

DNA Technology (Use & Application) Regulation Bill 2019

August 13, 2019

Source: PIB and PRS India

The bill has been introduced for the regulation of use and application of DNA technology for the purpose of establishing identity of missing persons, victims, offenders, under trials and unknown deceased persons

Purpose of the Bill

Expanding the application of DNA-based forensic technologies to support and strengthen the justice delivery system of the country

Key features of the Bill

- **Use of DNA Data:** Under the proposed Bill, **DNA testing is allowed only in** respect of matters listed in the Schedule to the Bill. These include **offences under the Indian Penal Code, 1860, and for civil matters such as paternity suits**. Further, the Schedule includes **DNA testing for matters related to establishment of individual identity**.
- **Collection of DNA and consent :** While preparing a DNA profile, bodily substances of persons may be collected by the investigating authorities in the following manner;
 1. **For arrested persons**, authorities are required to obtain written consent if the offence carries a punishment of up to seven years.

2. **If the offence carries more than seven years** of imprisonment or death, **consent is not required.**
 3. Further, **if the person is a victim, or relative of a missing person**, or a minor or disabled person, the authorities are **required to obtain the written consent** of such victim, or relative, or parent or guardian of the minor or disabled person. If consent is not given in these cases, the authorities can approach a Magistrate who may order the taking of bodily substances of such persons
- **DNA Data Bank:** The Bill provides for the establishment of a **National DNA Data Bank and Regional DNA Data Banks, for every state, or two or more states.** DNA laboratories are required to share DNA data prepared by them with the National and Regional DNA Data Banks. **Every Data Bank will be required to maintain indices for the following categories of data:**
 1. A crime scene index,
 2. A suspects' or undertrials' index
 3. An offenders' index
 4. A missing persons' index, and
 5. An unknown deceased persons' index
 - **Removal of DNA profiles:** The Bill states that the criteria for entry, retention, or removal of the DNA profile will be specified by regulations. However, the **Bill provides for removal of the DNA profiles of the following persons:**
 1. Of a suspect if a police report is filed or court order given,
 2. Of an undertrial if a court order is given, and
 3. On written request, for persons who are not suspect, offender or undertrial, from the crime scene or missing persons' index

- **DNA Regulatory Board:** The Bill also provides for the establishment of a DNA Regulatory Board, which will **supervise the DNA Data Banks and DNA laboratories.** The Secretary, Department of Biotechnology, will be the ex officio Chairperson of the Board. The Board will comprise additional **members** including experts in the field of biological sciences, and Director General of the National Investigation Agency and the Director of the **Central Bureau of Investigation.**

- **Functions of the Board:** Following are the functions of the Board:
 1. Advising governments on all issues related to establishing DNA laboratories or Data Banks, and
 2. Granting accreditation to DNA laboratories.
 3. Further, the Board is required to ensure that all information relating to DNA profiles with the Data Banks, laboratories, and other persons are kept confidential

- **DNA laboratories:** The bill mentions that any laboratory undertaking DNA testing is required to **obtain accreditation from the Board.** The Board may revoke the accreditation for reasons including failure to undertake DNA testing, or comply with the conditions attached to the accreditation. If the accreditation is revoked, an appeal will lie before the central government or any other authority notified by the central government. Further, every DNA laboratory is required **to follow standards for quality assurance in collection, storing, and analysis of DNA samples.** After depositing the DNA profile for criminal cases, the **laboratory is required to return the biological sample to the investigating officer.**

- **Offences under the bill:** It specifies penalties for various offences, including:

1. For disclosure of DNA information, or
2. Using DNA sample without authorization. For instance, disclosure of DNA information will be punishable with imprisonment of up to three years and fine of up to one lakh rupees

Significance of the bill

- The proposed legislation will empower the criminal justice delivery system by enabling the application of DNA evidence, which is considered the gold standard in crime investigations.
- Establishment of the National and Regional DNA Data Banks, as envisaged in the Bill, will assist in forensic investigations.
- The proposed Bill will give fillip to the development of uniform code of practices in all laboratories involved in DNA testing throughout the country. This will aid in **scientific upgradation and streamlining of the DNA testing activities in the country** with appropriate inputs from the DNA Regulatory Board which would be set up for the purpose.
- It is expected that the expanded use of this scientifically driven technology would empower the existing justice delivery system