

DNA Technology (Use and Application) Regulation Bill, 2018

June 24, 2019

The Bill seeks to provide for the regulation of use and application of DNA technology.

DNA regulation board:

- The board will certify labs authorized to carry out DNA testing and lay down procedure and guidelines for collection, storage, sharing and deletion of DNA information.
- The Secretary of the Department of Biotechnology has been made the ex-officio chairman of the proposed DNA Regulatory Board.

DNA Data Bank:

A National DNA Databank and certain regional DNA Databanks will store DNA profiles received from DNA labs in a specified format.

Limited purpose:

The Bill states that DNA data contained in any DNA labs and Databank **shall be used for the purpose of facilitating identification of the person and not for any other purpose.** It will only be made available to facilitate the identification of persons in criminal cases.

Safeguard against misuse:

The Bill states that **disclosure of DNA information** to unauthorized persons, or for unauthorized purposes, **shall lead to penalties** up to three years in jail or up to Rs 1 lakh as

fine.

The proposed legislation will **enable cross-matching of DNA of persons** reported missing and unidentified dead bodies and also for establishing the identity of victims during mass disasters.

It seeks **to ensure that DNA test results are reliable** and the data is protected from misuse or abuse in terms of people's privacy rights.

Use of DNA Data: The Bill regulates DNA testing for identification of persons, in respect of matters listed in the Schedule. This includes offences under the **Indian Penal Code, 1860**, as well as offences under other laws such as the **Immoral Traffic (Prevention) Act, 1956**, the **Medical Termination of Pregnancy Act, 1971**, the **Protection of Civil Rights Act, 1955**, and the **Motor Vehicles Act, 1988**.

The Schedule also allows for DNA testing in certain civil matters. This includes matters such as parentage disputes, issues related to pedigree, immigration or emigration, assisted reproductive technologies, transplantation of human organs, and for the establishment of individual identity.

Consent for collecting bodily substances

- **In case of a person arrested for an offence which carries punishment upto seven years, the authorities are required to obtain his written consent before collecting his bodily substances.** If consent is not given, the authorities may approach a Magistrate who may order the taking of bodily substances from the individual, if he is satisfied that DNA will confirm or disprove the individual's involvement in the alleged offence. **If the offence carries a punishment of more than seven years of imprisonment or death, consent is not required.**
- If a person is a victim, or relative of a missing person, authorities are required to obtain their written

consent to collect bodily substances. In case of a minor or disabled person, the written consent of the parent or guardian is required. If consent is not given, the authorities may approach a Magistrate who may order taking of the bodily substances of the person.

DNA Data Bank

- The central government will establish a **National DNA Data Bank and Regional DNA Data Banks for each state**, or two or more states, as it may deem necessary.
- Every DNA Data Bank is required to maintain the following indices based on DNA testing conducted by a DNA laboratory:
 - Crime scene index
 - Suspects' or under-trials' index
 - Offenders' index
 - Missing persons' index, and
 - Unknown deceased persons' index.

Sharing of DNA data with Data Banks

- All DNA laboratories will share DNA data prepared by them with the National and Regional DNA Data Banks.
- In criminal cases, the laboratory is required to return the biological sample to the investigating officer after depositing the DNA profile with the DNA Data Banks. In all other cases, the laboratory will destroy the sample and inform the concerned person.

DNA Regulatory Board

The Bill provides for a DNA Regulatory Board, which will supervise DNA Data Banks and DNA laboratories. The Secretary in the Department of Biotechnology, will be the ex-officio Chairperson of the Board.