

A BILL

FOR

AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF A FORENSIC DNA DATABANK, FOR THE TAKING OF DNA SAMPLES, FORENSIC DNA ANALYSIS, THE USE OF DNA PROFILES AND INFORMATION IN RELATION THERETO, AND FOR MATTERS CONNECTED THEREWITH

Sponsored by Senator T.A. Orji

[] Commencement

BE IT ENACTED the National Assembly of the Federal Republic of Nigeria as follows:

PART I

PRELIMINARY

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19

1. This Act may be cited as the Deoxyribonucleic Acid (DNA) Bill, 2015

Short Title

2. This Act applies to the investigation and prosecution of offences committed before, on or after the coming into operation of this Act.

Application

3. For the purposes of this Act:

Interpretation

"child" means a person under the age of eighteen years;

"court" means a Judge in Chambers;

"crime scene" means:

- (a) any place where an offence was committed;
- (b) anything found on or any foreign object found within the body of the victim;
- (c) anything worn or carried by the victim at the time when an offence was committed;
- (d) anything found on or any foreign object found within the body of an alleged offender;
- (e) anything found at any place associated with the commission of an offence; or

1 (f) any location where evidence may be derived in relation to an
2 offence.

3 "crime scene database" means an index which contains DNA profiles derived
4 from a crime scene;

5 "Custodian" means a person appointed under section 34;

6 "DNA" means deoxyribonucleic acid;

7 "DNA data" means information obtained from the Forensic DNA Databank;

8 "DNA profile" means the results of forensic DNA analysis;

9 "DNA Register" means the register in which all information that is required to
10 be documented by a police officer under this Act, is so recorded;

11 "forensic DNA analysis" means the analysis of genetic material;

12 "Forensic DNA Databank" means the electronic or other collection of DNA
13 profiles attributed to individuals or crime scenes;

14 "forensic DNA laboratory" means a place in which forensic DNA analysis is
15 conducted;

16 "incapable person" means a person in whom there is a condition of arrested or
17 incomplete development of mind or body whether such condition arises from
18 inherent causes or is induced by disease or injury and who is incapable of
19 indicating whether he consents or does not consent to give an intimate or non-
20 intimate sample;

21 "insufficient" in relation to a sample, means insufficient in respect of quantity
22 for the purpose of enabling information to be produced by means of forensic
23 DNA analysis used or to be used in relation to the DNA sample;

24 "intimate sample" means:

25 (a) a sample of venous blood;

26 (b) a urine sample;

27 (c) a sample of semen or other tissue fluid obtained by breaking the
28 skin;

29 (d) pubic hair;

30 (e) a dental impression; and

- 1 (f) a swab taken from:
- 2 (i) any part of a person's genitals; or
- 3 (ii) a person's bodily orifice other than the mouth;
- 4 "investigating officer" means an officer investigating the offence for which
- 5 a person has been charged;
- 6 "Minister" means the minister to whom responsibility for national security
- 7 is assigned;
- 8 "non-intimate sample" means:
- 9 (a) a sample of hair other than pubic hair;
- 10 (b) a sample taken from a nail or from under a nail;
- 11 (c) a swab taken from any part of a person's body other than a part
- 12 from which a swab taken would be an intimate sample;
- 13 (d) saliva; or
- 14 (e) skin impression;
- 15 "non-intimate and intimate sample database" means an index which
- 16 contains DNA profiles derived from the non-intimate or intimate samples of
- 17 alleged offenders;
- 18 "offence" means all indictable offences and all summary offences
- 19 punishable by a term of imprisonment exceeding six months;
- 20 "police elimination database" means an index which contains DNA profiles
- 21 derived from police officers under section 10;
- 22 "qualified person" means:
- 23 (a) a registered medical practitioner, or
- 24 (b) a dentist, where the sample is a dental impression;
- 25 "search" in relation to a person's sample means a check against DNA profiles
- 26 on the Forensic DNA Databank;
- 27 "skin impression" in relation to any person, means any record in any form,
- 28 produced by any method, other than a fingerprint, which is a record of the
- 29 skin pattern and other physical characteristics or features of the whole or any
- 30 part of a foot or of any other part of a body;

1 "tester" means a person qualified to conduct forensic DNA analysis;
 2 "unsuitable" in relation to a sample means insufficient in respect of quality for
 3 the purpose of enabling information to be produced by means of forensic DNA
 4 analysis used or to be used in relation to the sample;
 5 "volunteer database" means an index which contains DNA profiles derived
 6 from volunteers.

