

BELIZE:

DEOXYRIBONUCLEIC ACID BILL, 2025

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BELIZE:

BILL

for

A BILL for an Act to establish the National DNA Database, to provide a framework for the operation of the National DNA Database in order to facilitate the collection and use of DNA samples in the investigation and prosecution of indictable offences, to provide for the management, retention and destruction of DNA samples and DNA profiles, to provide for the investigation of missing persons and unidentified deceased persons, to establish an oversight body; and to provide for matters connected therewith or incidental thereto.

(Gazetted.....,2025)

BE IT ENACTED, by and with the advice and consent of the House of Representatives and Senate of Belize and by the authority of the same, as follows:

PART I

Preliminary

1. This Act may be cited as the Short title.

DEOXYRIBONUCLEIC ACID BILL, 2025.

2. In this Act, unless the context otherwise requires— Interpretation.

“attorney” has the meaning assigned by section 2 of the Legal Profession Act; CAP. 320.

“authorised forensic laboratory” means a laboratory that is described in section 33;

“authorised person” means—

(a) for the purpose of collecting an intimate sample from a person, the following persons—

(i) in the case of blood, a phlebotomist;

- (ii) in the case of pubic hair, urine, semen, tissue, fluid from breaking the skin, a swab from any orifice, including genitals, a foetus or product of conception, a medical practitioner;
 - (iii) in the case of dental material, a dentist; and
 - (iv) a suitably qualified person who is approved by the Minister by Order, subject to negative resolution, to carry out the collection of an intimate sample;
- (b) for the purpose of collecting a non-intimate sample, the following persons—
- (i) a crime scene technician attached to the National Forensic Science Service or a forensic scientist;
 - (ii) a medical practitioner; and
 - (iii) a suitably qualified person who is approved by the Minister to carry out the collection of a non-intimate sample;

“bodily sample” includes, saliva, blood, urine, mucus, semen, tissue, spinal fluid, fecal matter, digestive fluids, skin cells, vaginal secretions, hair and nails;

“buccal swab” means a swab taken from the inner cheek of a person to collect epithelial cells;

CAP. 103:01. “Central Authority” has the meaning assigned by section 2 of the Mutual Legal Assistance in Criminal Matters (Belize/USA) Act;

CAP. 101. “child” means a person under the age of 18 years, subject to the general exception as to criminal liability contained in section 25 of the Criminal Code;

“convicted persons index” means the index described in section 6(1)(a);

“Court” means the Magistrates’ Court unless otherwise indicated;

“court order” means an order of any court;

“crime scene” means—

- (a) any place where an offence is committed;

- (b) on or within the body of, or on anything worn by, the virtual complainant at the time when an offence was allegedly committed; or
- (c) on or within anything or the body of any person, other than the virtual complainant, or at any place associated with the commission of an offence;

“crime scene index” means the index described in section 6(1)(b);

“curator” means a person to whom an order of the High Court is granted in relation to the care, supervision and control of an adult under the Unsoundness of Mind Act; CAP. 122.

“Custodian” means the person designated as the Custodian or a person authorised in writing to act on behalf of the Custodian under section 8;

“dentist” means a person registered as a dentist under the Dentists Act, CAP. 316.

“DNA” means deoxyribonucleic acid;

“DNA analysis” includes the process of isolation, detection, identification and evaluation of bodily samples using DNA technologies;

“DNA analyst” means a forensic analyst under the Evidence Act, who possesses academic qualifications and work experience in DNA analyses and is approved by the Custodian to perform DNA analyses; CAP. 95.

“DNA data” means information obtained from the National DNA Database;

“DNA profile” means information, in relation to a person, that comprises a set of identification characteristics generated from DNA analysis that—

- (a) is clearly identifiable as relating to that person; and
- (b) is able to be compared with information obtained from an analysis of another sample of genetic material for the purpose of determining, with reasonable certainty, whether or not the other sample is from that person;

“DNA Oversight Committee” means the National DNA Database Oversight Committee established under section 34;

“DNA sample” means a bodily sample collected from a person or recovered from a crime scene or a scene of a fatality and from which a DNA profile may be generated;

“elimination index” means the index described in section 6(1)(c);

CAP. 39.02. “Executive Director” has the meaning assigned by section 2 of the National Forensic Science Service Act;

“forensic comparison” means the comparison of a DNA profile stored in a DNA database index with another DNA profile, where that comparison is undertaken for the purpose of human identification or for the purpose of confirming or disproving the involvement of any person in the commission of an offence;

“intimate sample” includes a bodily sample collected from a person for DNA analysis of—

- (a) blood;
- (b) fluid from breaking the skin;
- (c) tissue;
- (d) a swab from the genitals or a bodily orifice, except for a buccal swab;
- (e) a foetus or product of conception;
- (f) urine;
- (g) semen; or
- (h) pubic hair;

“ISO/IEC 17025” means the International Organization for Standardization and the International Electrotechnical Commission’s standard for testing and calibration laboratories;

“investigating officer” means a police officer in charge of the investigation of an offence;

CAP. 318. “medical practitioner” has the meaning assigned by section 2 of the Medical Practitioners Registration Act;

“Minister” means the minister responsible for forensic science services;

“missing person” means a person who, whether before or after the commencement of this Act, is observed to be missing and persons who are likely to have heard from the person are unaware of the whereabouts of the person and that the circumstances of the person being missing raises concerns for his or her safety and well-being;

“missing persons index” means the index described in section 6(1)(d);

“MLAT” means a request for assistance under–

- (a) the Mutual Legal Assistance in Criminal Matters (Belize/USA) Act; CAP. 103:01.
- (b) the Mutual Legal Assistance and International Co-operation Act; or CAP. 103:04.
- (c) any treaty for mutual assistance in criminal matters based on principles of reciprocity;

“National DNA Database” means the database established under section 6;

“National Forensic Science Service” has the meaning assigned by section 2 of the National Forensic Science Service Act, CAP. 39:02.

