

NATIONAL BUREAU OF FORENSIC SERVICES
(ESTABLISHMENT, ETC.) BILL, 2017

ARRANGEMENT OF SECTIONS

1. Objectives
2. Establishment of National Bureau of Forensic Services
3. Functions of the National Bureau of Forensic Services
4. Establishment and Composition of the Governing Board
5. Functions of the Board
6. Appointment of Director-General
7. Appointment of Specialists
8. Appointment of other staff of the Bureau
9. Service in the Bureau
10. Funds of the Bureau
11. Expenditure of the Bureau
12. Gift to the Bureau
13. Power to borrow
14. Annual reports
15. Establishment of National DNA Databank
16. Taking a non-intimate sample
17. Notification
18. Taking a second sample
19. Authorization for an intimate sample
20. Taking intimate sample by Order of the Court
21. Consideration for granting an Order
22. Order of the Court
23. Persons who may give sample
24. Storage of DNA data
25. Persons of same sex
26. Destruction of DNA samples
27. Offences and penalties
28. Power to make regulations
29. Interpretations
30. Short title

SCHEDULE



A BILL

FOR

AN ACT TO ESTABLISH NATIONAL BUREAU OF FORENSIC SERVICES AND NATIONAL DNA DATABANK FOR THE PURPOSE OF OBTAINING, ANALYZING AND PROVIDING THE HIGHEST QUALITY SCIENTIFIC, TECHNICAL AND INVESTIGATIVE SUPPORT TO LAW ENFORCEMENT AGENCIES FOR THE PROCESSING OF CRIME-RELATED EVIDENCE AND FOR RELATED MATTERS, 2017

Sponsored by Hon. Daniel Reyenieju

[] Commencement

ENACTED by the National Assembly of the Federal Republic of Nigeria -

- 1 1.-(1) The objective of the Act shall be - Objective
- 2 (a) to provide technical, scientific and investigative support to law
- 3 enforcement agencies
- 4 (b) obtain DNA prints for human identification,
- 5 (c) to process crime related evidences,
- 6 (d) to establish the National Bureau of Forensic Services,
- 7 (e) to establish the National DNA Databank
- 8 (2) To use the DNA data to-
- 9 (a) investigate crime,
- 10 (b) identify unknown corpses,
- 11 (c) determine paternity,
- 12 (d) predict a person's origin
- 13 2.-(1) There is hereby established a body to be known as the Establishment of
- 14 National Bureau of Forensic Services (in this Act referred as "the Bureau") National Bureau
- 15 (2) The Bureau- of Forensic
- 16 (a) shall be a body corporate with perpetual cessation and a Services
- 17 common seal;

1 (b) may sue and sued in its corporate name; and

2 (c) may acquire, hold, purchase, mortgage and deal howsoever in
3 property, moveable or immovable, real or personal.

4 (3) The Bureau shall have a forensic laboratory in Abuja and have at
5 least one forensic laboratory in each state of the federation as may be required.

Functions of
the Bureau

6 3. Functions of the Bureau shall be to-

7 (a) provide technical, scientific and investigative support to law
8 enforcement agencies;

9 (b) obtain, process, analyze and preserve crime related evidences

10 (c) receive, prepare, analyze and interpret DNA prints;

11 (d) receive, classify and store DNA prints in the National DNA
12 Databank established in Section 6 of this Act;

13 (e) determine standards required for the establishment of forensic
14 DNA laboratory;

15 (f) make regulations for the effective running of its activities,

16 (g) ensure the confidentiality of DNA data contained in the DNA
17 Databank

18 (h) accredit and monitor any other laboratory that seeks to carry out
19 forensic services;

20 (i) Carry out any other functions as may be assigned from time to time
21 by the President, or under the authority of this or any other Act.