7 PART II

8 Taking a non intimate sample without consent:

9 Grounds for
 10 obtaining a non-
 11 intimate sample
 12 without consent

9 4. A non-intimate sample may be taken from a person without his
 10 consent where:
 11 (a) he has been charged with an offence;
 12 (b) a stain derived from a crime scene exists and there are reasonable
 13 grounds for suspecting that that person was involved in the offence and for
 14 believing that forensic DNA analysis could confirm or disprove such
 15 suspicion;
 16 (c) he has had a non-intimate sample taken and that sample has proved
 17 to be either unsuitable or insufficient for forensic DNA analysis; or
 18 (d) he has been convicted of an offence and is serving a term of
 19 imprisonment.

20 PART III

21 *Obtaining a non-intimate sample from an alleged offender*

22 Who may take
 23 sample

22 5.-(1) A police officer is authorized to take a sample from a person
 23 under section 5 (a), (b) and (c).
 24 (2) A qualified person is authorized to take a sample from a person
 25 under section 5(d).

26 Notification

26 6.-(1) A police officer shall notify a person from whom a non-intimate
 27 sample is to be taken under section 5(a),(b) and (c):
 28 (a) of the reason for taking a sample; and
 29 (b) that his DNA profile may be the subject of a search.
 30 (2) A police officer shall record in the DNA Register, the reason for

1 taking a non intimate sample and the fact that the person was notified in
2 accordance with subsection (1).

3 7.-(1) Where a non-intimate sample is to be taken under section
4 5(c), a police officer:

Taking a Second
sample (Form 1
Schedule)

5 (a) shall give the person at least seven days notice to attend a police
6 station; and

7 (b) may arrest without warrant any person who fails to comply with
8 the notice in paragraph (a).

9 (2) The Notice shall be in the form set out as Form 1 in the
10 Schedule.

11 PART IV - VOLUNTEERS

12 8.-(1) A victim or any person may volunteer to give a non-intimate
13 or intimate sample for forensic DNA analysis in order to assist in the
14 investigation of an offence.

Victims and other
persons may
volunteer

15 (2) Where the victim or any other person is a child or an incapable
16 person, a police officer shall ask the parent or guardian of that child or
17 incapable person to consent before a non-intimate or intimate sample is
18 taken.

19 9.-(1) A police officer who attends the crime scene may volunteer
20 to give a non intimate sample for elimination purposes.

Police officers
may volunteer

21 (2) A DNA profile derived from a non-intimate sample taken under
22 subsection (1) shall be stored on the police elimination database.

23 10.-(1) A person, other than a police officer, who during the course
24 of his duty attends the crime scene, may volunteer to give a non-intimate
25 sample for elimination purposes.

Other Volunteers

26 (2) A DNA profile derived from a non-intimate sample taken under
27 subsection (1) shall be stored on the volunteer database.

28 *Form 2*

29 11. A person to whom sections 9, 10 and 11 apply shall:

Volunteering in
writing

30 (a) volunteer; or

1 (b) where the person is the parent or guardian of a child or incapable
2 person, give his consent, in the form set out as Form 2 in the Schedule.

Procedure for
taking a volunteer's
sample

3 12.-(1) Sections 26, 27(1), (3) and (4), 28 and 30 shall apply to the
4 taking of a DNA sample from a person under sections 9, 10 and 11.

5 (2) Where the victim or any other person is a child or incapable
6 person, the parent or guardian of that child or incapable person, shall be present
7 when an intimate sample is being taken.

8 PART V

9 *Obtaining an intimate sample from an alleged offender with consent*

Request for an
intimate sample

10 13.-(1) A police officer who has reasonable grounds for believing that
11 an offence has been committed by an alleged offender, shall seek the written
12 authorization from an officer to permit him to request an intimate sample from
13 the alleged offender.

14 (2) An officer may give the authorization sought under subsection (1),
15 where there are reasonable grounds for:

16 (a) suspecting the involvement of the person from whom the sample is
17 to be taken in an offence; and

18 (b) believing that the sample will tend to confirm or disprove the
19 involvement of such person.

20 (3) Notwithstanding subsection (2), an authorization for a request for
21 an intimate sample may also be given where two or more non-intimate samples
22 from the person from whom they were taken, have proved unsuitable or
23 insufficient.