“non-intimate sample” includes–

- (a) a bodily sample collected from a person for DNA analysis of–
 - (i) saliva,
 - (ii) hair, other than pubic hair; or
 - (iii) a nail or any material found under a nail;
- (b) a buccal swab; or
- (c) a swab of suspected blood or other suspected bodily fluid from any part of the body other than a bodily orifice or the genitals;

“offence” means an offence punishable on indictment under the Laws of Belize and includes a hybrid offence;

“participating jurisdiction” means a jurisdiction that is a party to a treaty for the exchange of information in criminal matters or in which a corresponding law is in force;

“parent or guardian”, with respect to a child who is a subject to a care or supervision order under the Families and Children's Act, means any person who has the supervision or care of the child under that Act; CAP. 173.

“Rapid DNA” refers to an automated process of generating a DNA profile that provides a result within a short period of time, used as an investigative tool, where the sample is believed to emanate from a single source;

“relatives of missing persons index” means the index described in section 6(1)(e);

“suspect” means a person believed by a police officer, on reasonable grounds, to have committed an offence or a person charged with an offence;

“suspected persons index” means the index described in section 6(1)(f);

“tamper-evident container” means a receptacle approved by the Custodian into which a DNA sample is placed and which—

- (a) is sealable after the DNA sample is placed in it without interfering with the integrity of the DNA sample; and
- (b) once sealed, cannot be opened without damaging it or leaving visible signs of interference;

“unidentified deceased persons index” means the index described in section 6(1)(g);

“victims index” means the index described in section 6(1)(h);

“virtual complainant” means a person against whom an offence has allegedly been committed;

“volunteers index” means the index described in section 6(1)(i);

“vulnerable person” means a person, other than a child, whose mental or intellectual capacity to make decisions for himself or herself is impaired, but does not include a person who is impaired solely due to intoxication or being under the influence of any drug.

Purpose.

3. The purpose of this Act is to—

- (a) establish and operate a National DNA Database in a manner that respects a person’s bodily integrity, privacy and dignity and is consistent with human rights under the Constitution;
- (b) establish indices for the categorisation and storage of DNA profiles on the National DNA Database;
- (c) provide reliable evidence for the purpose of prosecutions of offences;
- (d) ensure that the personal data of a person whose DNA profile is entered on the National DNA Database is protected and not accessed or shared without the requisite permission;

- (e) assist the police in carrying out an investigation with respect to an offence; and
- (f) establish the administrative and procedural framework concerning—
 - (i) the collection of DNA samples;
 - (ii) the issuance of a court order if consent is refused by a suspect;
 - (iii) the removal or destruction of DNA samples and DNA profiles held by the National Forensic Science Service or on the National DNA Database;
 - (iv) the identification of unidentified deceased persons; and
 - (v) the identification of missing persons.

4.—(1) This Act applies to offences committed, or reasonably believed to have been committed before, on, or after, the date of commencement. Application.

(2) The result of DNA analysis obtained from Rapid DNA shall be entered on the National DNA Database but shall not be admissible in evidence.

5. This Act binds the Crown. Act to bind the Crown.

PART II

Administration of National DNA Database

6.—(1) There is established within the National Forensic Science Service, a National DNA Database of DNA profiles, which comprises an electronic or other collection of the following indices— Establishment of National DNA Database.

- (a) a convicted persons index, containing DNA profiles derived from bodily samples collected from a convicted person under a court order;
- (b) a crime scene index, containing DNA profiles derived from crime scenes;
- (c) an elimination index, containing DNA profiles of persons who are not suspects with respect to a particular investigation but who, by reason of the functions or tasks

they perform, may inadvertently contaminate any bodily samples and suspected bodily samples;

- (d) a missing persons index, containing DNA profiles derived from bodily samples of missing persons, including a bodily sample obtained from the personal effects of a missing person;
- (e) a relatives of missing persons index, containing DNA profiles derived from bodily samples voluntarily submitted by persons related by blood to a missing person for the purpose of assisting in confirming the identity of the missing person, by comparing that DNA profile with—
 - (i) the unidentified deceased persons index; or
 - (ii) a profile contained in the missing persons index;
- (f) a suspected persons index, containing DNA profiles derived from suspects including suspects who are deceased;
- (g) an unidentified deceased persons index, containing DNA profiles derived from bodily samples of unidentified deceased persons and human remains;
- (h) a victims index, containing DNA profiles derived from virtual complainants, voluntarily submitted;
- (i) a volunteers index, containing DNA profiles derived from bodily samples voluntarily submitted, other than from a virtual complainant; or
- (j) any other index as the Minister may prescribe.

(2) For the purposes of the indices under sub-section 1(d), (e) and (g), a DNA profile shall be added to the missing persons index, the relatives of missing persons index or the unidentified deceased persons index if the Custodian—

- (a) has reasonable grounds to suspect that the forensic comparison of the DNA profile conducted will assist in the investigation of a missing person, unidentified deceased person or human remains; and
- (b) is satisfied that other investigative procedures have been tried and have failed or are unlikely to succeed, or that the urgency of the situation requires the forensic comparison of the DNA profile to others.

7.—(1) A DNA profile generated before the commencement of this Act may be entered in the National DNA Database, with the consent of the Custodian.

DNA profile
before
commencement.