Establishment
and membership
of Governing
Board

22 4.-(1) There is hereby established for the Bureau, a Governing Board
23 (in this Act referred to as "the Board");

24 (2) The Board shall be the governing body of the Bureau;

25 (3) The Board shall consist of a Chairman to be appointed by the
26 President and the following other members, that is-

27 (a) A human geneticist who has not less than 10 years experience;

28 (b) A custodian who has not less than 15 years experience as provided
29 for in Section 7 of this Act;

1 (c) A consultant medical pathologist which has not less than 10
2 years experience;

3 (d) A police officer specialized in forensic DNA and has not less
4 than 5 years experience and not below the rank of Superintendent of Police;

5 (e) A legal practitioner specialized in forensic law who has not less
6 than 10 years experience;

7 (f) One representative each from-

8 (i) Federal Ministry of Health;

9 (ii) Federal Ministry of Justice;

10 (iii) Nigerian Judicial Council;

11 (iv) Armed Forces;

12 (v) Nigeria Police Force;

13 (vi) Department of State Security;

14 (vii) Office of National Security Adviser.

15 (4) Members referred to in subsection (3) of this section shall be
16 persons versed in areas of genetic, pathology, human DNA, law, intelligence
17 gathering and of proven integrity.

18 (5) The Supplementary provisions set out in Schedule II to this Act
19 shall have effect with respect to the proceedings of the Board and other
20 matters contained therein.

21 5. The Board shall carry out the following functions -

Functions of the
Board

22 (a) Make regulations for the effective running of the Bureau;

23 (b) Receive, prepare, analysis and interpret DNA prints;

24 (c) Determine standards required for the establishment of forensic
25 DNA laboratory;

26 (d) Receive, classify and store DNA prints in the National DNA
27 Databank established in Section 6 of this Act;

28 (e) Ensure the confidentiality of DNA data contained in the DNA
29 Databank;

30 (f) Accredite and monitor any other laboratory that seeks to carry out

1 forensic DNA analysis;

2 (g) Employ members of staff as required to perform technological duties of the
3 DNA laboratory,

Appointment of
Director-General,
etc.

4 6. -(1) There shall be for the Bureau, an Director-General to be
5 appointed by the President on recommendation of the Minister, who shall-

6 (a) have such qualification and experience as are appropriate for a
7 person required to perform the function of the office under this Act;

8 (b) be the Chief Executive and Account Officer of the Bureau;

9 (c) hold office on such terms and conditions as to emolument,
10 conditions of service as may be specified in his letter of appointment and
11 subject to the provision of section 3 of this Act.

12 (2) The Director-General shall, subject to the general direction
13 of the Board, be responsible-

14 (a) for the day to day administration of the Bureau;

15 (b) for keeping the books and proper records of the proceedings
16 of the Board; and

17 (c) for- (i) the administration of the secretariat of the Board; and

18 (ii) the general direction and control of all other employees of
19 the Bureau.

Appointment
of specialists

20 7.-(1) The Bureau shall have in its employ, the following specialists
21 with specified duties-

22 (a) The human geneticist shall-

23 (i) Prepare DNA prints;

24 (ii) Interpret DNA prints; and

25 (iii) Carry out any other functions(s) as would from time to time be
26 assigned to him by the Director-General.

27 (b) The Custodian shall -

28 (i) Receive DNA prints and store them in the National DNA
29 Databank;

30 (ii) Conduct searches against the National DNA Databank;