24 (4) Where an authorization is given and it is proposed that an intimate
25 sample shall be taken in pursuance of the authorization, a police officer shall
26 seek the consent of the alleged offender and before he gives his consent the
27 police officer shall:

28 (a) show him a copy of the authorization and where necessary read it
29 to him;

1 (b) inform him that if he consents, the sample may be the subject of
2 a search;

3 (c) advise that if he does not respond within a period of two hours
4 after the request is made, he is deemed to have refused to consent to the
5 taking of the sample;

6 (d) inform him of his right to withdraw his consent before the
7 sample is taken;

8 (e) inform him that he has the right to consult with and have present
9 an attorney-at-law, or an adult of his choice, before consenting to the taking
10 of the intimate sample; and

11 (f) inform him that he may waive his right under paragraph (e), in
12 the form set out as Form 3 in the Schedule, in the presence of an officer

13 (5) A police officer shall record the following information in the
14 DNA Register, within twenty- four hours after the intimate sample is taken:

15 (a) the authorization by virtue of which it was taken;

16 (b) the grounds for giving the authorization;

17 (c) the fact that the appropriate consent was given; and

18 (d) the fact that the person has been informed that his profile may
19 be the subject of a search.

20 **14.** Where a person consents under section 14(4) he shall consent in
21 the form set out as Form 4 in the Schedule, in the presence of both the police
22 officer from whom the request is made and the police officer from whom
23 authorization is given under section 14(2).

Consent to
intimate sample

24 **15.** Where a person has consented to the taking of an intimate
25 sample he may withdraw his consent in the form set out as Form 4, before the
26 taking of the sample.

Withdrawal of
consent

27 **16.** Where a person consents to the taking of an intimate sample,
28 the police officer shall ensure that the person is taken to a qualified person
29 for the intimate sample to be taken, as soon as practicable.

Time for taking
an intimate sample

1 evidence from an intimate sample against the public interest of upholding
2 the physical integrity of the individual.

3 (3) In balancing those interests, the court shall consider the
4 following matters:

5 (a) the circumstances surrounding the commission of the offence
6 and the gravity of the offence;

7 (b) the degree of the person's alleged participation in the
8 commission of the offence;

9 (c) the age, physical health and mental health of the person;

10 (d) if the person is a child or an incapable person, the welfare of that
11 person;

12 (e) whether there is a less intrusive but reasonably practicable way
13 of obtaining evidence tending to confirm or disprove that the person was
14 associated with the commission of or committed the offence;

15 (f) the reason, if any, for refusing to consent;

16 (g) whether there is a report in relation to an intimate or a non-
17 intimate sample; and

18 (h) any other matter considered relevant to balancing those
19 interests.

20 (4) In considering an application under section 19, the court may
21 take into account any oral or documentary material that the court considers
22 relevant, whether or not it would be admissible.

23 20. Where the court makes an order directing that an intimate Order of the court
24 sample is to be taken from person, the Order shall:

25 (a) be made in writing;

26 (b) state that it shall expire after forty-eight hours after the date and
27 time when it was made;

28 (c) be accompanied by written reasons;

29 (d) state the type of intimate sample to be taken;

30 (e) state that reasonable force may be used to take the intimate

1 sample; and

2 (f) state any other relevant matter.

Copy of order

3 21.-(1) Where the court makes an order under section 21, a police
4 officer shall give a copy of the Order to:

5 (a) the person from whom the intimate sample is to be taken; and

6 (b) the qualified person who intends to take the intimate sample.

7 (2) The police officer shall record the fact that copies of the Order
8 were given under subsection (1), in the DNA Register.

Extension of
order of the court

9 22.-(1) Where an order made under section 21, has expired, a police
10 officer may within twenty- four hours after its expiration apply for an extension
11 of the Order.

12 (2) On an application made under this section, the police officer shall
13 satisfy the court of the reason for not carrying out the Order in the specified
14 time and the reason why the court should grant an extension of the Order.

15 (3) The court may grant an extension of the Order for such period and
16 on such terms as it thinks fit.

17 PART VII

18 *Special Circumstances*

Where sample
may be taken
and by whom

19 23.-(1) A qualified person is authorized to take a non-intimate or an
20 intimate sample from a person who is in a prison or other institution to which
21 the Prisons Act applies, at the prison or other institution.