(2) In deciding whether to consent under sub-section (1), the Custodian shall consider—

- (a) the purpose for which the DNA profile was generated; and
- (b) if it is necessary to inform the person to whom the DNA profile refers, or obtain his or her consent to the use of that DNA profile.

8.—(1) The National DNA Database shall be maintained and operated by the Executive Director of the National Forensic Science Service, who shall be the Custodian.

Custodian.

(2) The Custodian may designate, in writing, a member of staff of the National Forensic Science Service to act on his or her behalf.

9. The Custodian shall—

Duties of
Custodian.

- (a) receive and store—
 - (i) DNA samples taken by authorised persons;
 - (ii) DNA profiles generated by the National Forensic Science Service or for the National Forensic Science Service by an authorised forensic laboratory;
 - (iii) DNA profiles obtained by the Government pursuant to an MLAT;
- (b) maintain and operate the National DNA Database;
- (c) establish and maintain policies and procedures for the sound management of the National DNA Database and for incorporating emerging DNA technology and services;
- (d) promote public awareness and understanding of issues related to DNA technology and services;
- (e) ensure the security, integrity and confidentiality of the National DNA Database;
- (f) authorise or carry out DNA analyses as may be required under this Act;

- (g) carry out and authorise searches of the National DNA Database and the forensic comparison of DNA profiles;
- (h) certify DNA profiles;
- (i) establish methods of electronic storage that accurately record DNA profiles and facilitate easy retrieval of DNA profiles;
- (j) disclose the report of a DNA analysis to—
 - (i) an investigating officer or a police officer designated by the investigating officer;
 - (ii) the Central Authority making a request that has been approved in accordance with an MLAT;
 - (iii) the Director of Public Prosecutions; or
 - (iv) any court;
- (k) consider the recommendations of the DNA Oversight Committee and implement the advice, as far as is practicable;
- (l) destroy and remove DNA samples and DNA profiles held by the National Forensic Science Service or on the National DNA Database; and
- (m) perform any other function assigned to the Custodian by the Minister or under this Act.

Powers of
Custodian.

10. The Custodian shall have the power to carry out any task necessary for the operation of the National DNA Database, as the Custodian thinks fit.

Report to
Parliament.

11.—(1) The Custodian shall submit to the Minister a report on the operations of the National DNA Database within three months of the end of each financial year.

(2) The Minister shall cause the report under sub-section (1) to be laid in Parliament within one month of receiving it.

Permitted
searching.

12.—(1) A member of staff of the National Forensic Science Service, authorised by the Custodian, may search the National DNA Database for the purpose of, and to the extent necessary for—

- (a) forensic comparison of DNA profiles permitted in accordance with this Act; and

(b) the administration of the National DNA Database.

(2) The Custodian may prescribe Rules for regulating searches of the National DNA Database.

PART III

Collecting DNA Sample

13.—(1) Subject to sub-sections (2), (3) and (4), an intimate sample or a non-intimate sample shall not be collected from any person—

Consent to collection of DNA sample.

(a) without the consent of the person in writing; or

(b) an order of the Court.

(2) A police officer of at least the rank of Inspector may authorise an investigating officer to request a suspect to provide an intimate sample or a non-intimate sample—

(a) if the suspect is not in custody, by notice in the form set out in Schedule II; or

Schedule II.

(b) if the suspect is in custody, by requesting the suspect to consent to the collection of a DNA sample and completing the form set out in Schedule I.

Schedule I.

(3) If an intimate sample or a non-intimate sample is requested of a suspect who is a vulnerable person or a child, the curator of the vulnerable person, or the parent or guardian of the child, is authorised to consent on behalf of the vulnerable person or the child.

(4) In the case of a suspect who is—

(a) a child who is orphaned and has no guardian or whose parent cannot be found;

(b) a child whose parent or guardian is a virtual complainant;

(c) a vulnerable person whose curator is a virtual complainant; or

(d) a vulnerable person who does not have a curator, a DNA sample shall not be taken without an order of the Court.

(5) Notwithstanding sub-section (3), if a child has attained the age of sixteen years, the child shall indicate, in writing, if he or she consents to the taking of a DNA sample.

(6) If the child under sub-section (5) and the parent or guardian do not agree on whether to provide a DNA sample, a DNA sample shall not be taken without an order of the Court.

(7) If one parent opposes the collection of a DNA sample from a child under sub-sections (3) or (5), a DNA sample shall not be taken without an order of the Court.

(8) If consent under sub-sections (2) or (3) is refused, a Court may make an order, on application.

Schedule I.

(9) If a suspect consents to providing a DNA sample, the investigating officer shall read to the person and cause to be completed, the form in Schedule I.

(10) In addition to the giving of consent under sub-section (9), consent may be recorded by electronic means.

(11) The investigating officer shall give a suspect the opportunity to communicate with an attorney, in private, before completing the form referred to in sub-section (9).

(12) A suspect may waive his or her right to communicate with an attorney.

Withdrawal of consent.

14.—(1) A person may withdraw consent given for the collection of a DNA sample at any time before the sample is collected.

Schedule I.

(2) If consent is withdrawn the investigating officer shall cause the person to indicate the withdrawal, in writing, by completing Part 8 of the form in Schedule I.

Authorised person to collect sample.

15. A DNA sample may only be collected by an authorised person.

Investigating officer to accompany person.

16. Where consent has been given in accordance with this Act for the collection of a DNA sample, the investigating officer or a police officer designated by the investigating officer shall accompany the person to an authorised person in order for the DNA sample to be collected.

DNA sample at prison or other place of detention.

17.—(1) Notwithstanding section 16, a person who is detained or imprisoned may have a DNA sample collected by an authorised person at a prison or other place of detention.

