EXPLANATORY NOTE

This Bill seeks to establish a DNA Database System in the country which shall be known as the Philippine DNA Database System. This Bill shall include, among others, the indices that shall form the composition, storage, and management of the DNA database and prohibited acts with regard to its handling.

A DNA database is a government database of DNA profiles which can be used by law enforcement agencies in criminal investigations. Creating a DNA database system in the country will give much contribution in improving and developing the criminal justice system in our country.

The information that can be derived from each DNA profile can be a powerful tool of law enforcement agencies in the fight against crime. Science proves that no two people, with the exception of twins, can have similar DNA. Thus, identification through DNA analysis is very much highly probable. It will help provide important intelligence leads and help eliminate innocent suspects at a very early stage of an investigation. It will also help in identifying repeat offenders more rapidly which thereby protects potential future victims. When used to its full potential, DNA evidence will help solve and may even prevent some of the nation’s most serious crimes.
In view of the foregoing, the passage of this Bill is earnestly sought.

ERIC OLIVAREZ
“AN ACT PROVIDING FOR THE ESTABLISHMENT OF THE
PHILIPPINE DNA DATABASE SYSTEM”

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

SECTION 1. Short Title. – This Act shall be known as the “DNA
Database Act of 2021.

SECTION 2. Declaration of Policy. – It is hereby declared the
policy of the State to endeavor to promote and establish the effective
administration of justice in the country. Towards this end, the State shall
create measures in order to provide a comprehensive, adequate and
timely information on crimes, criminals and the operations of the criminal
justice system.

SECTION 3. Definition of Terms –

a. DNA shall refer 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;
b. Biological Sample shall refer to any organic material originating from a person’s body, even if found in inanimate objects, that is susceptible to DNA testing. This includes blood, saliva and other body fluids, tissues, hairs, and bones;

c. Intimate Sample shall refer to any of the following:

i. a sample of blood, semen or any other tissue fluid, urine or pubic hair

ii. a dental impression, or

iii. a swab taken from any part of the genitals (including pubic hair) or from a person’s body orifice other than the mouth

d. Non-Intimate Sample shall refer to any of the following:

i. a sample of hair (other than pubic hair) taken from a nail or under a nail;

ii. a swab taken from any part of the body including the mouth but no other bodily orifice;

iii. saliva;

iv. a footprint or similar impression of any part of the body except the hand

e. DNA Evidence constitutes the totality of the DNA profiles, results, and other genetic information directly generated from DNA testing of biological samples;

f. DNA Profile shall refer to the 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;

SECTION 4. Establishment of Philippine National Forensic DNA Database.
A forensic DNA database under the Philippine National Police is hereby established. The Philippine National Forensic DNA Database shall be composed of several indices which shall be the following:

a. Crime Scene Index shall contain the DNA profile derived from an intimate sample or a non-intimate sample that is found:
i. on anything or at any place where an offense was committed

ii. on or within the body of a victim of an offense; or

iii. on anything worn or carried by the victim or suspect at the time
    when the offense was committed;

b. Arreasted 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 nonintimate 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 the government’s law enforcement agencies derived
   by means of forensic DNA analysis from a buccal or blood swab;

g. Military Personnel Index shall contain DNA profiles of all members
   of the Armed Forces of the Philippines (AFP) 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

   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.

SECTION 5. Objectives and Purposes 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. assist the State in its fight for crime prevention and crime solution;

b. provide an easier method of identifying persons who might have been involved in the commission of an offense;

c. assist in the administration of justice in proving the innocence or guilt of person allegedly involved in the commission of an offense and exonerate a person wrongly convicted of an offense; and

d. assist in the identification of missing persons or unidentified human remains.

SECTION 6. Management of DNA Database. - The PNP Crime Laboratory - DNA Laboratory Division shall be the division which shall be responsible for the management of the DNA databases.

In connection with the management of the DNA databases, the Division shall also have the following functions for the effective performance of its duties:

a. Be primarily responsible for the general conduct, administration, and management of the DNA database;

b. 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. Ensure that DNA profiles and any information in relation thereto are securely stored and remain confidential at all times;

d. Store and dispose samples taken for the purpose of forensic DNA analysis in accordance with the provisions of this Act;
e. Cooperate with both local and foreign law enforcement agencies in accordance with the provisions of this Act;

f. 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.

SECTION 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 Crime 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".

SECTION 8. Biological Sample or Genetic Markers Derived from DNA as Evidence. - Expert testimony or evidence relating to the use of these biological samples 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.

SECTION 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.

SECTION 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.

SECTION 11. Storage and Disposal of Biological Samples. – The 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 of this Act must be destroyed not later than six (6) months after the DNA profile has been generated.

SECTION 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 (6) months from the time of notification of such request, delete the DNA profile and any information in relation to the profile.

SECTION 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 subject. Before taking of
intimate or non-intimate sample, the certified DNA collector shall inform
the person from whom the sample is to be taken:

a. 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;

b. That he/she may make a request for an access to his or her
information; and that he/she may at any time demand the deletion
of his/her DNA profile in the database.

SECTION 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.

SECTION 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.

SECTION 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.

SECTION 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 from public office and a fine not less than SIX HUNDRED THOUSAND PESOS (Php600,000.00) at the discretion of the court.

SECTION 18. Tampering, Abetting, or Attempting to Tamper DNA Samples. - Any person who shall knowingly tamper or cause to be tampered any intimate sample or non-intimate sample taken for the purposes of this Act or aid the commission of or attempt 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.

SECTION 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.

SECTION 20. Refusal to Give Sample. - Any person who unjustifiably 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 (Php300,000.00) or imprisonment for a term not exceeding six (6) years, or both.
SECTION 21. Cooperation with Other Law Enforcement Agency. - 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.

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

SECTION 23. Previously Maintained DNA Profiles. - Any existing DNA profile and any information in relation thereto kept and maintained by the Philippine National Police (PNP) immediately before the effectivity of this Act shall form part of the Philippine Forensic DNA Database in accordance with this Act.

SECTION 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.

SECTION 25. Implementing Rules and Regulations. - Within ONE HUNDRED AND TWENTY (120) days, the PNP in consultation with government agencies and other law enforcement offices shall formulate the necessary rules and regulations for the effective implementation of this Act.

SECTION 26. Separability Clause. – If any provision of this Act is declared invalid or unconstitutional, the other provisions not affected thereby shall remain valid and subsisting.

SECTION 27. Repealing Clause. – All acts, executive orders, memorandum circulars/guidelines and other issuances or parts thereof, which are inconsistent with this Act, are hereby repealed or modified accordingly.
SECTION 28. Effectivity. – This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in two (2) newspapers of general circulation

APPROVED.