

ANTIGUA AND BARBUDA



THE ANTIGUA AND BARBUDA FORENSIC SERVICES BILL 2026

No. of 2026

ANTIGUA AND BARBUDA
THE ANTIGUA AND BARBUDA FORENSIC SERVICES BILL 2026
ARRANGEMENT OF CLAUSES

PART I
PRELIMINARY

1.	Short title and commencement.....	6
2.	Interpretation.....	6

PART II
ESTABLISHMENT OF THE
ANTIGUA AND BARBUDA FORENSIC SERVICES

3.	Establishment of the Antigua and Barbuda Forensic Services.....	10
4.	Purpose of the ABFS	10
5.	Functions of the ABFS.....	10

PART III
ADMINISTRATION

6.	Appointment of the Forensic Director and Deputy Forensic Director	12
7.	Disqualification from appointment as Forensic Director and Deputy Forensic Director	13
8.	Vacation of office of Forensic Director and Deputy Forensic Director	13
9.	Retirement of Forensic Director and Deputy Forensic Director	13
10.	Obligation of secrecy and confidentiality	13
11.	Permissible disclosure of information.....	14
12.	Unauthorised use of information.....	14
13.	Protection from personal liability	15

PART IV
FINANCIAL PROVISIONS

14.	Financial resources of the ABFS	15
-----	---------------------------------------	----

**PART V
FORENSIC PROCEDURES**

15.	General rules for carrying out forensic procedures	15
16.	Use of force in carrying out forensic procedures	15
17.	Forensic procedures not to be carried out in cruel, inhuman or degrading way	16
18.	Consent.....	16
19.	Inability to consent.....	16
20.	Withdrawal of consent	16
21.	Record of information and consent	17
22.	Investigative techniques	17
23.	Issue of warrant for taking of bodily samples	17
24.	Taking of bodily samples for forensic DNA analysis and other types of forensic analysis ...	18
25.	Taking of bodily samples from serious offenders	19
26.	Use of results of forensic DNA analysis and other types of forensic analysis	20
27.	Taking of samples from bodies of deceased persons	20
28.	Retention, storage and expunging of forensic DNA profiles	20
29.	Destruction of bodily samples or DNA profiles.....	20
30.	Re-taking of samples.....	21
31.	Quality Management System	22

**PART VI
POST-COLLECTION PROCEDURES**

32.	Packaging of bodily samples, materials and other DNA material.....	22
33.	Forensic report	22

**PART VII
ADMISSIBILITY OF EVIDENCE**

34.	Properly obtained forensic evidence	23
35.	Inadmissibility of evidence due to be destroyed	23

PART VIII
POWERS OF SPECIAL FORENSIC ANALYSTS

36. General Powers of Special Forensic analysts..... 24
37. Authority of Special Forensic analysts to carry and use firearms 24

PART IX
OFFENCES AND PENALTIES

38. Unauthorised use of bodily samples 24
39. Unauthorised disclosure 25
40. Unauthorised access to forensic DNA profile, forensic results or other privileged ABFS
information 25
41. Offences against employees and affiliates of the ABFS and Special Forensic analysts 25
42. Unlawful disclosure of information 25
43. Impersonation of the Forensic Director or Deputy Forensic Director..... 26
44. Miscellaneous offences 26

PART X
REGULATIONS

45. Regulations 27

SCHEDULE 1

SCHEDULE 2

ANTIGUA AND BARBUDA
THE ANTIGUA AND BARBUDA FORENSIC SERVICES BILL 2026
No. of 2026

AN ACT to establish the Antigua and Barbuda Forensic Services and to provide for its constitution, administration, functions, powers and for incidental and other connected purposes.

ENACTED by the Parliament of Antigua and Barbuda as follows:

PART I
PRELIMINARY

1. Short title and commencement

- (1) This Act may be cited as the Antigua and Barbuda Forensic Services Act 2026.
- (2) This Act shall come into operation on a date to be appointed by the Minister by Notice published in the *Gazette*.

2. Interpretation

In this Act –

“Antigua and Barbuda Forensic Services” or **“ABFS”** means the Antigua and Barbuda Forensic Services established under section 3;

“affiliate of the ABFS” means the Forensic Director, Deputy Forensic Director and any person appointed as such by the Minister;

“authorised person”, in respect of carrying out a forensic procedure, means –

- (a) a forensic analyst attached to the ABFS; or
- (b) a person who is suitably qualified and approved by the Minister or the Forensic Director to carry out forensic procedures;

“authorised forensic analyst” means a suitably qualified person appointed by the Forensic Director as such for the purposes of this Act;

“appropriate facility” means a police station, prison or any other facility designated by the Forensic Director in writing as an appropriate facility for the purposes of this Act;

“bodily sample” includes –

- (a) a sample of –
 - (i) blood;
 - (ii) pubic hair;

- (iii) urine;
 - (iv) saliva;
 - (v) semen;
 - (vi) hair other than pubic hair;
 - (vii) a nail;
 - (viii) any material found under a nail;
 - (ix) bone;
 - (x) organ;
 - (xi) teeth;
 - (xii) stain
- (b) a pathological sample;
 - (c) a swab or forensic material from any part of the body other than a body orifice or a genital region;
 - (d) a swab from a body orifice or a genital region;
 - (e) a dental impression;
 - (f) a fingerprint, footprint or similar impression of any part of the body other than a part of the hand or mouth.