(2) The collection of a DNA sample from a person who is detained or imprisoned, but who has not consented to the collection of a DNA sample may be ordered by a court.

(3) On conviction, a court may order that a DNA sample shall be collected from the person who is convicted.

18. Where a DNA sample collected from a person is insufficient or is inadequately labelled, a further DNA sample may be collected from the person without further written consent or order of the Court unless the person indicates that he or she has withdrawn that consent.

Re-taking of
DNA sample.

19. A DNA sample may be considered insufficient if—

Insufficient
DNA sample.

- (a) the DNA sample is lost, damaged, destroyed or contaminated;
- (b) the DNA analysis of the DNA sample has not produced results or has produced results which are unreliable; or
- (c) the DNA sample has become unavailable or inadequate for the purpose of enabling information to be obtained by means of DNA analysis.

20. A magistrate may order a DNA sample be collected from a suspect if the suspect—

Collecting
sample without
consent.

- (a) does not consent to the collection of a DNA sample;
- (b) is unable to consent; or
- (c) is not in custody and has not been requested to provide a DNA sample, under section 13.

21.—(1) An investigating officer may apply to the Court for an ex parte order for the collection of a DNA sample from a suspect and the magistrate may—

Application for
order of the
Court.

- (a) order that a DNA sample be collected; and
- (b) issue a warrant for the detention of the suspect for the purpose of collecting the DNA sample.

(2) Notwithstanding sub-section (1), the hearing of an application for an order under this section may be conducted in the presence of the suspect, if practicable.

(3) A suspect may be represented by an attorney and, in the case where a suspect is a vulnerable person, the suspect shall also be represented by an adult of his or her choice.

Order to collect
DNA sample.

22.—(1) A magistrate who, on an application under section 21, is satisfied by information on oath that there are reasonable grounds to believe—

- (a) that an offence has been committed;
- (b) that a bodily sample has been recovered from a crime scene;
- (c) that the suspect was a party to the offence;
- (d) that DNA analysis of a bodily sample from the suspect will provide evidence about whether the bodily sample referred to in paragraph (b) was from that suspect; and
- (e) that it is in the best interests of the administration of justice, may issue the order, authorising a police officer to obtain, or cause to be obtained under the direction of the police officer, a DNA sample from that suspect.

(2) In deciding whether to issue the order, the magistrate shall consider—

- (a) the nature, seriousness and the circumstances of the allegation, including the degree of the alleged participation by the suspect;
- (b) the reasons, if any, for the failure to obtain consent to the collection of the DNA sample;
- (c) the age, physical and mental health of the suspect, to the extent known to the investigating officer; and
- (d) any other matter relevant to the balancing of the interests of justice as against the rights of the suspect.

(3) If a magistrate makes an order under sub-section (1) for the collection of a DNA sample from a suspect, the magistrate shall—

- (a) give reasons, in writing, for making the order;
- (b) inform the suspect, if present, or otherwise by court order, that reasonable force may be used to ensure that the suspect complies with the order; and

(c) order the detention of the suspect for as long as is reasonably necessary to collect the DNA sample.

(4) The magistrate may give directions about the date, time and place of collection of the DNA sample and the manner of collection.

23.—(1) In deciding whether to order a DNA sample to be collected from a child or a vulnerable person, a magistrate shall take into consideration the matters specified in section 22 and the best interests of the child or the vulnerable person.

DNA sample from child or vulnerable person.

(2) If it is reasonably practicable to do so, a DNA sample shall be collected—

(a) in the case of a child, in the presence of a parent or guardian;

(b) in the case of a vulnerable person, in the presence of a curator of the vulnerable person.

(3) The police may exclude a person referred to at sub-section 2(a) or (b) from the collecting of a DNA sample under sub-section (2), if the person referred to under sub section 2(a) or (b) is—

(a) the virtual complainant or a suspect with respect to the offence;

(b) reasonably suspected of complicity in that offence; or

(c) considered likely to obstruct the course of justice in relation to the offence with respect to which the DNA sample is being collected.

(4) In so far as is practicable, an authorised person who takes an intimate sample shall be of the same sex as the child or the vulnerable person from whom the DNA sample is to be, or is being, collected.

24. A DNA sample may be collected under this section from the clothing or other belongings of a person, or from things reasonably believed to belong to, or to have been used by, a person, or with which the person is reasonably believed to have been in contact.

DNA sample from clothing or other belongings.

25.—(1) An authorised person who collects a DNA sample shall place that DNA sample in a tamper-evident container marked with a unique number.

Chain of custody of DNA sample.

(2) A DNA analyst shall certify that—

(a) he or she conducted a thorough examination of the tamper-evident container immediately before opening it and that the

container did not display any sign of anyone having opened or attempted to open it;

- (b) that the tamper-evident container bore a unique number, which shall be specified;
- (c) that he or she opened the tamper-evident container in which the DNA sample was contained and removed the DNA sample from it for DNA analysis; and
- (d) a DNA analysis was performed with respect to the DNA sample.

(3) The DNA analyst shall specify the date of opening the tamper-evident container and the date on which the DNA analysis was conducted.

(4) The DNA analyst shall certify the results of the DNA analysis which shall be evidence of the matters stated in the certificate without proof of his or her signature and without proof of the signature of any crime scene technician or other authorised person.

PART IV

General Provisions

Access to
information on
National DNA
Database.

26.—(1) A person may access the National DNA Database if authorised by the Custodian, in writing, for a purpose which shall be specified in the authorisation.

(2) A person whose DNA profile is on the National DNA Database is entitled to a copy of his or her DNA profile and DNA analysis, on request in writing being made to the Custodian.