- 1 (iii) Ensure that DNA data are confidential;
- 2 (iv) Not disclose the information in the National DNA Databank
- 3 except on the conditions listed below-
- 4 (a) Authorization by designated authority,
- 5 (b) Where a Court makes a subpoena Order,
- 6 (c) Where the Court requests for a DNA sample,
- 7 (d) Sample sent by international bodies, or
- 8 (e) Carry out any other duties as would from time to time assigned
- 9 to him by the Director-General.
- 10 (c) The consultant medical pathologist shall -
- 11 (i) Be responsible for taking intimate samples,
- 12 (ii) Take samples from corpses and exhumed bodies, and
- 13 (iii) Carry out any other duties as would from time to time be
- 14 assigned to him by the Director-General.
- 15 (d) The police officer specialized in forensic DNA shall-
- 16 (i) Coordinate all investigations requiring DNA tests,
- 17 (ii) Coordinate the taking of non-intimate sample, and
- 18 (iii) Carry out any other duties as would from time to time be
- 19 assigned to him by the Director-General.
- 20 (e) A legal practitioner specialized in forensic law shall-
- 21 (i) Give legal advice to the Bureau on forensic DNA cases, and
- 22 (ii) Carry out any other duties as would from time to time be
- 23 assigned to him by the Director-General.
- 24 (2) The conditions of service of staff employed under this Section
- 25 shall be in accordance with the Federal Civil Services Rules and
- 26 Regulations.
- 27 8. The Board shall have power to -
- 28 (a) employ either directly or on secondment from any civil or
- 29 public service in the Federation or a State such number of employees
- 30 as may, in the opinion of the Board, be required to assist the Board in the

1 discharge of any of its functions under this Act; and

2 (b) pay to persons so employed such remuneration (including
3 allowances) as the Board may determine.

Pensions

4 9.-(1) Service in the Bureau shall be approved service for the
5 purposes of the Pension Act.

6 (2) The officers and other persons employed in the Bureau shall
7 be entitled to pensions, gratuities and other retirement benefits as are
8 enjoyed by persons holding equivalent grades as appropriate.

9 (3) Nothing in subsections (1) and (2) of this section shall
10 prevent the appointment of a person to any office on terms, which preclude the
11 grant of pension and gratuity in respect of that office.

12 (4) For the purposes of the application of the provisions of the
13 Pensions Act, any power exercisable thereunder by the Minister or other
14 authority of the Government of the Federation, other than the power to
15 make regulations under section 28 therefore, is hereby vested in and
16 shall be exercisable by the Bureau, and not by any other persons or authority.

Fund of the
Bureau

17 10.-(1) The Bureau shall establish and maintain a fund from which
18 shall be defrayed all expenditure incurred by the Bureau.

19 (2) There shall be paid and credited to the fund established
20 pursuant to subsection (1) of this section-

21 (a) The Board shall, not later than 30th September in each year,
22 submit to the National Assembly through the President an estimate of the
23 expenditure and income of the Bureau during the next succeeding year for
24 approval;

25 (b) all monies raised for the purposes of the Bureau by way of
26 gifts, loan, grants-in-aid or otherwise; and

27 (c) proceeds from all other assets that may, from time to time, accrue
28 to the Bureau.

29 (3) The fund shall be managed in accordance with the rules
30 made by the Board, and without prejudice to the generality of the power to

1 make rules under this subsection, the rules shall in particular contain
2 provisions-

3 (a) specifying the manner in which the assets or the fund of
4 the Bureau are to be held, and regulating the making of payments into and
5 out of the fund; and

6 (b) requiring the keeping of proper accounts and records for the
7 purpose of the fund in such form as may be specified in the rules.

8 11.-(1) The Bureau shall apply the proceeds of the fund
9 established pursuant to section 10 of this Act to-

Expenditure of
the Bureau

10 (a) the cost of administration of the Bureau;

11 (b) the payment of salaries, fees, remuneration, allowances,
12 pensions and gratuities payable to the members of the Board specified in
13 section 4 of this Act or any committee of the Board and the employees
14 of the Bureau;

15 (c) The payment for all contracts, including mobilization,
16 fluctuations, variations, legal fees and cost on contract administration;

17 (d) the payment for all purchases; and

18 (e) undertaking such other activities as are connected with all or
19 any of the Functions of the Bureau under this Act.

20 12.-(1) The Bureau may accept gifts of land, money or other
21 property on such terms and conditions, if any, as may be specified by
22 the person or organisation making the gift.

Gift to the Bureau

23 (2) The Bureau shall not accept any gift if the conditions attached
24 by the person or organisation making the gift are inconsistent with the
25 functions of the Bureau under this Act.

26 13. The Bureau may, with the consent of the President,
27 borrow, on such terms and conditions as the Bureau may determine, such
28 sums of money as the Bureau may require in the exercise of its functions
29 under this Act.