22 (2) A qualified person is authorised to take a non-intimate or an
23 intimate sample from a person who is detained at a psychiatric hospital in
24 accordance with the Mental Health Act.

25 PART VIII

26 *Procedure for taking an Intimate and Non-Intimate Sample*

Who may take
an intimate
sample

27 24.-(1) Only a qualified person shall take an intimate sample.

28 (2) A qualified person who is a:

29 (a) registered medical practitioner, a nurse or a midwife, shall take an
30 intimate sample, other than a dental impression; and

1 (b) dentist, shall only take a dental impression.

2 25.-(1) A qualified person shall not take an intimate sample unless
3 he receives:

Duties of
qualified person

4 (a) written consent by the person from whom the intimate sample is
5 requested; or

6 (b) the Order of the court directing that an intimate sample be
7 taken.

8 (2) A qualified person shall explain the Order of the court he
9 received under 1 (b), to the person from whom the intimate sample is to be
10 taken.

11 26.-(1) Subject to subsection (2), the person who takes the non-
12 intimate or intimate sample shall:

Dealing with a
DNA sample

13 (a) place the sample in a container;

14 (b) seal and label the container with an identifying mark;

15 (c) place the container in a package;

16 (d) seal the package; and

17 (e) label the package with the same identifying mark that is shown
18 on the label affixed to the container.

19 (2) Where the sample is blood or urine, the qualified person who
20 takes the sample shall:

21 (a) immediately ask the person from whom the sample has been
22 taken whether or not he wishes to have a part of the sample for the purpose of
23 having it analysed on his behalf;

24 (b) if the person responds in the affirmative to the question in
25 paragraph (a):

26 (i) divide the sample into two parts;

27 (ii) place each part in a separate container;

28 (iii) seal and affix a label with an identifying mark on the
29 containers;

30 (iv) place each container in a package; and

1 (v) give one of the packages immediately to the person from whom
2 the intimate sample was taken or, if that person is in custody any person
3 nominated by that person for that purpose; and

4 (c) if the person responds in the negative or remains silent to the
5 question in paragraph (a):

6 (i) place the intimate sample in a container;

7 (ii) seal and affix a label with an identifying mark on the container;

8 (iii) place the container in a package; and

9 (iv) record the person's response or his silence, in the form set out as
10 Form 6 in the Schedule.

11 (3) A qualified person who takes a non-intimate or intimate sample
12 shall complete the form set out as Form 7 in the Schedule.

13 (4) After the qualified person has sealed and labelled the sample
14 package, he shall give the package immediately to the police officer who shall
15 then sign the form referred to in subsection (3).

Conditions for
taking an
intimate sample

16 27. A qualified person who takes an intimate sample from a person
17 shall ensure that:

18 (a) it is taken in circumstances affording reasonable privacy to the
19 person from whom the sample is being taken;

20 (b) it is taken in the presence or view of a person who is of the same
21 sex as the person from whom the sample is being taken;

22 (c) it is not taken in the presence or view of a person whose presence is
23 not necessary for the purpose of taking the intimate sample;

24 (d) the taking of the sample does not involve the removal of more
25 clothing than is necessary;

26 (e) the taking does not involve more visual inspection than is
27 necessary; and

28 (f) the procedure is carried out in a manner consistent with
29 appropriate medical or other relevant professional standards.

1 sample for a period of three years from the date on which the analysis was
2 completed and thereafter it shall be destroyed.

3 (2) Notwithstanding subsection (1), a court may order that an intimate
4 sample or a non-intimate sample that has been taken under this Act, shall not be
5 destroyed if the court is satisfied that the sample might reasonably be required
6 in an investigation or prosecution of that person for an offence or any other
7 person for the same offence or any other offence in respect of the same incident.

8 PART X

9 *Forensic DNA Databank*

Forensic DNA
Databank

10 32. There shall be a Forensic DNA Databank which shall comprise the
11 following databases:

- 12 (a) crime scene database;
13 (b) volunteer database;
14 (c) police elimination database; and
15 (d) non-intimate and intimate sample database.

Appointment
of Custodian

16 33.-(1) There shall be a Custodian of the Forensic DNA Databank
17 who shall be responsible for receiving and storing all DNA profiles from a
18 forensic DNA laboratory and for carrying out searches against the Forensic
19 DNA Databank.

