

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

TWENTIETH CONGRESS
First Regular Session

HOUSE BILL NO. 1179



Introduced by Representative **MARLYN L. PRIMICIAS-AGABAS**

EXPLANATORY NOTE

This bill seeks to establish a national or government-owned *Forensic DNA Database*.

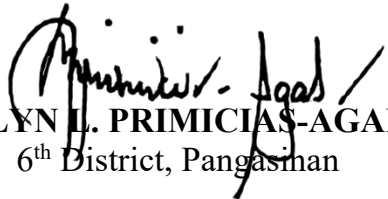
Over the years since its introduction in the Philippines in 1982, DNA testing and analysis has become a very powerful tool for human identification. It found its effective application in parentage determination and crime and mass disaster investigations. In view of this, DNA profiles of persons taken from crime scenes, of missing persons, and of unidentified human remains and their storage into a secure DNA database attain vital importance, because with a forensic DNA database, the police can readily submit a DNA profile of crime offenders, missing persons, and unidentified human remains within minutes from the click of a computer mouse. It will thus enable crime investigators to link offenders to different types of crime, including heinous crimes like murder, rape, and robbery. They can compare DNA profiles of biological samples taken as evidence with an existing database in order to assist them in detecting suspects and excluding persons who might otherwise be tagged as suspects.

Thus, a national forensic DNA database which the proposed bill seeks to establish can help provide important intelligence leads and even eliminate innocent suspects at a very early stage of the investigation. DNA profiles stored in the database can be used to exclude or include suspects in an investigation. It can also help to identify repeat offenders more rapidly, and thus protect potential future victims.

Moreover, a national forensic DNA database may provide justice to victims of crime and their relatives even after long periods of time, since the so-called ‘cold’ or “unsolved” cases may be solved many years after the crime has occurred through profiled biological samples of true perpetrators collected as evidence at crime scenes years earlier. This scenario may conversely result to post-conviction exonerations of innocent people who

may have spent years behind bars through the said DNA database connections to the true perpetrators.

Thus, the foregoing discussions have shown the benefits and value of a forensic DNA database in the different components of the criminal justice system and such value cannot be overemphasized. It is these important benefits which the proposed bill seeks to achieve. In this light, approval of the bill is earnestly sought.


MARLYN L. PRIMICIAS-AGABAS
6th District, Pangasinan

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

TWENTIETH CONGRESS
First Regular Session

HOUSE BILL NO. _____

Introduced by Representative **MARLYN L. PRIMICIAS-AGABAS**

AN ACT

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

Be it enacted by the Senate and the 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 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.

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

- 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;
- c. Certified DNA Collector refers to a police officer or a person who has successfully completed the training prescribed by the PNP Forensic Group, in respect 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 constitutes 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 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 profiles refers to 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;
- l. Intimate sample refers to (i) a sample of blood, semen or any other tissue or fluid taken from a person's body, urine or pubic hair; or (2) swab taken from any part of a person's genitals (including pubic hair) or from a person's body orifices other 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 written 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 anon-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 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; or
- 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 securely stored and remain confidential at all times;
- 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 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.

Sec. 7. Access and Confidentiality of DNA profiles and information. - The DNA database and any Information contained therein shall only be accessed by authorized personnel of the PNP FG DNA Laboratory on the following purposes:

- a. administering the database;
- b. comparing DNA profiles or information in the course of an investigation conducted by any law-enforcement agency or during judicial and quasi-judicial proceedings; and
- c. making the information available to a person to whom the information relates. DNA profiles and all results or other information obtained from DNA testing shall be confidential, subject to the provisions of Republic Act No. 10173 otherwise known as the "Data Privacy Act of 2012."

Sec. 8. 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 may be used as evidence in any courts or proceedings in the country subject to the judicial rules on DNA evidence.

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

- a. convicted of a crime for any offense;
- b. arrested for and formally charged of the crime before the court for an offense;
- c. legally detained under law;
- 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;
- f. an active member of 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 maintained at all times through a clear, well documented chain of custody from the time a biological sample is collected until its disposal. Such chain of custody document 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 as 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:

a. 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 the purposes of forensic DNA 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 eleven (11) 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), one (1) representative from the Data Privacy Commission, one (1) representative from the Commission on Human Rights, 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 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 Agency. - The PNP, NBI and other law enforcement agency 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.

a. 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 in order to determine whether such DNA profile is already contained in the DNA Database and communicate any relevant information to the foreign law enforcement agency.

b. The PNP may, upon 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, communicate a DNA profile contained in the DNA Database to that foreign law enforcement agency.

c. The PNP may, upon request by a foreign law enforcement agency in the course of an investigation of a missing person in that foreign state, communicate a DNA profile contained in the DNA Database to that foreign law enforcement agency. Family members of the missing person may provide DNA sample as reference for comparison if no reference sample from the missing is available.

d. 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.

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 the Philippine Forensic DNA 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.

Sec. 25. Implementing Rules and Regulations. - Within one hundred and twenty (120) days, the Philippine National Police in consultation with government agencies 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 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 the provisions of this Act are hereby repealed or modified accordingly.

Sec. 28. 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,