Power to borrow

30 14.-(1) The Board shall prepare and submit to the President,

Annual report

1 not later than 30th June in each year, a report in such form as the President may
2 direct on the activities of the Bureau during the immediately preceding year,
3 and shall include in the report a copy of the audited accounts of the
4 Bureau for that year and the auditor's report thereon.

5 (2) The President shall, upon receipt of the report referred to in
6 subsection (1) of this section, cause a copy of the report and the audited
7 accounts of the Bureau and the auditor's report thereon to be submitted
8 to each House of the National Assembly.

Establishment
of National DNA
Databank

9 15.-(1) There shall be established the National DNA Databank, which
10 shall comprise the following databases-

11 (a) Crime scene database;

12 (b) Volunteer database;

13 (c) Police Force database;

14 (d) Non-intimate and intimate sample database.

15 (2) There shall be a Custodian for the National DNA Databank as
16 provided for in Section 7 (1) (b) of this Act.

Obtaining a non-
intimate sample

17 16.-(1) A non-intimate sample may be taken without consent where
18 biological evidence from a crime scene exists.

19 (2) With consent where a person-

20 (a) Has been charged with a crime;

21 (b) Has had a non-intimate sample taken and that sample is either
22 unsuitable or insufficient for forensic DNA analysis;

23 (c) Has been convicted of an offence and is serving a term of
24 imprisonment, or

25 (d) Is in a reformatory institution.

Notification

26 17.-(1) An investigating police officer shall notify a person whom a
27 non-intimate sample is to be taken under Section 16 -

28 (a) Of the reason for taking a sample, and

29 (b) That his DNA profile may be subject of a search.

30 (2) An investigating police officer shall record in the DNA Register,

1 the reason for taking a non-intimate sample and the notification in
2 accordance with Subsection (1) of this Section-

3 (a) The DNA Register shall be kept in the Police Force
4 Headquarters,

5 (b) Divisional and Zonal Police Headquarters with DNA test
6 facilities shall forward their records to be entered into the DNA Register in
7 the Police Force Headquarters,

8 (c) The Register shall contain-

9 (i) The name and the passport photograph of the person giving the
10 sample;

11 (ii) The age of the person giving the sample;

12 (iii) Address of the person giving the sample;

13 (iv) Type of sample obtained;

14 (v) The title of the offence as recorded in the police station;

15 (vi) The name of the person taking the sample; and

16 (vii) The purpose of the DNA sample.

17 18.-(1) Where a non-intimate sample is to be taken under Section
18 16 (2)(b), a police officer shall cause a copy of a notice to be served
19 personally on the person from whom a second non-intimate sample is to be
20 taken, or in the case of a child or person of unsound mind, on the parent or
21 guardian of that child or that person of unsound mind.

Taking a second
sample

22 (2) A person who is given notice in accordance with Subsection (1)
23 shall, within twenty-four hours report at the police station.

24 19.-(1) An investigating police officer shall seek a written
25 authorization from the Inspector General of Police (IGP) or his designate to
26 permit him obtain an intimate sample from the suspect.

Authorization for
intimate sample

27 (2) Where suspects are two or more, the police officer shall seek
28 authorization in accordance with Subsection 1 of this Section for each
29 suspect.

30 (3) Where an authorization has been given o take an intimate

1 sample, a police officer shall-

2 (a) Ask the person or suspect to sign the Consent Form as set out in
3 DNA Form 1 of the Second Schedule;

4 (b) Inform him that he has right to consult with a legal practitioner or
5 an adult of his choice, before consenting to the taking of the intimate sample;
6 and

7 (c) Shall inform him of his right to withdraw his consent before his
8 sample is taken as set out in DNA Form 2 of the Second Schedule.

Consideration
for granting an
Order

9 **20.**-(1) Where a person or suspect refuses to consent to give sample,
10 an investigating police officer may apply to the Court for an Order directing a
11 forensic DNA sample be taken without the consent of the suspect.

