMENT AND ACCESS TO INFORMATION OF THE PHILIPPINE DNA
DATABASE SYSTEM

SECTION 6. *The Philippine DNA Database Office.* There shall be an established Philippine DNA Database Office (PDDO) which shall manage the Philippine DNA Database System (PDDAS) as specified in Article II of this Act. The Philippine DNA Database Office shall have all such powers 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 responsible for the general conduct, administration, and management of the PDDAS;
- 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 PDDAS;
- c. To ensure that DNA profiles and any information in relation thereto are securely stored and remain confidential;
- d. To store and dispose samples taken for the purpose of forensic DNA analysis in accordance with the provisions of this Act;
- e. To cooperate with 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 supplemental, incidental, or consequential to any of the functions specified in this section or in furtherance of the objectives of the PDDAS.

SECTION 7. *Composition of the Philippine DNA Database Office.* The Philippine DNA Database Office shall be composed of three (3) organic personnel from each agency: Philippine National Police, National Bureau of Investigation, Philippine Drug Enforcement Agency and the Armed Forces of the Philippines, who shall perform the functions stipulated under Section 6 of this Act.

SECTION 8. *Access to DNA profiles and information.* The PDDAS and any information contained therein shall only be accessed by the Philippine DNA Database Office. They shall only access the same for purposes of administering the database and comparing DNA profiles or information in the course of an investigation conducted by any law enforcement agency. Any other law enforcement agencies who may wish to access information in the Philippine DNA Database System shall get prior clearance from the PDDO.

SECTION 9. *Biological Sample or Genetic Markers derived from DNA as Evidence.* Expert testimony or evidence relating to the use of these biological sample or genetic markers contained in or derived from DNA for identification shall

be admissible and accepted as evidence in all cases arising in all courts or proceedings in the country. *Provided, however,* that the trial courts or other quasi-judicial bodies shall be satisfied that the expert testimony or evidence meets the criteria for admissibility under the existing rules on evidence.

ARTICLE IV TAKING, PROCESSING, STORING, DISPOSING OF DNA SAMPLES AND PRIVACY PROTECTION

SECTION 10. *Taking of biological sample.* Only certified DNA collectors, as specified in Section 3 (b) of this Act, shall collect biological sample from any person who:

- a. On the effective date of this Act, is currently in jail/prison or on probation, for any offense.
- b. On or after the effective date of this Act:
 - 1) Is convicted of a crime for any offense;
 - 2) Is arrested for and formally charged of the crime by a court for an offense;
 - 3) Is legally detained under law;
 - 4) Is required to submit a DNA sample due to a judicial order because they are a suspect in a crime;
 - 5) Voluntarily provides a sample to be placed into the DNA database; or
 - 6) In case of minor or incapacitated person, consent of parent or guardian is required.

SECTION 11. *Sample given voluntarily*

- (1) Any person, other than the person whose intimate sample or non-intimate sample may be taken under Section 10, may voluntarily give an appropriate consent in the prescribed form to an authorized personnel for the taking of his intimate sample or non-intimate sample.
- (2) Where an appropriate consent is given under subsection (1), an authorized personnel shall, before the taking of the intimate sample or non-intimate sample, inform the person from whom the sample is to be taken—
 - (a) that the DNA profiles and any information in relation thereto derived from the intimate sample or non-intimate sample may be stored in the PDDAS and may be used for the purposes of

forensic DNA analysis, police inquiry and for such purposes referred to in Section 7;

(b) that he may make a request to a police officer for an access to the information; and

(c) that he may at any time withdraw his consent given under subsection (1).

SECTION 12. *Refusal to give sample* - A certified DNA Collector may use reasonable force to collect a DNA sample from a person listed in Article IV, Section 10, Subsection (a) and (b) (1), (2), (3), and (4), if such person refuses to voluntarily submit a sample.

SECTION 13. *Processing and analysis of biological samples*. – The University of the Philippines – Philippine General Hospital, within three years from the effectivity of this Act, shall set-up a state of the art laboratory for DNA testing and analysis. Upon completion of the laboratory, all DNA processing and analysis shall be handled exclusively by the UP-PGH DNA laboratory.

Until such time, the PNP Crime Laboratory shall be the authorized institution to process and analyze all biological samples collected for the purpose of this Act.

SECTION 14. *Storage and disposal of biological samples* – PNP Crime Laboratory shall safely and securely store all biological samples that are collected for the purpose of this Act. Unless ordered by the court, all biological samples collected under Section 10 must be destroyed after the DNA profile is generated or within six months after the sample has been taken, whichever comes first. Preservation and disposal of biological samples upon order of the court shall follow the Rules on DNA evidence.

The procedures for the storage and disposal of an intimate sample and a non-intimate sample shall be as prescribed by the implementing rules and regulations (IRR). Written notice of such destruction as prescribed in the IRR must be immediately given persons specified under Section 10.

SECTION 15. *Support from Private Sectors*. To support Philippine DNA Database System, employees of private institutions may submit their DNA samples.

