

Standing Committee Report Summary

The DNA Technology (Use and Application) Regulation Bill, 2019

- The Standing Committee on Science and Technology, Environment, Forests and Climate Change (Chair: Mr. Jairam Ramesh) submitted its report on the DNA Technology (Use and Application) Regulation Bill, 2019 on February 3, 2021. The Bill regulates the use of DNA technology for establishing the identity of certain persons including victims, offenders, suspects, people undertrial, and missing persons. Key observations and recommendations of the Committee include:
 - **Testing vs. profiling:** The Bill provides that a laboratory may undertake DNA testing, analysing, or any other procedure to generate data and perform analysis. The Committee recommended that the Bill limit its scope to the regulation of DNA profiling and not regulate all other DNA testing. It recommended replacing testing with profiling across the Bill.
 - **Definition of DNA Profile:** The Bill defines DNA profile as the result of analysis of a DNA sample for establishing the identity of a person. The Committee recommended that DNA profile be defined as the DNA pattern that establishes only the genetic identity of a person, and not the characteristics of an individual such as physical appearance, behaviour, or health status.
 - **Sources for collection of DNA samples:** The Bill provides a list of sources for collection of DNA samples including blood sample, hair, and mouth swab. It also lists photographs or video recording of body parts, and handprint, fingerprint, or footprint as such sources. The Committee noted that currently, there is no technology to derive DNA profile from photographs, videos, or print of any body part. Therefore, it recommended that these be deleted as sources for collection of samples.
 - **National Data Bank:** The Bill provides for the establishment of National and Regional DNA Data Banks. Every data bank and laboratory must maintain indices for certain categories of data such as crime scene index. The Committee recommended not having any regional DNA data banks as they do not provide any additional benefits, and create more vulnerability to the accuracy and security of the DNA system. Further, labs do not need to maintain indices and must remove DNA profile after sharing it with the National DNA data bank.
 - **Removal of DNA profiles:** The Bill provides that DNA information in the crime scene index will be retained. DNA profiles of a suspect or an undertrial will be removed on a court order. The Committee recommended that: (i) the DNA profile of an offender be removed within 30 days from acquittal, (ii) deleting the provision on removal of data for a suspect and undertrial, and (iii) adding a provision for the removal of the DNA profile of an unknown deceased person on receiving a written request from authorised persons or relatives.
 - **Composition of DNA Regulatory Board:** The Bill provides for the establishment of a DNA Regulatory Board to supervise DNA data banks and laboratories. The Committee noted that the DNA Regulatory Board should be independent and not comprise mostly of serving government officials. It recommended that the Chairperson of the Board be a person of eminence in the field of biological sciences or genetics and not a serving Secretary. It made similar recommendations for other members across the Board such as not including the Director-General of Police of a state as a member.
 - **Nature of offences:** The Bill specifies penalties for various offences, including: (i) wilful disclosure of DNA information, and (ii) intentionally using DNA sample without authorization. The Committee noted that negligent or reckless behaviour can also cause irreparable damage to the DNA information stored. It recommended that every person with access to DNA profile should be strictly liable and the penalties should be applicable even if the offence was not committed intentionally.
 - **Power to make Rules/Regulations:** The Bill provides power to the central government/DNA Regulatory Board to make Rules/Regulations on certain provisions of the Bill. The Committee recommends that some of these provisions should only be amended by legislation. These include amending: (i) the Schedule to the Bill which lists matters where DNA evidence may be used for identification of persons, and (ii) the purposes for which access to DNA information may be given.
 - **Notes of dissent:** Two members of the Committee submitted notes of dissent. They noted that the Bill does not provide adequate safeguards to protect an individual's right to privacy while collecting and storing DNA profiles.

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