MLAT.

27.—(1) The Government may agree with the government of another country pursuant to an MLAT under which information from the National DNA Database, that may be relevant to the investigation of an offence against the law of another country, is provided to the Central Authority in that country for the investigation of, or proceedings for, that offence.

(2) Subject to section 26, a person may access the National DNA Database for facilitation of an MLAT.

(3) A DNA sample collected from a person and a DNA profile generated from the DNA sample in respect of the person, may be transmitted outside Belize pursuant to an MLAT.

28.—(1) An authorised person, or an investigating officer or a police officer designated by an investigating officer who accompanies a suspect or a convicted person for the collection of a DNA sample, may use reasonable force to enable the DNA sample to be collected or to prevent the loss, destruction or contamination of the DNA sample. Use of force.

(2) Notwithstanding sub-section (1), this Act does not authorise the collection of a DNA sample in a cruel, inhumane or degrading manner.

29. Civil or criminal liability shall not be incurred by an authorised person who in good faith carries out or assists in the collection of a DNA sample under this Act where— No liability of authorised person.

- (a) the authorised person believed on reasonable grounds that consent had been given; or
- (b) the collection of the DNA sample without consent had been ordered by a Court under this Act.

30. A person shall not be liable for anything done or omitted to be done in good faith in the exercise or intended exercise of his or her functions under this Act. No liability generally.

31.—(1) Notwithstanding that the procedure for the collection of a DNA sample under this Act is not followed, but subject to section 46(2), a court may admit into evidence the results of a DNA analysis if— Admissibility.

- (a) the person concerned does not object to the admission of the evidence; or
- (b) the court has taken into account the matters set out in sub-section (2) and is satisfied that the evidence should be admitted in the proceedings despite the breach of, or failure to comply with, the provisions of this Act.

(2) In deciding whether evidence should be admitted under this section, the judge, or in the case of a hybrid offence done summarily, the magistrate, shall take into consideration the following—

- (a) the probative value of the evidence, including if evidence of equivalent probative value could have been obtained by other means;
- (b) the reasons given for the breach of, or failure to comply with, the provisions of this Act;
- (c) the seriousness of the breach of, or failure to comply with, the provisions of this Act;

- (d) whether the breach or failure to comply with the provisions of this Act was intentional or reckless;
- (e) the nature of the provision of this Act that was breached or not complied with;
- (f) the nature of the offence concerned and the subject matter of the proceedings; and
- (g) any other matters the court considers relevant.

(3) The probative value of the evidence does not, by itself, justify the admission of the evidence.

Forensic
Comparison of
DNA profile.

32. The forensic comparison of a DNA profile in an index of the National DNA Database with a DNA profile in another index of the National DNA Database shall be carried out in accordance with best practices and any Rules as may be prescribed by the Custodian.

Authorised
forensic
laboratories.

33.—(1) Subject to sub-section (2), an authorised forensic laboratory is a laboratory approved by the Custodian to conduct a DNA analysis.

(2) Where a forensic laboratory is accredited in accordance with the ISO/IEC 17025 standard, the Custodian may, on presentation of the ISO/IEC 17025 standard certification by a person, issue a Notice in the *Gazette*, specifying that the forensic laboratory is an authorised forensic laboratory.

(3) Notwithstanding sub-sections (1) and (2), the National Forensic Science Service is authorised to carry out DNA analyses under this Act.

(4) For the purposes of sub-section (3), the National Forensic Science Service may outsource a DNA analysis to an authorised forensic laboratory.

CAP. 95.

(5) A document purporting to be a report of a DNA analyst that has been outsourced shall be deemed to have been obtained in accordance with, and shall be treated in like manner to, any document admissible under section 36 of the Evidence Act;

(6) For the purposes of this section “outsource” with respect to a DNA analysis means the utilisation of an authorised forensic laboratory to provide DNA analysis and for which the National Forensic Science Service takes or retains ownership of the DNA data.

PART V

DNA Oversight Committee

- 34.** There is established a National DNA Database Oversight Committee known as the DNA Oversight Committee. DNA Oversight Committee.
- 35.**—(1) The DNA Oversight Committee shall consist of eleven members appointed by the Minister as follows— Appointment and composition of DNA Oversight Committee.
- (a) one representative from the Attorney General’s Ministry;
 - (b) one attorney with expertise in criminal law and procedure nominated by the Association of Defence Attorneys;
 - (c) one attorney with expertise in human rights nominated by the Bar Association of Belize;
 - (d) one person with expertise in forensic science;
 - (e) one person with expertise in medical ethics;
 - (f) one person with expertise in data protection or data privacy;
 - (g) one representative from the Belize Bureau of Standards;
 - (h) one retired holder of judicial office;
 - (i) one representative of the Director of Public Prosecutions who shall be an ex officio member;
 - (j) the Custodian, who shall be an ex-officio member; and
 - (k) one member of the public.
- (2) An appointment under sub-section (1) shall be by instrument in writing with the approval of Cabinet.
- (3) The DNA Oversight Committee shall appoint a chairperson and a vice-chairperson from among its members.
- (4) An ex-officio member shall not have the right to vote.
- 36.** The DNA Oversight Committee shall— Duties of DNA Oversight Committee.
- (a) oversee the operation and management of the National DNA Database for the purposes of maintaining its integrity and security and shall ensure compliance with the provisions of this Act in relation to the National DNA Database;
 - (b) periodically review the quality assurance standards of the laboratory of the National Forensic Science Service and any

authorised forensic laboratory, and ensure that they keep abreast of international standards, emerging forensic science technologies and techniques and biometrics;

- (c) periodically review time periods for which DNA samples are retained;
- (d) ensure that data protection and data privacy standards are observed;
- (e) advise the police, the National Forensic Science Service and an authorised forensic laboratory on practice, policy and procedure relating to the operation of the DNA regime to support and promote the purposes of this Act;
- (f) monitor the effect of the operation of the National DNA Database on specific groups including indigenous people, women and vulnerable persons;
- (g) promote awareness and understanding of the National DNA Database; and
- (h) advise the Minister on any aspect of the operation of this Act and evaluate proposals for amendment of this Act.