SECTION 16. *Privacy Protection Standards*. Except upon lawful order of the court, DNA records collected and maintained for the purpose of identification of criminal suspects or offenders shall be disclosed only:

- a. To criminal justice agencies for law enforcement investigation or identification purposes;
- b. In judicial proceedings, following applicable laws and rules of procedure; and
- c. To a defendant for criminal defense purpose, and

- d. Other persons as determined by the court

EXCEPTION: If personally identifiable information is not available, test results may be disclosed for a population statistics database, for identification research and protocol development purposes, or for quality control purposes.

ARTICLE V QUALITY ASSURANCE STANDARDS

SECTION 17. *Philippine DNA Database System Scientific Advisory Committee.*

A Philippine DNA Database System Scientific Advisory Committee shall be established for purposes of developing DNA testing database quality assurance standards for DNA testing and databasing including standards for testing the proficiency of forensic laboratories and forensic analysts conducting forensic DNA analysis.

SECTION 18. *Members of the PDDAS Scientific Advisory Committee.* The PDDAS Scientific Advisory Committee shall be composed of a maximum of ten (10) individuals scientifically qualified to understand, develop and adopt DNA quality assurance standards, with representative from UP-PGH as Chair and other government entities and institutions actively engaged in forensic DNA testing and analysis as members.

SECTION 19. *Laboratory Standards.* The PDDAS Scientific Advisory Committee shall develop, adopt, and amend Quality Assurance Standards for forensic DNA testing laboratories. Once adopted, these standards shall be required for any forensic laboratory in the Philippines that produces samples to be used in the PDDAS.

ARTICLE VI CRIMINAL ACTS AND PENALTIES

SECTION 20. *Tampering of DNA Samples and Records.* Any person who shall knowingly make any false entry or falsely alter any DNA record or profile indexed or otherwise contained in the PDDAS or; or who shall intentionally destroy, mutilate, conceal, remove or otherwise impair the verity or availability of DNA records or profile; shall suffer the penalty of twelve (12) years and one (1) day imprisonment or a fine not less than Six Hundred Thousand Pesos (Php600,000.00) or both, at the discretion of the court.

SECTION 21. *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 PDDAS as referred to in this Act and who knowingly and willfully discloses such information in any manner to any person or agency not 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 the discretion of the court.

SECTION 22. *Failure to Deliver DNA Records or Samples.* Any person who shall possess a DNA record in the PDDAS or DNA samples and refuse to deliver the same upon request of a person lawfully entitled to receive the same shall suffer the penalty of six (6) years and one (1) day imprisonment or a fine not lower than Four Hundred Thousand Pesos (Php400,000.00) or both, at the discretion of the court. **Provided that**, no action, suit, prosecution or other proceedings shall lie or be brought against the aforesaid person if he/she failed to deliver the DNA records or samples for cause/s outside his/her control.

SECTION 23. *Improper Access to and Use of DNA Samples and Records.* Any person who, without proper authorization, knowingly and willfully obtains DNA samples or any individual identifiable DNA information indexed or contained in the PDDAS shall suffer the penalty of four (4) years and one (1) day of imprisonment or a fine not lower than Three Hundred Thousand Pesos (Php300,000.00) or both, at the discretion of the court.

ARTICLE VII GENERAL PROVISIONS

SECTION 24. *Cooperation with foreign law enforcement agency*

- a. The Philippine DNA Database Office, upon request by a foreign law enforcement agency, may compare a DNA profile received from the foreign law enforcement agency with the DNA profiles in the Philippine DNA Database System (PDDAS) in order to determine whether such DNA profile is already contained in the PDDAS and communicate any relevant information to the foreign law enforcement agency.
- b. The Philippine DNA Database Office, upon a request by a foreign law enforcement agency in the course of an investigation of an offence or a prosecution of a criminal offence in that foreign state, may communicate a DNA profile contained in the DNA Database to that foreign law enforcement agency.
- c. For the purposes of this section, "foreign law enforcement agency" means the law enforcement agency of a foreign state and includes an international organization established by the government of states that Philippines is an official member, or an international organization.

SECTION 25. *Regulations.* The Philippine DNA Database Office shall work with other relevant Philippine government agencies and interests to develop regulations as necessary to give full effect to, or for carrying out, the provisions of this Act.

SECTION 26. *Implementing Rules and Regulations.* Within one hundred and twenty (120) days, the necessary rules and regulations for the implementation of this Act shall be promulgated by the Department of Interior and Local Government in Coordination with the Department of Justice, Office of the President, Department of Health and the University of the Philippines – Philippine General Hospital.

SECTION 27. *Appropriations.* The amount necessary for the implementation of this Act shall be included in the General Appropriations Act of the year following its enactment into law and thereafter.

SECTION 28. *Separability Clause.* If any provision of this Act or an application thereof to any person or circumstance is held to be invalid, the other provisions of this Act, and the application of such provision to other persons or circumstances, shall not be affected thereby.

SECTION 29. *Repealing Clause.* All existing laws, orders, rules and regulations or parts thereof deemed inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

SECTION 30. *Effectivity.* This Act shall take effect fifteen (15) days following the date of its publication in the Official Gazette or in at least two (2) newspapers of general circulation, whichever comes first.

Approved