“Deputy Forensic Director” means the person appointed as such under section 6;

“DNA” means deoxyribonucleic acid;

“forensic analyst” means a person –

- (a) who has attained a Bachelor’s degree in the natural sciences or forensic science;
- (b) who has attained specialised training; and
- (c) is authorised to perform certain functions or actions under this Act.

“Forensic Director” means the person appointed as such under section 6;

“forensic DNA analysis” means –

- (a) in relation to a bodily substance that is taken from a person in execution of a warrant under this Act, a DNA analysis of the bodily substance and the comparison of the results of that analysis with the results of the analysis of the DNA in the bodily substance which has been found or obtained –
 - (i) at the place where the offence was committed;

- (ii) on or within the body of the victim of the offence;
 - (iii) on anything worn or carried by the victim at the time when the offence was committed; or
 - (iv) on or within the body of any person suspected as being at the place where the offence was committed;
 - (v) on or within anything or at any place associated with the commission of the offence; and
 - (vi) includes any incidental tests associated with that analysis, and
- (b) in relation to a bodily substance that is provided voluntarily in the course of an investigation of an offence or is taken from a person under an order of a Judge of the High Court or a Magistrate or an authorisation granted under this Act, a DNA analysis of the bodily substance voluntarily provided and a comparison of that substance with the profile of a substance that forms part of the investigation.

“forensic material” includes –

- (a) a sample of any kind;
- (b) a photograph or video recording;
- (c) a handprint, footprint, fingerprint or toe print;
- (d) a cast or impression;
- (e) any relevant material found at or taken from the scene of a crime; and
- (f) any other material used for scientific investigation in respect of a crime;

“forensic procedure” includes –

- (a) an external examination of the genital or anal area, the buttocks or, in the case of a female, the breasts;
- (b) the taking of –
 - (i) a sample of blood;
 - (ii) a sample of saliva;
 - (iii) a sample of epithelial cells by means of a buccal swab;
 - (iv) a sample of semen;
 - (v) a sample of other tissue obtained by breaking the skin;
 - (vi) a sample of pubic hair;
 - (vii) a sample of hair other than from the genital area of a person;
 - (viii) a dental impression; or

(ix) a swab from the genitals or any bodily orifice of a person.

“law enforcement agency” –

- (a) means a legally authorised body with responsibility for the enforcement of any law; and
- (b) includes –
 - (i) the Royal Police Force of Antigua and Barbuda;
 - (ii) the Office of the National Drug and Money Laundering Control Policy;
 - (iii) the Customs and Excise Division;
 - (iv) the Department of Immigration; and
 - (v) the Antigua and Barbuda Defence Force.

“Minister” means the Minister with responsibility for Public Safety;

“Special Forensic analyst” means a forensic expert, law enforcement officer or other suitably qualified person designated in writing by the Forensic Director to assist in forensic investigations, evidence collection or forensic analysis under this Act, and who, for the duration of their designation, shall have the necessary powers and immunities conferred upon them by this Act or any other written law;

“specified offence” means –

- (a) an offence under this Act;
- (b) a drug trafficking offence;
- (c) an offence or a conspiracy to commit an offence involving fraud or obtaining property by deception;
- (d) a money laundering offence; and
- (e) an indictable offence under any other Act.

PART II
ESTABLISHMENT OF THE ANTIGUA AND BARBUDA
FORENSIC SERVICES

3. Establishment of the Antigua and Barbuda Forensic Services

There is hereby established the Antigua and Barbuda Forensic Services which shall operate as a Department under the Ministry of Public Safety.

4. Purpose of the ABFS

The ABFS shall –

- (a) provide forensic science services, research and examination and analysis of forensic material to –
 - (i) law enforcement agencies to aid in the investigation and prosecution of criminal offences; and
 - (ii) to any other agency as necessary; and
- (b) aid local and foreign law enforcement agencies and other stakeholders in the detection of crime.

5. Functions of the ABFS

- (1) The functions of the ABFS are to –
 - (a) provide forensic science services as required under this Act, and as may be required for the purposes of the enactments specified in Schedule 1;
 - (b) conduct forensic examination and analysis of forensic material submitted to the ABFS by law enforcement agencies and other agencies;
 - (c) submit reports of its findings from forensic examination and analysis to the relevant law enforcement agencies and other agencies;
 - (d) liaise with local and foreign law enforcement agencies and stakeholders regarding forensic material submitted to the ABFS for examination and analysis;
 - (e) collect, receive, examine, analyse, retain and dispose of forensic material or information obtained from material submitted to the ABFS for forensic analysis by law enforcement agencies and other agencies;
 - (f) conduct forensic tests, examinations, analysis and scientific research in disciplines including, but not limited to –
 - (i) DNA profiling;
 - (ii) DNA paternity testing, for the purpose of investigating an offence;