Powers of DNA Oversight Committee.

37.—(1) The DNA Oversight Committee shall have the power to carry out any task necessary to fulfil its functions under section 36.

(2) Without limiting the generality of sub-section (1), the DNA Oversight Committee may—

- (a) subject section 40, determine its own procedure; and
- (b) require the Custodian to provide information on any aspect of the operation of the National DNA Database.

Tenure of DNA Oversight Committee.

38.—(1) The appointment of a member of the DNA Oversight Committee shall be for a two year term, but a member is eligible for reappointment.

(2) The chairperson of the DNA Oversight Committee may resign by a written resignation to the Minister and the resignation shall be effective on receipt by the Minister.

(3) A member of the DNA Oversight Committee, other than the chairperson, may resign by a written resignation to the chairperson of the DNA Oversight Committee and the resignation shall be effective on receipt by the chairperson.

(4) The Minister may appoint a person to fill a position on the DNA Oversight Committee that becomes vacant if a member resigns, dies or fails to attend three consecutive meetings of the DNA Oversight Committee without reasonable excuse, and the replacement shall fill the position vacated for the balance of the term.

Annual report of DNA Oversight Committee.

39.—(1) The DNA Oversight Committee shall within six months of the end of each year report, in writing, to the Minister on the performance of its functions during that year.

(2) A report under sub-section (1) shall include any additional information as the Minister directs.

(3) The Minister shall, within one month of receiving a report under this section, cause a copy of the report to be laid in Parliament and be published in a manner that the Minister considers appropriate.

Meetings and quorum of DNA Oversight Committee.

40.—(1) The DNA Oversight Committee shall hold a meeting at least once every six months.

(2) The quorum for a meeting of the DNA Oversight Committee shall be six members who are eligible to vote.

PART VI

Storage, Destruction And Removal Of DNA Sample And DNA Profile

Storage of DNA samples and DNA profiles.

41.—(1) A DNA sample and a DNA profile shall be stored in a manner that protects the identity of the person from whom the DNA sample was collected or the person to whom the DNA profile belongs.

(2) The Custodian shall implement measures to protect the security of the National DNA Database from being breached physically and from unauthorised technological incursions.

Destruction of DNA sample and DNA profile of suspect.

42.—(1) Subject to this Act, a suspect from whom a DNA sample was collected and from whom the DNA profile was generated is entitled to have the DNA sample destroyed and the DNA profile removed from the National DNA Database—

- (a) not later than three months after—
 - (i) investigations reveal that the suspect was not involved in the commission of an offence;
 - (ii) the suspect is acquitted of the offence or the charge is withdrawn;

- (iii) the conviction for the offence concerned in connection with which the DNA sample was collected is quashed or is declared to be a miscarriage of justice by the High Court, or on appeal;
 - (b) if the person is not charged within twelve months after the collection of the DNA sample;
 - (c) not later than thirty years after the conviction of the suspect.
- (2) A person to whom sub-section (1) relates may apply to the High Court for an order that a DNA sample and a DNA profile be destroyed and removed from the National DNA Database.
- (3) If an application is made under sub-section (2), the applicant shall notify, in writing, the Director of Public Prosecutions and the Commissioner of Police of the application, and they shall have the right to be heard.
- (4) Subject to sub-sections (5) and (7), the Custodian shall destroy or cause to be destroyed, a DNA sample collected and a DNA profile generated under this Act, that is required to be destroyed and shall ensure that the DNA profile and every record relating to the DNA profile that identifies the suspect from whom the DNA profile has been collected, is permanently removed from the National DNA Database.
- (5) Nothing in sub-section (1) shall require—
 - (a) the removal from the National DNA Database of a DNA profile that may be retained in the National DNA Database in accordance with this Act;
 - (b) the destruction of a record that identifies the suspect to whom a DNA profile under paragraph (a) relates.
- (6) Subject to this section, if the Custodian is required under this Part to remove or cause a DNA profile to be removed from the National DNA Database, the Custodian shall ensure that the National DNA Database is altered so that it is no longer possible to identify the suspect to whom the DNA profile relates.
- (7) This section shall operate in a manner that permits the Custodian to retain such records as may be required by the Custodian to show that this section has been complied with.

Application for extension of time for retention of DNA sample and DNA profile.

43.—(1) The Director of Public Prosecutions or the Commissioner of Police may apply to the High Court for an extension of time for a DNA sample and a DNA profile in the National DNA Database to be retained beyond the periods specified in section 42(1)(a)-(c).

(2) If an application is made under sub-section (1), the Director of Public Prosecutions or the Commissioner of Police shall notify the person whose DNA sample and DNA profile are the subject of the application, in writing, and the person shall have the right to be heard.

Extension of period for which DNA sample and DNA profile may be retained.