12 (2) An application for an Order of the Court under this Section shall be
13 as set out in DNA Form 3 of the Section Schedule.

14 (3) Where an application is made under this Section, an investigating
15 police officer shall cause a copy of the application to be served on the person
16 from whom the sample is to be taken, or in the case of a child or a person of
17 unsound mind, on the parent or guardian.

Taking an
intimate sample
by an Order of
Court

18 **21.** Where an application is made under Section 20, the applicant shall
19 satisfy the Court that the-

20 (a) Person against whom the Order is sought is a suspect for the crime;

21 (b) Forensic DNA sample sought to be taken is likely to produce
22 evidence tending to prove or disprove that the person committed the crime.

Order of Court

23 **22.** Where the Court makes an Order directing that forensic DNA
24 sample be taken from a person, the Order shall be in writing.

Persons who
may give samples

25 **23.**-(1) Subject to Subsection (2), a victim or any person may
26 volunteer to give a non-intimate or intimate sample for Forensic DNA analysis
27 in order to assist in the investigation of crime.

28 (2) Where the victim or the person is a child or person of unsound
29 mind, the investigating police officer shall obtain the consent of the parent or
30 guardian of that child or person of unsound mind before a non-intimate or

1 intimate sample is taken;

2 (3) Where the person assisting in the investigating of crime is a
3 child or person unsound mind, the investigating police officer shall request
4 the parent or guardian of that child or person of unsound mind to consent
5 before a non-intimate or an intimate sample is taken;

6 (4) Persons who are suspected to have committed a crime may give
7 sample;

8 (5) A convict may apply to the Court for an Order that his DNA
9 sample be taken for analysis;

10 (6) A police officer who attends the crime scene, may give a non-
11 intimate or intimate sample;

12 (7) A person, other than a police officer, who during the course of
13 his duty attends the crime scene, may volunteer to give a non-intimate or
14 intimate sample.

15 24. A DNA profile from an intimate or a non-intimate sample shall
16 be stored in the National DNA databank in accordance with Section 9 (d) of
17 this Act. Storage of DNA

18 25. A third person of the same sex shall be present where a sample
19 is to be taken. Persons of
same sex

20 26. Forensic DNA sample shall be kept for at least 10 years before
21 been destroyed. Destruction of
DNA

22 27.-(1) It shall be an offence where a person - Offences and
penalties

23 (a) Takes a non-intimate or an intimate sample without
24 authorization or Court Order as provided for in this Act;

25 (b) Gives false information as to a forensic DNA profile in the
26 National DNA Databank;

27 (c) Discloses or obtains a forensic DNA Data without
28 authorization;

29 (d) In any manner tampers with a non-intimate or intimate sample;

30 (e) Impersonates.

1 (2) A person who commits any of the offences listed under Subsection
2 (1) of this Section shall be liable on conviction to a fine of two hundred
3 thousand naira or 6 months imprisonment or both.

Regulations

4 28. The Board may make regulations for all or any of the following
5 purposes-

6 (a) Prohibiting or regulating the establishment of forensic DNA
7 laboratory;

8 (b) Regulating the application for the issue, form, conditions or
9 period of validity of permits and certificates;

10 (c) Providing for the issue of duplicate certificates in the case of loss,
11 destruction or defacing of an original permit or certificate;

12 (d) Providing for payment and collection of an fees prescribed by the
13 Board under this Act;

14 (e) Providing for the termination, revocation, and forfeiture of
15 licenses and permits issued under this Act;

16 (f) Generally for giving effect to the provisions of this Act.