- (iii) drug chemistry;
 - (iv) toxicology
 - (v) analysis of fire debris;
 - (vi) biology;
 - (vii) trace evidence examination;
 - (viii) where requested, forensic latent prints examination;
 - (ix) photography;
 - (x) where requested, ballistics and firearm identification and analysis;
 - (xi) where requested, tool marks examination;
 - (xii) where requested, specialised forensic crimes scene support; and
 - (xiii) question document forensic examination to include handwriting analysis;
- (g) co-ordinate the implementation of policies relating to the management of forensic material in the custody and care of the ABFS;
- (h) when requested, provide testing of cannabis products for the Medicinal Cannabis Authority for profiling and assessment of the purity and potency of cannabinoid profiling such as THC and CBD;
- (i) provide forensic laboratory support to national, regional and international agencies for the purpose of disaster and emergency response;
- (j) conduct or host conferences and facilitate training to forensic analysts, law enforcement agencies or officers and other interested persons;
- (k) design, implement and maintain plans and programs of public education regarding forensic science services in Antigua and Barbuda; and
- (l) recommend to the Minister reasonable fees to be charged to agencies other than law enforcement agencies for services provided by the ABFS.
- (2) The ABFS shall carry out all functions which are required for the proper discharge of its responsibilities under this Act which, without prejudice to the generality of the foregoing, shall include –
- (a) administering this Act; and
 - (b) keeping this Act and Regulations made thereunder under regular review to ensure compliance with internationally acceptable best practices for the provision of forensic services and methods used to conduct forensic examinations.
- (3) The ABFS shall prepare and maintain a strategic plan that identifies the facility and equipment needs of the ABFS over a ten (10) year period.

(4) The strategic plan shall be submitted to the Cabinet for adoption and shall be subject to review every two (2) to three (3) years.

(5) The Minister from time to time may give directions of a general nature in writing to the ABFS on the policy of the Government concerning the provision of its services.

PART III ADMINISTRATION

6. Appointment of the Forensic Director and Deputy Forensic Director

(1) The ABFS shall be under the control and direction of the Forensic Director appointed by the Public Service Commission.

(2) The Public Service Commission may appoint a suitably qualified person as Deputy Forensic Director.

(3) The Forensic Director and Deputy Forensic Director shall, before assuming the duties of their office, take and subscribe the oath or affirmation of office or as set out in Schedule 2.

(4) The Forensic Director shall be responsible for the day-to-day management and administration of the ABFS and the performance of its functions under this Act and any other written law.

(5) The Forensic Director shall –

(a) advise the Minister on the formulation, revision and implementation of –

(i) standards for quality management, including standards for testing the proficiency of forensic science laboratories and forensic analysts conducting different types of forensic analyses;

(ii) best practices for the provision of forensic science procedures and services; and

(iii) strategic plans and regulations for the effective functioning of the ABFS;

(b) ensure that forensic material in the custody and care of the ABFS is securely stored and remains confidential;

(c) perform such other functions and duties as may be prescribed by the Minister; and

(d) undertake anything incidental or conducive to the performance of any of the foregoing functions.

(6) The Forensic Director shall submit annual written reports to the Minister on the provision of forensic services by the ABFS and the Minister may make recommendations based on those reports.

- (7) All statutory notices or other documents authorised to be issued by the ABFS under this Act shall be signed by the Forensic Director or, in the absence of the Forensic Director, the Deputy Forensic Director.
- (8) The Deputy Forensic Director shall perform the duties of the Forensic Director –
 - (a) during any period in which the Forensic Director is absent from Antigua and Barbuda;
 - (b) during any period in which the Forensic Director is, for any reason, unable to perform the functions of his or her office; or
 - (c) when the Forensic Director has delegated any of his or her the functions to the Deputy Forensic Director in writing.

7. Disqualification from appointment as Forensic Director and Deputy Forensic Director

A person shall not be qualified to be appointed as the Forensic Director or Deputy Forensic Director if that person –

- (a) is a member of the Senate or House of Representatives;
- (b) has been convicted of an offence in respect of which a penalty of imprisonment for twelve (12) months or more is imposed; or
- (c) is a permanent serving member of any law enforcement agency in Antigua and Barbuda.

8. Vacancy in office of Forensic Director or Deputy Forensic Director

The Forensic Director or Deputy Forensic Director shall vacate his or her office if he or she –

- (a) attains the age of sixty-five (65) years old;
- (b) is unable to perform the functions of his or her office;
- (c) is convicted of a criminal offence where he or she is sentenced to a period of imprisonment for twelve (12) months or more; or
- (d) resigns the office in writing addressed to the Public Service Commission.

9. Retirement of Forensic Director or Deputy Forensic Director

The Forensic Director or Deputy Forensic Director –

- (a) may voluntarily retire from office on attaining the age of sixty (60) years in accordance with the applicable Pensions Act; or
- (b) shall compulsorily retire from office on attaining the age of sixty-five (65) years.