44.—(1) Where an application is made for an order for the destruction of a DNA sample and a DNA profile or an extension of the period for which a DNA sample and a DNA profile may be retained, a judge of the High Court shall consider—

- (a) if the person from whom the DNA sample was collected has been charged with an offence;
- (b) if it is important to the investigation of the offence and trial that the DNA sample and DNA profile, and any records that would otherwise be required to be destroyed, be retained;
- (c) if the person concerned has any previous conviction for an offence similar in nature or seriousness to the offence concerned in connection with which the DNA sample was collected;
- (d) if the virtual complainant was at the time of the commission, or alleged commission, of that offence—
 - (i) a child;
 - (ii) a vulnerable person; or
 - (iii) associated with the child or the vulnerable person; and
- (e) the age of the suspect at the time the DNA sample was collected from him or her.

(2) If the judge is satisfied that the interests of justice require the making of an order under sub-section (1), the judge shall order—

- (a) an extension of time for the retention of the DNA sample or the DNA profile;
- (b) that the application is refused; or
- (c) the destruction of the DNA sample and the removal of the DNA profile from the National DNA Database.

(3) A judge shall give reasons, in writing, for a decision made under sub-section (2).

Periodic removal of certain DNA profiles.

45. The Custodian may remove information in relation to a DNA profile in the victims index, the missing persons index, the unidentified deceased persons index, the relatives of missing persons index, the volunteers index or the elimination index if the Custodian considers it appropriate that—

- (a) the person from whose DNA sample the DNA profile was derived wishes to have the information removed; or
- (b) the forensic comparison under this Act of the DNA profile with other DNA profiles is no longer required in the investigation with respect to which the DNA profile was generated.

Custodian to notify suspect of destruction or removal.

46.—(1) If a DNA sample or a DNA profile of a suspect is destroyed or removed from the National DNA Database, the Custodian shall by notice, in writing as soon as practicable, inform or cause the suspect to be informed of the destruction or removal, or send the notice to the last known address of the suspect.

(2) If a DNA sample or a DNA profile that is to be destroyed or removed from the National DNA Database in accordance with this Act is not destroyed or removed, the DNA sample or DNA profile shall not be admissible in evidence against the suspect from whom the DNA sample was collected or the DNA profile was generated.

Further DNA analysis.

47. Further DNA analysis of a DNA sample may be performed without the need for further consent or order of a Court if the Custodian believes that the DNA analysis is justified because of significant technological advances made either since the DNA sample was collected or the DNA profile of the person from whom the DNA sample was collected, was generated.

Data Protection.

48. Subject to this Act, and any Act for the protection of data, international best practices shall be observed with respect to the access to, storage, retention and destruction of, DNA profiles on the National DNA Database.

PART VII

Miscellaneous

Offences.

49. A person commits an offence and is liable on summary conviction to a fine of \$30,000 or imprisonment for three years, or to both such fine and term of imprisonment, if he or she—

- (a) intentionally discloses confidential information concerning a DNA sample or DNA profile contrary to this Act;

- (b) intentionally or recklessly supplies or causes the supply of a DNA sample collected from any person under this Act or under a corresponding law of a participating jurisdiction to anyone for prohibited analysis, and to a person who is not expressly authorised to have access to such information;
- (c) recklessly causes the disclosure of information collected under this Act;
- (d) searches the National DNA Database without being authorised, in writing, by the Custodian to have access to the National DNA Database;
- (e) falsifies DNA evidence;
- (f) unlawfully tampers with or unlawfully breaks the seal of a tamper-evident container containing a DNA sample, or attempts to gain access to an index of DNA profiles;
- (g) retains information that identifies a suspect from whom a DNA sample was collected under this Act, contrary to this Act;
- (h) retains a DNA sample that was supposed to be destroyed; or
- (i) intentionally obstructs, hinders or resists an authorised person or any other person authorised to exercise functions under this Act.

Regulations.

50.—(1) The Minister may, after consultation with the Custodian, make regulations prescribing any matter which is referred to in this Act as prescribed or as may be prescribed or for the purpose of enabling any provision of this Act to have full effect.

(2) Without prejudice to the generality of sub-section (1), the Minister may, after consultation with the Custodian, make regulations for—

- (a) standards, recommended practices and quality assurance that an authorised forensic laboratory shall follow to ensure the quality and integrity of the data generated by the authorised forensic laboratory;
- (b) the identification and collection of a DNA sample from a crime scene or the scene of a fatality;
- (c) the collection, packaging, transportation, labelling, storage, DNA analysis, preservation and disposal of a DNA sample;

-
- (d) disposal or removal of a DNA profile from the National DNA Database;
 - (e) specifying the functions of a DNA analyst and other staff of an authorised forensic laboratory;
 - (f) providing for DNA analyses and the circumstances in which DNA analyses may be made;
 - (g) the communication or request for a DNA profile and information;
 - (h) access to the National DNA Database;
 - (i) the conduct of a search on the National DNA Database;
 - (j) the manner in which information provided under this Act may be used;
 - (k) fees and any charge payable in respect of a service provided under this Act; and
 - (l) the keeping of statistics under this Act.

Minister to
amend
Schedules.

51. The Minister may, by Order published in the Gazette, amend a Schedule.

SCHEDULE I
[sections 13 and 14]

**CONSENT FORM FOR TAKING A DNA SAMPLE FROM A
SUSPECT (This Form Must Be Read To The Suspect And Completed
In Triplicate)**

PART I

Request is authorised by:

Name
.....

Rank
.....Signature.....
(Rank and number of Inspector or higher)

Date of authorisation:

PART II

Details of suspect from whom DNA sample is being collected:

Name:.....Date of Birth.....

Address:.....

Telephone No.: E-mail address:

PART III

Details of Investigating officer

Name of investigating officer.....

Rank and number.....