Interpretation

17 29. In this Act, unless the context otherwise requires-

18 "Biological Evidence" means a specimen in a crime scene for forensic DNA
19 test;

20 "Bureau" means the National DNA Bureau established under this Act;

21 "Child" means a person under the age of eighteen years;

22 "Court" means a Court of Law;

23 "Crime scene" includes any place where an offence was committed;

24 "Crime scene Database" means an index, which contains Forensic DNA
25 profiles from a crime scene;

26 "Custodian" means a person appointed under Section 21(1)(c);

27 "DNA" means Deoxyribonucleic Acid;

28 "DNA Data" means information obtained from the National Forensic DNA
29 Databank;

30 "DNA Print" means a DNA pattern unique to a person;

- 1 "DNA Profile" means the results of forensic DNA analysis;
- 2 "DNA Register" means a register which contains all the information that are
3 to be documented by the police officer under this Act;
- 4 "Forensic DNA Analysis" means procedure or procedures for obtaining
5 DNA profiles;
- 6 "Forensic DNA Laboratory" means a laboratory which is approved under
7 this Act, to conduct forensic DNA analysis;
- 8 "Intimate sample" means a sample taken with intimate contact, they are-
- 9 (a) A blood sample,
- 10 (b) A urine sample,
- 11 (c) A sample of semen or other tissue fluid obtained by breaking the
12 skin,
- 13 (d) Pubic hair,
- 14 (e) A dental impression,
- 15 (f) A swab taken from-
- 16 (i) Any part of a person's genitals; or
17 (ii) A person's body orifice other than the mouth;
- 18 "Investigating Police Officer" means a police officer charged with the
19 responsibility of investigating a crime;
- 20 "Non-intimate sample" means a sample taken without intimate contact, they
21 are-
- 22 (a) A sample taken from a fingerprint,
- 23 (b) A sample taken from a finger nail or toe nail,
- 24 (c) A swab taken from any part of a person's body other than a part
25 which a swab taken would be an intimate contact,
- 26 (d) Saliva,
- 27 (e) Skin impression;
- 28 "Persons of unsound mind" means any person who by reason of a mental
29 condition is unable to give consent;
- 30 "Police officer" means any member of the Nigeria Police Force;

1 "Police Officers' Database" means an index, which contains DNA profiles
2 from officers of the Nigeria Police Force;

3 "Qualified person" includes any person who by reason of this Act, training,
4 expertise or experience in forensic DNA qualified to take DNA sample;

5 "Sample" means a specimen, a small portion or part used to represent the
6 quality and nature of a part or of a whole;

7 "Search" means checking a DNA profile against DNA profiles in the Forensic
8 DNA Databank;

9 "Unsuitable Sample" means a sample of insufficient quantity or contaminated;

10 "Volunteer Database" means an index which contains DNA profiles from
11 volunteers.

Short Title

12 30. This Bill may be cited as the National Bureau of Forensic Services
13 (Establishment, etc.) Bill, 2017.

EXPLANATORY MEMORANDUM

This Bill seeks to establish the National Bureau of Forensic Services and National DNA Databank for the purpose of obtaining, analyzing and providing the highest quality scientific, technical and investigative support to law enforcement agencies for the processing of crime-related evidence.

SCHEDULE

FORMS

DNA FORM I

FEDERAL REPUBLIC OF NIGERIA

CONSENT FOR SAMPLE TAKING

Source of Sample:.....

Crime scene

Volunteer

Suspect

Convict

Name of person giving Sample:.....

Address:.....

Age: Sex:.....

Type of Sample:.....

Nature of Sample:.....

Signature of person giving consent:.....

Date:.....

Name and signature of witness:.....

Date:.....

Pursuant to Section 19 (3) (a) of this Act.

DNA FORM 2

FEDERAL REPUBLIC OF NIGERIA

WITHDRAWAL OF CONSENT

I,
Name

Of
Address

hereby withdraw my consent given on DNA Form 1 Dated.....

Signed:.....

Date:.....

In the presence of

Name:.....

Signature:.....

Date:.....

Pursuant to Section 19 (3) (c) of this Act.

DNA FORM 3

FEDERAL REPUBLIC OF NIGERIA

REQUEST TO THE COURT TO ORDER FORENSIC DNA SAMPLE

Name of suspect:.....

Address:.....

Age:..... Sex:.....

Type of sample:.....

Reason for request:.....

Name and signature of officer:.....

Rank:.....

Date:.....

Pursuant to Section 20 (2) of this Act.