10. Obligation of secrecy and confidentiality

- (1) Every person –
 - (a) being an employee of the ABFS in whatever capacity; or

- (b) having been assigned an official duty by the Forensic Director,
- shall regard and deal with as secret and confidential, all documents and information relating to forensic evidence, data, information, or records regarding the functions of the ABFS obtained by that person.
- (2) Every person in subsection (1) shall, on appointment, take and subscribe the oath or affirmation of secrecy set out in Schedule 2 before a Magistrate or Justice of the Peace.
- (3) A person to whom information is communicated by a person in subsection (1) shall regard and deal with the information as secret and confidential.
- (4) A person in subsection (1) who divulges information that has come into his or her possession as a result of his or her employment with the ABFS to another person other than in the proper exercise of his or her duties commits an offence and is liable –
- (a) on summary conviction to a fine not exceeding five thousand dollars (\$5,000.00) or a term of imprisonment not exceeding one (1) year or both; or
- (b) on conviction on indictment to a fine not exceeding fifteen thousand dollars (\$15,000) or to a term of imprisonment not exceeding three (3) years or both.
- (5) A person who contravenes subsection (3) commits an offence and is liable on summary conviction to a fine not exceeding two thousand five hundred dollars (\$2,500.00) or to imprisonment for a term not exceeding six (6) months.

11. Permissible disclosure of information

Notwithstanding section 10, a person may disclose information in any of the following circumstances –

- (a) pursuant to an order of the Court;
- (b) to an affiliate of the ABFS who is so authorised to receive such information; or
- (c) on the instruction of the Forensic Director.

12. Unauthorised use of information

A person shall not disclose information which he or she obtains in the exercise of his or her powers or the performance of his or her duties under this Act, except –

- (a) to a person who requires it for the performance of his or her functions under this Act;
- (b) in respect of information which is required in terms of any law or as evidence in any court of law;
- (c) to a competent authority which requires it for the institution or for an investigation with a view to institute criminal proceedings, including a preliminary investigation or an inquest;
- (d) for the purposes of carrying out a criminal investigation; or

- (e) where the accused person is a child, to his or her parent or guardian, or his or her legal representative.

13. Protection from personal liability

No personal liability shall attach to –

- (a) the Forensic Director;
- (b) the Deputy Forensic Director,
- (c) any employee of the ABFS; or
- (d) any affiliate of the ABFS,

acting under the authority of the Forensic Director for anything done, permitted to be done or omitted in good faith in the course of the discharge by him or her of any duties, powers or functions under this Act.

PART IV FINANCIAL PROVISIONS

14. Financial resources of the ABFS

The revenue of the ABFS may be generated from the following sources –

- (a) budgetary allocations from Government;
- (b) public and private donations, grants and loans from national and international sources approved by the Minister;
- (c) proceeds from services provided by the ABFS; and
- (d) any other sources of revenue deemed appropriate by the Minister.

PART V FORENSIC PROCEDURES

15. General rules for carrying out forensic procedures

A forensic procedure referred to under this Act shall be carried out –

- (a) in a manner consistent with appropriate medical and other standards; and
- (b) in accordance with international standards and guidelines.

16. Use of force in carrying out forensic procedures

A medical practitioner or other person who is authorised to carry out a forensic procedure on a person may use such reasonable force as is necessary –

- (a) to enable that procedure to be carried out; or
- (b) to prevent loss, destruction or contamination of a bodily sample or forensic material.

17. Forensic procedures not to be carried out in cruel, inhuman or degrading way

- (1) This Act does not authorise the carrying out of a forensic procedure in a cruel, inhuman or degrading way.
- (2) For the purposes of this section, the carrying out of a forensic procedure in accordance with the provision of this Act is not itself to be regarded as degrading to the person from whom the bodily sample or forensic material is taken.

18. Consent

- (1) A person may give his or her informed consent to the carrying out of a forensic procedure in accordance with this Act.
- (2) A medical practitioner or a forensic analyst under the direction of a police officer shall only carry out a forensic procedure on a person under this Act where informed consent has been obtained from that person.
- (3) The informed consent of a person shall be in the form of an executed consent form.

19. Inability to consent

- (1) The following persons are unable to consent to a forensic procedure –
 - (a) a child; and
 - (b) a person of unsound mind.
- (2) The consent on behalf of any person under subsection (1) may be obtained from –
 - (a) a parent;
 - (b) a legal guardian; or
 - (c) a person appointed by the court to serve as the next friend of that person.

20. Withdrawal of consent

Where a person expressly withdraws consent either orally or in writing to the carrying out of a forensic procedure under this Act –

- (a) the medical practitioner or forensic analyst for shall immediately cease the carrying out of the procedure or any preparation for the carrying out of the forensic procedure;
- (b) the procedure shall, from the time of the withdrawal, be treated as a forensic procedure for which consent has been refused or not given; and
- (c) the procedure may be carried out only in accordance with an order from the court authorising the taking of a bodily sample.