20 (2) The President shall appoint the Custodian under subsection (1),
21 from amongst suitably qualified persons on such terms and conditions as he
22 thinks fit.

23 (3) The remuneration of the Custodian appointed under this section
24 shall be a charge upon the Consolidated Fund.

25 (4) The Custodian shall be provided with adequate staff to assist in the
26 performance of his functions and duties

27 (5) The President may terminate the appointment of the Custodian
28 where the Custodian:

- 29 (a) misbehaves in office; or
30 (b) is incapable, for whatever reason, of performing his duties and

1 functions under this Act.

2 **34.** The Custodian shall:

Duties and
functions of
Custodian

3 (a) maintain the Forensic DNA Databank;

4 (b) conduct searches against the forensic DNA Databank; and

5 (c) ensure that DNA data is securely stored and remains
6 confidential.

7 **35.** The Custodian shall not disclose any DNA data except to:

Disclosure by
Custodian

8 (a) an officer to be used in the course of a criminal investigation or
9 proceeding;

10 (b) the person from whom the intimate or non-intimate sample was
11 taken or his representative and the person from whom a request was made;

12 (c) a country making a request, which is accepted by the Central
13 Authority, for mutual assistance in criminal matters; and

14 (d) a tester making a request for a profile from the police
15 elimination database.

16 **36.**-(1) The Custodian shall within three months after the end of
17 each calendar year, submit to the Minister, a report of his operations during
18 that year.

Report

19 (2) The Minister shall cause the report of the Custodian to be laid in
20 the National Assembly.

21 **PART XI - MISCELLANEOUS**

22 **37.**-(1) No proceedings, civil or criminal, shall be brought against a
23 person in respect of the taking of an intimate or non-intimate sample using
24 reasonable force in accordance with this Act.

Immunity

25 (2) Subsection (1) shall not apply to any proceedings on the ground
26 of any negligent act or omission in the taking of an intimate or non-intimate
27 sample:

28 **38.** Any question of fact to be determined by a court on an
29 application made under this Act shall be determined on the balance of
30 probabilities.

Standard of proof

Non attendance
of persons not
to affect
admissibility of
evidence

1 **39.** Without prejudice to section 44, no evidence obtained as a result
2 of an intimate sample taken from a person under this Act shall be inadmissible
3 in any proceedings merely because a person chosen pursuant to section 29 was
4 not present during the taking of the intimate sample, if all reasonable steps have
5 been taken to ensure that the person so chosen was notified:

6 (a) that the person from whom the intimate sample was taken wished
7 him to be present during the taking of the intimate sample; and

8 (b) of the date on which, and the time and place at which the intimate
9 sample was to be taken.

Persons not
compelled

10 **40.** Nothing in this Act compels a:

11 (a) qualified person to take an intimate sample from a person; or

12 (b) person chosen pursuant to section 29 to be present during the
13 taking of an intimate sample.

Offences

14 **41.**-(1) A person who wilfully and without authorization:

15 (a) takes an intimate sample or non-intimate sample without consent
16 or an order of the court, as the case may be;

17 (b) gives false information as to the existence of a DNA profile in the
18 Forensic DNA Databank;

19 (c) discloses or obtains DNA data or DNA profiles;

20 (d) breaks the seal of or opens or causes to be opened any DNA
21 package;

22 (e) in any manner tampers with the container or package containing
23 an intimate sample or a non- intimate sample;

24 (f) adds, deletes or modifies any information in the Forensic DNA
25 Databank;

26 (g) provides false information required under this Act;

27 (h) gains or attempts to gain access to the Forensic DNA Databank;

28 (i) gains or gives access to an intimate sample or a non-intimate
29 sample;

30 (j) uses an intimate sample or a non-intimate sample; or

1 (k) omits to submit DNA profiles to the Forensic DNA Databank,
2 commits an offence and is liable on summary conviction to a fine of one
3 hundred thousand Naira and to imprisonment for seven years.

4 (2) A person who, for the purpose of providing an intimate or non-
5 intimate sample under this Act, impersonates any other person, commits an
6 offence and is liable on summary conviction to a fine of one hundred
7 thousand Naira and to imprisonment for seven years.

8 **42.**-(1) Where, before the coming into force of this Act, a person:

Post conviction
forensic analysis

9 (a) was convicted of an offence; and

10 (b) has filed an appeal against that conviction or sentence or both,
11 he may make a request, in writing, to the Commissioner of Police for
12 forensic DNA analysis.