PART IV

This section is to be completed by the investigating officer

A DNA sample is requested from you because you are a — (Please tick the appropriate box(es))

- suspect

- child
- vulnerable person

2. You are being requested to give a –

● **Intimate sample** (Specify the bodily samples requested below by ticking the appropriate box(es))

- blood
- fluid from breaking the skin
- tissue
- a swab from the genitals or another bodily orifice, except for
A buccal swab
- a foetus or product of conception
- semen
- pubic hair
- urine

● **Non-intimate sample** (Specify the bodily samples requested below

- saliva
- hair, other than pubic hair
- a nail or any material found under a nail
- a buccal swab
- a swab of suspected blood or other suspected bodily fluid
From any part of the body other than a bodily orifice or the
genitals

3. The reason for this DNA sample being requested is that there are reasonable grounds for believing that you have committed the offence of:

.....

(Give particulars of the offence)

and a DNA analysis of your bodily sample would tend to confirm or disprove your involvement in, or association with, the commission of the offence and may be used as evidence in a criminal investigation or prosecution for the offence.

PART V

1. You are being asked to consent to a DNA sample being collected from you. The information obtained from the DNA analysis of your bodily sample may be placed on the National DNA Database, compared with DNA indices and used as evidence in a trial.

- (a) If a charge against you is withdrawn or dismissed, within three months of the collection of the DNA sample, or if no charge is filed against you within twelve months of the collection of the DNA sample, the DNA sample and DNA profile will be destroyed;
- (b) If you are convicted, the DNA sample and DNA profile may be kept for thirty years;
- (c) You may also apply to the High Court for the DNA sample or DNA profile to be destroyed in accordance with this Act.

2. You do not have to consent. If you do not consent an order may be sought from a magistrate to authorise the collection of the DNA sample, by force if necessary.

3. If you consent to a DNA sample being collected, please sign this form in the presence of the investigating officer and a Justice of the Peace.

4. You may withdraw your consent at any time before the sample is collected.

5. You have the right to consult with an attorney before you consent to give a DNA sample. (Complete Part 7 below if you waive your right to consult with an attorney).

6. A DNA sample collected will be subjected to DNA analysis and may be compared with other DNA profiles in the National DNA Database.

7. You are entitled to have an attorney or an adult of your choice present while the DNA sample is being collected.

8. Only an authorised person is entitled to take a DNA sample from you. If a medical practitioner or a dentist is required to take your DNA sample, he or she may be a medical practitioner or a dentist of your choosing who must comply with the procedures for taking a DNA sample under the DNA Act, 2025.

An “authorised person” means—

(a) With respect to the collecting of a non-intimate sample the following persons—

- (i) a crime scene technician attached to the National Forensic Science Service or a forensic scientist;
- (ii) a medical practitioner;
- (iii) a suitably qualified person who is approved by the Minister to carry out the collection of a non-intimate sample.

(b) For the purposes of collecting an intimate sample from you under paragraph (a), the following persons are authorised persons—

- (i) in the case of the collection of blood, a phlebotomist;
- (ii) in the case of the collection of pubic hair, semen, tissue, fluid from breaking the skin, a swab from any orifice, including genitals, a foetus or product of conception, a medical practitioner;
- (iii) the collection of dental material, a dentist;
- (iv) a suitably qualified person who is approved by the Minister to carry out the collection of an intimate sample;

9. Where an intimate sample is collected—

- (a) it shall be collected in circumstances affording you reasonable privacy;
- (b) it may be collected in the presence or view of an adult of your choosing;
- (c) it shall not be collected in the presence or view of a person whose presence is not necessary for the purpose of collecting the intimate sample;
- (d) the collection shall not involve the removal of more clothing than is necessary;
- (e) the collection shall not involve more visual inspection than is necessary; and

- (f) the procedure shall be carried out in a manner consistent with appropriate medical and other relevant professional standards.

10. You have a right to a copy of a DNA sample for the purpose of conducting an independent DNA analysis. (suspects only)

11. You have a right to a copy of this form once completed.

PART VI

.....
(Name of parent or guardian of a child, or a curator of a vulnerable person)

.....
(Please indicate relationship to the child or vulnerable person)

PART VII

Please indicate whether you consent to the collection of a DNA sample

Consent

- This Form has been read to me and I understand it.
- I consent to the collection of –
 - an intimate sample
 - a non-intimate sample
- I have consulted with an attorney.
- I have waived my right to consult with an attorney.

Signed:.....
(Person from whom DNA sample is requested (including child over 16 years))

Signed
.....
(In the case of a child - parent/ guardian or in the case of a vulnerable person, a curator)

At..... (Place where consent is given)

In the presence of(attorney or adult of choice)

Date:
.....

Witnessed by

.....
(Justice of the Peace)

PART VIII

Please indicate if you wish to withdraw your consent

Withdrawal of Consent

I,(Name of person withdrawing consent) of(Address of person withdrawing consent) further to giving my consent for a DNA sample to be collected, hereby withdraw my consent to the collection of the DNA sample. The reasons for withdrawing my consent are as follows:

.....
.....

Signed:.....
(Person from whom DNA sample is requested (including child over 16 years))

Signed
.....
(In the case of a child - parent/ guardian or in the case of a vulnerable person, a curator)

At(Place where consent was withdrawn)
In the presence of:

.....
(Justice of the Peace)

SCHEDULE II
[section 13(2)(a)]

NOTICE REQUESTING DNA SAMPLE

To:.....(Name of suspect)

Address:

.....

TAKE NOTICE that you are requested to attend
at.....(Address) on
theday offor
the purpose of the collection of an intimate sample/non-intimate sample from
you with respect to an investigation into:

.....

.....

.....

(Name, rank and number of police officer of at least the rank of Inspector)

.....(Signature)