21. Record of information and consent

- (1) A medical practitioner or other authorised person shall keep a written record of –
 - (a) the information about the forensic procedure provided to a person on whom it is proposed to conduct a forensic procedure; and
 - (b) the consent or other responses, if any, of the person to conduct the forensic procedure.
- (2) The record referred to in subsection (1) shall be by way of written report and, if practicable, by audiotape, videotape or other electronic means.
- (3) A copy of the record referred to in subsection (1) shall be made available to the person on whom the forensic procedure is conducted.

22. Investigative techniques

The investigative techniques that shall be used in the taking of bodily samples and forensic material are –

- (a) the plucking of individual hairs, including the root sheath, from a person;
- (b) the swabbing of the lips, tongue, inside cheeks of the mouth to collect epithelial cells or any other part of the body;
- (c) the swabbing of any other part of the body;
- (d) the taking of blood by pricking the skin surface with a sterile lancet;
- (e) the clipping and scraping of the nails;
- (f) the swabbing, cutting, scraping, plucking or removal of forensic materials;
- (g) the use of tweezers and other forensic implements to recover forensic material from any item found at or taken from the scene of a crime; and
- (h) the use of forensic light sources, powders, tape, paste and photographs to recover fingerprints, footprints, dental impressions or impressions of any other part of the body.

23. Issue of warrant for taking of bodily samples

- (1) A Judge of the High Court or a Magistrate may, on being satisfied by information provided by the police, issue a warrant for the taking, by a medical practitioner or a forensic analyst under the direction of a police officer, of samples of one or more bodily substances, from a person for the purpose of forensic analysis.
- (2) In considering whether to issue the warrant, the Judge or Magistrate shall be satisfied that –
 - (a) it is in the best interest of the administration of justice to do so;

- (b) there are reasonable grounds to believe that –
 - (i) an offence has been committed;
 - (ii) a bodily substance or forensic material has been found or obtained –
 - (A) at the place where the offence was committed;
 - (B) on or within the body of the victim;
 - (C) on anything worn or carried by the victim at the time when the offence was committed; or
 - (D) on or within the body of any person or thing or at any place associated with the commission of the offence;
 - (iii) the person from whom the samples are to be taken was a party to the offence; and
 - (iv) forensic DNA analysis or any other forensic analysis of a bodily substance or forensic material from that person will provide evidence as to whether the bodily substance or forensic material referred to in paragraph (b) was from the person from whom the samples are to be taken.
- (3) The Judge or Magistrate shall have regard to all relevant matters, including –
 - (a) the nature of the offence and the circumstances of its commission; and
 - (b) whether there is a medical practitioner, forensic analyst or other authorised person who is able, by virtue of training or experience, to take samples of bodily substances or forensic material from the person by means of the investigative techniques described in section 22.

24. Taking of bodily samples for forensic DNA analysis and other types of forensic analysis

- (1) A bodily sample shall be taken by a medical practitioner, forensic analyst or other authorised person under the direction of a police officer.
- (2) A medical practitioner, forensic analyst or other authorised person may only take a bodily sample –
 - (a) with the consent of the person from whom the sample is to be taken; or
 - (b) if authorised to do so by an order issued by a court of competent jurisdiction.
- (3) A bodily sample shall be taken –
 - (a) as soon as practicable after the consent or authorisation is obtained, as the case may be;
 - (b) in compliance with this Act and any regulations prescribed by the Minister; and
 - (c) in accordance with accepted forensic procedures.

- (4) The medical practitioner or authorised person who takes the sample shall –
 - (a) ensure that the privacy of the person from whom the samples are being taken is respected in a manner that is reasonable in the circumstances; and
 - (b) if authorised by the Court to take the sample, file a written report detailing the manner in which the samples were taken.

25. Taking of bodily samples from serious offenders

- (1) On the hearing of an application, a Judge or Magistrate shall make an order authorising the taking of a bodily substance required for the purpose of forensic analysis, from a person who is convicted of one of the offences described in subsection (3) in accordance with the provisions of the Evidence (Special Provisions) Act, 2009.
- (2) Notwithstanding subsection (1), the Judge or Magistrate may –
 - (a) on application by the Director of Public Prosecutions; and
 - (b) if satisfied that it is in the best interest of the administration of justice to do so, make an order authorising the taking of a bodily sample from a person found not criminally responsible on account of a mental disorder of an offence described in subsection (3) for the purpose of forensic analysis.
- (3) The offences for the purposes of subsections (1) and (2) are –
 - (a) any offence involving murder or manslaughter, or any attempt to commit such an offence;
 - (b) any indictable offence involving a weapon or an explosive;
 - (c) kidnapping;
 - (d) robbery;
 - (e) extortion;
 - (f) any sexual offence or offence involving obscenity or obscene materials;
 - (g) any offence involving hijacking, piracy or terrorism;
 - (h) any toxicology, drug or drug trafficking offence; and
 - (i) any specified offence.
- (4) A Judge or Magistrate may, on the hearing of an application, authorise for the taking of bodily samples for the purpose of forensic DNA analysis from a person who, on the date

of coming into force of this Act, is serving a sentence for an offence listed in subsection (3).

