

Bill Summary

The DNA Technology (Use and Application) Regulation Bill, 2018

- The DNA Technology (Use and Application) Regulation Bill, 2018 was introduced in Lok Sabha by the Minister for Science and Technology, Mr. Harsh Vardhan, on August 9, 2018. The Bill provides for regulation of use of DNA technology for establishing the identity of certain persons.
- **Use of DNA Data:** Under the Bill, DNA testing is allowed only in respect of matters listed in the schedule to the Bill (such as, for offences under the Indian Penal Code, 1860, for paternity suits, or to identify abandoned children).
- **Permission for use of DNA Data:** While preparing a DNA profile, bodily substances of persons may be collected by the investigating authorities. Authorities are required to obtain consent for collection in certain situations. For arrested persons, authorities are required to obtain consent if the offence carries a punishment of up to seven years. If the offence carries more than seven years of imprisonment or death, consent is not required. Further, if the person is a victim, or relative of a missing person, or a minor or disabled person, the authority is required to obtain the consent of such victim, or relative, or parent or guardian of the minor or disabled person. If consent is not given in either case, the authorities can approach the Magistrate.
- **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. The National Data Bank will store DNA profiles received from DNA laboratories and receive DNA data from the regional Banks. Every Data Bank will be required to maintain indices for the following categories of data: (i) a crime scene index, (ii) a suspects' or undertrials' index, (iii) an offenders' index, (iv) a missing persons' index, and (v) an unknown deceased persons' index.
- **Protection of information:** Under the Bill, 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 data may only be used for identification of the person. However, the Bill allows for access to information in the Data Bank for the purpose of a one-time keyboard search. This search allows for information from a DNA sample to be compared with information in the index without information from the sample being included in the index.
- **Retention of DNA Data:** 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 Data of the following persons: (i) of a suspect if a police report is filed or court order given, (ii) of an undertrial if a court order is given, (iii) on request, of persons who are not a suspect, offender or undertrial from the crime scene or missing persons' index. Further, the Bill provides that information contained in the crime scene index will be retained.
- **DNA Regulatory Board:** The Bill 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 an additional 12 members including: (i) an eminent person with at least 25 years' experience in biological sciences, as the Vice Chairperson, and (ii) Director General of the National Investigation Agency and the Director of the Central Bureau of Investigation or their nominees (of at least the rank of Joint Director).
- **Functions of the Board:** The functions of the Board include: (i) advising governments on all issues related to establishing DNA laboratories or Data Banks, (ii) granting accreditation to DNA Laboratories, and (iii) developing training modules and framing guidelines for training manpower to deal with DNA related matters.
- **DNA Laboratories:** Any laboratory undertaking DNA testing is required to obtain accreditation from the Board. The Board may revoke the accreditation for reasons including, failure to: (i) undertake DNA testing, or (ii) 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.
- **Obligations of DNA Laboratories:** Under the Bill, every DNA laboratory is required to perform various functions, including: (i) following standards for quality assurance in collection, storing, testing, and analysis of DNA samples, and (ii) depositing DNA samples with the Data Bank. After depositing the sample for ongoing cases, the Laboratory is required to return the biological sample to the investigating officer. In all other cases, the sample must be destroyed and intimated to the concerned person.
- **Offences:** The Bill specifies penalties for various offences, including: (i) for disclosure of DNA information, or (ii) 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.

DISCLAIMER: This document is being furnished to you for your information. You may choose to reproduce or redistribute this report for non-commercial purposes in part or in full to any other person with due acknowledgement of PRS Legislative Research ("PRS"). The opinions expressed herein are entirely those of the author(s). PRS makes every effort to use reliable and comprehensive information, but PRS does not represent that the contents of the report are accurate or complete. PRS is an independent, not-for-profit group. This document has been prepared without regard to the objectives or opinions of those who may receive it.