13 (2) The forensic DNA analysis shall be carried out where:

14 (a) evidence containing DNA material was collected in connection
15 with the trial and it still exists; and

16 (b) the person referred to in subsection (1), consents to give an
17 intimate or non-intimate sample.

18 **43.**-(1) In any criminal proceedings a document purporting to
19 contain information required to be recorded under this Act is admissible as
20 evidence of the facts and opinion stated in it without proof of the signature or
21 appointment of the person who recorded the information, unless the court,
22 acting *ex proprio motu* or at the request of a party to the proceedings, requires
23 that person to be called as a witness.

Documentary
evidence

24 (2) The court is not bound to require the attendance of that person
25 as a witness if the court is of the opinion that the request for such attendance
26 is frivolous or vexatious or made for the purpose of delaying or defeating the
27 ends of justice.

28 **44.** The Minister may make regulations for the purpose of giving
29 effect to this Act.

Regulations

Power to amend
Schedule 1

45. The Minister may by Order amend the Schedule.

SCHEDULE

(Section 8)

FORM 1

FEDERAL REPUBLIC OF NIGERIA

NOTICE is hereby given, in accordance with section 8(1)(a) of the Deoxyribonucleic Acid (DNA) Act, ("the Act") that.....of
Name

.....is required to attend the
Address

.....Police Station between the hours of 8 a.m and 4 p.m, within seven (7) days from the date of service of this Notice upon you, for the purpose of having a Nonintimate DNA sample taken from you. The previous sample taken from you was unsuitable/ insufficient for the purpose of obtaining your DNA profile.

TAKE NOTICE that section 8(1)(b) of the Act authorizes a police officer to arrest you without warrant if you fail to comply with this Notice.

.....
Date of Service Signature of Police Officer

.....
Signature of the Above-Named

(Section 12)

FORM 2

VOLUNTEERING AN INTIMATE OR NON-INTIMATE SAMPLE

PLEASE be informed that:

1. Under section 4 of the Deoxyribonucleic Acid (DNA) Act,:

"intimate sample" means:

- (a) a sample of venous blood;
- (b) a urine sample;
- (c) a sample of semen or other tissue fluid obtained by breaking the skin;
- (d) pubic hair;
- (e) a dental impression; and
- (f) a swab taken from:
 - (i) any part of a person's genitals; or
 - (ii) a person's bodily orifice other than the mouth;

"non-intimate sample" means:

- (a) a sample of hair other than pubic hair;
- (b) a sample taken from a nail or from under a nail;
- (c) a swab taken from any part of a person's body other than a part from which a

swab taken would be an intimate sample;

(d) saliva; or

(e) skin impression

2. You are not obliged to volunteer your DNA sample.

3. While the consent of the parent or guardian of a child or an incapable person is required before an intimate sample or non-intimate sample is taken from that child or incapable person, you (the parent or guardian) are not obligated to give your consent.

4. A volunteer, other than a police officer or another person who volunteers his DNA sample for elimination purposes, is entitled to have an adult of his choice present while an intimate sample is being taken from him by a registered medical practitioner, a nurse or a dentist.

5. The parent or guardian of a child or incapable person shall be present when an intimate sample is being taken.

6. The sample shall be taken in the presence or view of a person who is of the same sex as the person from whom the sample is being taken.

Volunteer /Consent

I,.....of.....

[Name of Volunteer/ Parent/Guardian]{Address}

.....understand the above information and I hereby

[Tick appropriate box]

Volunteer to give an intimate/ a non-intimate sample to be used in the investigation or

[Strike out inapplicable part]

prosecution of.....

[Give details of alleged offences)

.....
.....
.....

Consent to the taking of an intimate/ a non-intimate sample from.....

[Strike out inapplicable part] [Name of child or incapable persons]

.....who is my child/dependent to be used in the investigation or prosecution of.....

[Give details of alleged offence]

.....
.....
.....
.....

Volunteer to give a non -intimate sample for elimination purposes. I am required to attend.....in my
[Give address/ location of the crime scene]
 capacity as a.....in order.....
[Profession/ vocation/public office} [Give details of purpose]

.....
 Signed.....Date.....