26. Use of results of forensic DNA analysis and other types of forensic analysis

The results of forensic analysis of a bodily sample shall be used only in the course of an investigation of or proceedings in respect of –

- (a) the offence for which the sample was taken; or
- (b) a specified offence listed in section 2 or subsection (3) of section 25 for which the person providing the sample has been charged.

27. Taking of samples from bodies of deceased persons

A medical practitioner or other authorised person, under the direction of a police officer, may take a bodily sample from the body of a deceased person for the purpose of generating –

- (c) a DNA profile in respect of the person to assist with identifying that person; or
- (d) forensic results to assist in the investigation of the death of that person.

28. Retention, storage and expunging of forensic DNA profiles

- (1) The ABFS shall –
 - (a) store a DNA sample collected for investigation purposes, only until the investigation is completed; and
 - (b) not store a DNA sample permanently.
- (2) The ABFS may expunge from its records a forensic DNA profile of a person, except where the DNA profile is from a sample taken from a crime scene, in the following circumstances –
 - (a) a decision is taken not to prosecute that person;
 - (b) that person is acquitted at his or her trial;
 - (c) the conviction of that person is set aside on appeal or review;
 - (d) the charge against that person is dismissed;
 - (e) no criminal proceedings with respect to the forensic DNA profiles are instituted against that person in any court; or
 - (f) the prosecution declines to prosecute that person.

29. Destruction of bodily samples or DNA profiles

- (1) A bodily sample or forensic DNA profile taken pursuant to a warrant or order, and the results of forensic DNA analysis of that sample shall, without delay be destroyed or in the case of results in electronic form, be rendered permanently inaccessible, after –

- (a) the results of analysis determine that the person from whom the sample was taken is not a party to the relevant offence;
 - (b) the charges against the person from whom the sample was taken in relation to the relevant offence are dismissed;
 - (c) the person from whom the sample was taken is acquitted of the offence and any other connected offence, or is otherwise discharged; or
 - (d) the conviction of the person in relation to the relevant offence is quashed,
- unless a Judge of the High Court or a Magistrate orders otherwise, on evidence that the bodily sample and forensic DNA analysis might reasonably be required in respect of an ongoing investigation of another offence described in subsection (3) of section 25.
- (2) Where forensic analysis of a bodily sample provided voluntarily establishes that the person from whom the sample was taken was not a party to an offence, the sample and the results of the forensic analysis shall –
 - (a) be destroyed without delay; or
 - (b) in the case of results in electronic form, be rendered permanently inaccessible.
 - (3) An authorised forensic analyst shall keep a record of the destruction of bodily samples in a manner prescribed by Regulations.
 - (4) The Court may, on the hearing of an application, make an order for the retention of a bodily sample or forensic DNA profile for such further period as the Court deems appropriate if satisfied that it is in the best interests of justice to do so.
 - (5) An application under subsection (4) shall be made by –
 - (a) the Director of Public Prosecutions; or
 - (b) Commissioner of Police.
 - (6) Where an application is made under subsection (4) –
 - (a) the applicant shall notify, in writing, the person whose sample or forensic DNA profile is the subject of the application; and
 - (b) that person shall have the right to be heard.

30. Re-taking of samples

Where a bodily sample or forensic material taken from a person is insufficient or was inadequately labelled, a second or further bodily sample or forensic material may be taken from the person, in accordance with this Part.

31. Quality Management System

The Forensic Director shall develop and recommend to the Minister standards for quality management, including standards for testing the proficiency of forensic science laboratories and procedures, and forensic analysts conducting forensic DNA analysis and other types of forensic analysis.

PART VI

POST COLLECTION PROCEDURES

32. Packaging of bodily samples, materials and other DNA material

- (1) As soon as is reasonable practicable after a bodily sample is taken, the forensic analyst who has taken the sample or caused the sample to be taken, shall ensure that the sample is placed in a container, whether comprising a tube, envelope, bag, vial, syringe or other receptacle, which –
 - (a) is marked with a unique number for the purpose of facilitating the identification of the sample;
 - (b) is sealable after the sample is placed in it without interfering with the integrity of the sample; and
 - (c) once sealed, cannot be opened, whether by cutting, tearing or other means, without leaving visible evidence of having been opened or of an attempt having been made to do so.
- (2) The sample in subsection (1) shall thereafter be preserved, labelled and stored for the purposes of forensic DNA analysis or for any other forensic analysis in the manner required by the Forensic Director.
- (3) A package containing a sample submitted for forensic analysis under subsection (2) shall not be opened by any person other than a forensic analyst authorised to do so by the Forensic Director.

33. Forensic report

- (1) A forensic analyst shall, as soon as practicable after carrying out forensic DNA analysis or any other forensic analysis –
 - (a) generate a DNA profile in relation to the sample; or
 - (b) generate a forensic result in relation to that sample; and
 - (c) prepare a written forensic report thereon.
- (2) A forensic report made under subsection (1) shall contain such information as may be prescribed.

- (3) As soon as practicable, after the written report is available, the forensic analyst shall, with the authorisation of the Forensic Director, provide a copy of the report –
 - (a) to the investigating officer of the Royal Police Force of Antigua and Barbuda; or
 - (b) to investigating officer or any member of a law enforcement agency.
- (4) A forensic DNA report or other forensic report issued by the Forensic Director or a forensic analyst –
 - (a) on any matter or thing duly submitted for forensic analysis may be used as evidence in any inquiry, trial or other proceedings;
 - (b) shall be admissible and shall be sufficient evidence of the facts or observations stated in the report; and
 - (c) for services rendered in relation to forensic science and forensic DNA profiling, shall be final and conclusive.
- (5) Where a forensic DNA report or any other forensic report is used in any proceedings in a court of law, the court may summon and examine the representatives of the ABFS on the veracity of the report.

PART VII

ADMISSIBILITY OF EVIDENCE

34. Properly obtained forensic evidence

- (1) Forensic evidence obtained through a forensic procedure carried out in accordance with this Act shall be admissible in a court of law.
- (2) In determining whether to admit the results of forensic DNA analysis referred to in subsection (1), the court may consider the following –
 - (a) the probative value of the evidence, including whether evidence of equal probative value could have been obtained by other means; or
 - (b) any other matters which are relevant in the opinion of the court.

35. Inadmissibility of evidence due to be destroyed

The results of DNA analysis and other evidence relating to forensic materials which are to be destroyed in accordance with this Act shall not be admissible as evidence in a court of law.

PART VIII POWERS OF SPECIAL FORENSIC SCIENTISTS

36. General Powers of Special Forensic Scientists

Every Special Forensic scientist shall, during his or her term of office, have all such powers, authorities and immunities, and be subject to all such duties and responsibilities as are conferred or imposed upon a member of the Royal Antigua and Barbuda Police Force, and shall on appointment, take and subscribe before a Magistrate or Justice of the Peace the oath or affirmation of office as set out in Schedule 2.

37. Authority of Special Forensic Scientists to carry and use firearms

- (1) It shall be lawful for the Minister to issue arms and ammunition to a Special Forensic Scientist of the ABFS to carry and use same for lawful purposes upon the authorization of the Forensic Director.
- (2) Every Special Forensic Scientist shall be provided, at the public expense, with such badge, weapons and other accoutrements as may be necessary for the execution of his or her duty, and shall return such badge, weapons and other accoutrements to the Minister at such time and place as he or she may direct.
- (3) A Special Forensic Scientist who wilfully neglects or refuses to make the return of the items issued under subsection (2) shall be guilty of an offence and shall be liable on summary conviction to a penalty not exceeding twenty-five hundred dollars (\$2,500.00) and in default, to imprisonment for a term not exceeding twelve (12) months.
- (4) It shall be lawful for any Magistrate or Justice of the Peace to issue a warrant to search for and seize any such weapons, articles or accoutrements which are not so delivered over and whenever the same may be found, to arrest the person in whose possession the same may be found.
- (5) Notwithstanding the provisions of the Firearms Act, a Special Forensic Scientist may carry and, in the course of duty, use a firearm, subject to the same rights and obligations applicable to a police officer under the Firearms Act and any other law, but the requirement under the Firearms Act to be in possession of a firearm user's licence with respect to firearms and ammunition shall not apply to a Special Forensic Scientist.

PART IX OFFENCES AND PENALTIES

38. Unauthorised use of bodily samples

A person who uses or allows the use of a bodily sample or a forensic DNA profile derived from a bodily sample contrary to this Act commits an offence and is liable on conviction to a fine not exceeding ten thousand dollars (\$10,000.00) or to a term of imprisonment not exceeding three (3) years, or both.

39. Unauthorised disclosure

A person, not being an employee or affiliate of the ABFS who –

- (a) gives, divulges, reveals, publishes or otherwise discloses to any person data, record, book, register, correspondence, documents, material or information without authorisation by the Forensic Director; or
- (b) accesses, disseminates or publishes information in the custody of the ABFS without written authorisation from the Forensic Director,

commits an offence and is liable on conviction to a fine not exceeding ten thousand dollars (\$10,000.00) or to a term of imprisonment not exceeding three (3) years, or both.

40. Unauthorised access to forensic DNA profile, forensic results or other privileged ABFS information

A person who accesses a forensic DNA profile, forensic results or other privileged ABFS information without the authorisation of the Forensic Director commits an offence and is liable on conviction to a fine not exceeding ten thousand dollars (\$10,000.00) or to a term of imprisonment not exceeding three (3) years, or both.

41. Offences against employees and affiliates of the ABFS and Special Forensic analysts

- (1) Any person who intentionally obstructs or hinders an employee or affiliate of the ABFS, Special Forensic analyst or any other person authorised under this Act in the course of performing his or her duties or carrying out a forensic procedure commits an offence and is liable on summary conviction to a fine not exceeding five thousand dollars (\$5,000.00) or to a term of imprisonment not exceeding one (1) year, or both.
- (2) Any person who assaults or resists an employee, affiliate of the ABFS, Special Forensic Scientist or any other person authorised under this Act in the course of performing his or her duties or carrying out a forensic procedure or analysis commits an offence and is liable –
 - (a) on summary conviction to a fine not exceeding five thousand dollars (\$5,000.00) or to imprisonment for a term not exceeding one (1) year, or both; or
 - (b) upon conviction on indictment to a fine not exceeding ten thousand dollars (\$10,000.00) or to a term of imprisonment not exceeding two (2) years, or both.