Volunteer :

Adult of Choice

[This section is not applicable to children, incapable persons, police officers or other persons who volunteer for elimination purposes]

I have been informed of my right to have an adult of my choice present while an intimate sample is being taken and I hereby:

[Tick appropriate box]

request the presence of.....

[Name of adult of choice]

waive my right to have an adult of my choice present during the taking of the intimate sample.

[section 14(4)]

FORM 3

FEDERAL REPUBLIC OF NIGERIA

WAIVER OF RIGHT TO CONSULT BEFORE CONSENT IS GIVEN FOR AN INTIMATE SAMPLE TO BE TAKEN

I.....of.....further to
(Name) (Address)

a request being made by....., have been informed of my
(Name of police officer making request)

right to have an attorney-at-law or an adult of my choice present before consenting to the taking of an intimate sample and I hereby waive my right to have an attorney-at-law or an adult of my choice present before consenting to the taking of an intimate sample.

Signed:

.....

(Signature)

.....

(Address)

In the presence of:

.....

(Name in block letters and signature of the Officer)

(sections 15 and 16)

FORM 4

REPUBLIC OF NIGERIA

CONSENT FOR TAKING AN INTIMATE SAMPLE

PLEASE be informed that:

1. Under section 4 of the Deoxyribonucleic Acid (DNA) Act,:

"intimate sample" means:

- (a) a sample of venous blood;
- (b) a urine sample;
- (c) a sample of semen or other tissue fluid obtained by breaking the skin;
- (d) pubic hair;
- (e) a dental impression; and
- (f) a swab taken from:
 - (i) any part of a person's genitals; or
 - (ii) a person's bodily orifice other than the mouth.

2. There are reasonable grounds for believing that you may have committed the offence of.....
and you are being requested to consent to the taking of an intimate sample.

3. There are reasonable grounds for believing that the DNA forensic analysis of the intimate sample, would tend to confirm or disprove your involvement in or association with the commission of the offence.

4. You are under no obligation to consent to an intimate sample being taken.

5. If you are to consent to an intimate sample being taken, such consent must be in writing in the presence of both the police officer from whom the request for the intimate sample was made and the police officer from whom authorization was given to make the request for the intimate sample.

6. If you give consent for an intimate sample to be taken, you may at any time before the sample is taken, withdraw that consent.

7. You have the right to consult with and have present an attorney-at-law, or an adult of your choice before you consent to give an intimate sample.

8. You may waive your right to withdraw your consent and such waiver must be recorded in the presence of the police officer from whom the request for the intimate sample was made and the police officer from whom authorization was given to make the request for the intimate sample and yourself.

9. You have two hours from the time the request is made to decide whether or not you want an intimate sample taken and if you have not given your consent within that period, you will be deemed to have refused to give your consent.

10. Any intimate sample given or taken will be analysed and may be used as evidence in a criminal investigation or prosecution.

11. A DNA profile obtained from your intimate sample may be checked against other DNA profiles in the forensic DNA Databank.

12. You are entitled to have an adult of your choice present while the intimate sample is being taken.

13. Only a qualified person is entitled to take an intimate sample from you.

A qualified person is:

(a) a registered medical practitioner or a registered Nurses and Midwives; or

(b) a dentist registered under the Dental Profession Act, where the sample is a dental impression.

14. Where an intimate sample is taken:

(a) it shall be taken in circumstances affording reasonable privacy to you;

(b) it shall be taken in the presence or view of a person who is of the same sex as you;

(c) it shall not be taken in the presence or view of a person whose presence is not necessary for the purpose of taking the intimate sample;

(d) the taking of the sample does not involve the removal of more clothing than is necessary;

(e) the taking does not involve more visual inspection than is necessary; and

(f) the procedure is carried out in a manner consistent with appropriate medical or other relevant professional standards.

15. The DNA profile derived from forensic DNA analysis of the sample will be kept in confidence by the Custodian of the Forensic DNA Databank, subject to section 36 of the

Deoxyribonucleic Acid (DNA) Act.

16. Your intimate sample will be destroyed by a forensic DNA laboratory after a period of three years from the date on which the analysis was completed in accordance with section 32(1) of the Deoxyribonucleic Acid (DNA) Act, unless a court orders otherwise under section 32(2).

A. Consent

I,.....of.....

(Name of person giving consent) (Address of person giving consent)

further to a request being made by.....

(Name of police officer making request)

hereby consent to the taking of an intimate sample. I have read and understood the above information for the request. I have consulted with and have present an attorney-at-law or an adult of my choice.

Signed:

.....

(Signature of person giving consent) (Place where consent is given)

In the presence of:

.....
(Name and rank in block letters and signature of Police Officer requesting consent)

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

29

and before me:

.....
(Name in block letters and signature of the Police Officer authorizing the request)

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

B. Withdrawal of Consent

I,.....of.....
(Name of person withdrawing consent) (Address of person withdrawing consent)

further to giving my consent for an intimate sample to be taken, hereby withdraw my consent to the taking of an intimate sample. The reasons for withdrawing my consent are as follows:

.....
.....

Signed:

.....
(Signature of person withdrawing consent) (Place where consent was withdrawn)

In the presence of:

.....
(Name and rank in block letters and signature of Police Officer requesting consent)

at.....
and before me:

.....
(Name in block letters and signature of the Police Officer authorizing the request)

at.....
(Place where consent was withdrawn)

30

(section 19)

FORM 5

FEDERAL REPUBLIC OF NIGERIA

APPLICATION FOR AN ORDER THAT AN INTIMATE SAMPLE BE TAKEN pursuant to section 19 of the Deoxyribonucleic Acid (DNA) Act,

WHEREAS the information of.....who say on (Name and rank of Police Officer)

oath that in accordance with section 19 of the Deoxyribonucleic Acid (DNA) Act, made a request of the alleged offender (Name and address)

..... to give an intimate sample, in relation to an investigation.

AND WHEREAS such request was denied by the alleged offender on..... (Date)

NOW I.....having reasonable grounds to believe that the alleged offender was associated with the commission of the offence of..... and that the taking of an intimate sample from the alleged offender is likely to produce evidence tending to confirm or disprove his/her involvement in the offence.

Particulars of allegation of alleged offender's involvement in the commission of the offence

.....
.....
.....
.....
.....
.....
.....
.....
.....
.....
.....

(Signature of Police Officer)

.....
(Signature of the Officer of the First Division)

Pursuant to section 19 of the DNA Act I request that this Honourable Court in accordance with section 21 of the DNA Act, make an order that the taking of the intimate sample is justified in the circumstances and that the sample be taken in accordance with the provisions of the DNA Act.

[section 27(2)]

FORM 6

FEDERAL REPUBLIC OF NIGERIA

RECORD OF PERSON'S RESPONSE TO A REQUEST FOR PART OF SAMPLE

32

I have asked.....if he wished to have a part of

(Name of person from whom sample is taken)

the DNA sample for the purpose of having it analysed on his own behalf and he has:

[] responded in the negative;

[] not given any response.

(Tick where applicable)

.....
.....
.....

(Name in block letters, signature and profession of qualified person taking the intimate sample)

.....
.....
.....

(Name in block letters and signature of person from whom sample is taken)

.....
(Date and place where sample taken)

[section 27(3)]

FORM 7

FEDERAL REPUBLIC OF NIGERIA

RECORD OF TAKING OF NON-INTIMATE OR INTIMATE SAMPLE BY QUALIFIED PERSON

33

Name:.....

Address:.....

Date of birth:.....

Gender of the person from whom the intimate sample is taken:.....

Type of sample: Non-intimate / Intimate

Date taken:.....

Time and place of taking of the sample:.....

A statement that both the container and the package holding the sample are labelled and sealed:

.....
.....

The information on the label affixed to the container and the label affixed to the package:

.....
.....

The nature of the sample:.....

Name:.....

Rank and regimental number of the police officer collecting the DNA package:

.....

The name and signature of the person taking the intimate sample:.....

.....

(section 29)

FORM 8

FEDERAL REPUBLIC OF NIGERIA

WAIVER OF RIGHT TO HAVE AN ADULT OF YOUR CHOICE PRESENT AT THE TAKING OF AN INTIMATE SAMPLE

I,.....of.....further to
(Name) (Address)

being informed by.....

of my

(Name and number of police officer)

right to have an adult of my choice present during the taking of an intimate sample, hereby waive this right to have an adult of my choice present during the taking of the intimate sample.

Signed:

.....

(Signature of person from whom the intimate sample is to be taken)

.....

(Place where consent is given)

In the presence of:

.....

(Name in block letters and signature of the police officer)

at.....

(place where consent is given)