42. Unlawful disclosure of information

- (1) Any person, not being an employee or affiliate of the ABFS, who obtains or receives information about a forensic analysis or the investigation of an offence from the ABFS commits an offence if he or she knowingly or wilfully –
 - (a) discloses the information to any person; or
 - (b) discloses the fact that an analysis or investigation is being conducted by the ABFS.

- (2) A person who commits an offence under subsection (1) is liable –
 - (a) on summary conviction to a fine not exceeding twenty thousand dollars (\$20,000.00) or to a term of imprisonment not exceeding four (4) years or both; or
 - (b) on conviction on indictment to a fine not exceeding fifty thousand dollars (\$50,000.00) or to a term of imprisonment not exceeding five (5) years, or both.
- (3) Notwithstanding subsection (1), a person who receives such information may communicate that information to a legal practitioner for the sole purpose of obtaining legal advice.
- (4) Any legal practitioner who receives information for the purpose of subsection (3) shall be deemed to have received it from the ABFS and is subject to the provisions of subsection (1).

43. Impersonation of the Forensic Director or Deputy Forensic Director

- (1) Any person, not being the Forensic Director or the Deputy Forensic Director, who –
 - (a) impersonates the Forensic Director or Deputy Forensic Director; or
 - (b) is found in possession of identification or other designation purporting to be the identification or designation of the Forensic Director or Deputy Forensic Director,commits an offence and is liable on summary conviction to a fine not exceeding ten thousand dollars (\$10,000.00) or to a term of imprisonment not exceeding three (2) years or both.
- (2) Without limiting the scope of subsection (1), a person commits an offence under subsection (1) if that person, by words, conduct or demeanour holds himself out to be the Forensic Director or Deputy Forensic Director.

44. Miscellaneous offences

A person who –

- (a) destroys or alters a forensic DNA report or other forensic report generated in the process of carrying out forensic DNA analysis or other forensic analysis under this Act;
- (b) fails to give or refuses to give an authorised person information that may lawfully be required;
- (c) gives false information in any application in relation to matters under this Act; or
- (d) gives false or misleading information to the ABFS knowing it to be false or misleading,

commits an offence and is liable on conviction to a fine not exceeding ten thousand dollars (\$10,000.00) or to a term of imprisonment not exceeding three (3) years, or both.

**PART X
REGULATIONS**

45. Regulations

- (1) The Minister may after consultation with the Forensic Director, make regulations for the proper carrying out of the provisions of this Act.
- (2) Without limiting the generality of subsection (1) the Minister may, make Regulations in relation to the following –
 - (a) developing administrative procedures to govern the ABFS;
 - (b) procedures for sampling and submission of forensic material to the ABFS;
 - (c) procedures for management, retention and disposal of forensic material;
 - (d) standards relating to forensic science and forensic laboratories, facilities and qualifications of staff.
 - (e) fees and other charges payable by agencies, other law enforcement; and
 - (f) any other matter for the better carrying out of the provisions of this Act;
- (3) The Minister responsible for Finance may exempt agencies from the payment of the fees payable under subsection (2)(e).
- (4) The Minister may by Order amend Schedule 1.

SCHEDULE 1*Section 5(1)(a)**Chapter**Short title*

Cap. 155

The Evidence Act

Cap. 171

The Firearms Act

Cap. 283

The Misuse of Drugs Act

Cap. 330

The Police Act

*Number**Short title*

No. 17 of 2008

Office of National Drug and Money Laundering
Control Policy Act, 2008

No. 5 of 2009

The Evidence (Special Provisions) Act, 2009

No. 11 of 2013

The Electronic Evidence Act, 2013

No. 14 of 2003

The Electronic Crimes Act, 2003

No. 28 of 2018

The Cannabis Act, 2018

Clerk to the Senate.

EXPLANATORY MEMORANDUM

The purpose of this Bill is to establish a legislative framework for the establishment of the Antigua and Barbuda Forensic Services to assist law enforcement agencies in the investigation and prosecution of criminal offences. This body will operate as a Department under the Ministry of Public Safety.

The Bill contains 45 clauses divided over 10 Parts.

Part I – Preliminary (Clauses 1-2)

This Part contains standard clauses, namely the short title and commencement, as well as the definitions of terms used throughout the Act.

Part II– Establishment of The Antigua and Barbuda Forensic Services (Clauses 3-5)

This Part provides for the Establishment of the Antigua and Barbuda Forensic Services. The clauses detail the functions and purpose of the ABFS. The services provided by the ABFS will aid law enforcement agencies in the investigation and prosecution of offences.

Part III – Administration (Clauses 6-13)

This part provides for the appointment and functions of the Forensic Director and Deputy Forensic Director, as well as the duties and obligations of ABFS staff and protection from personal liability. It also provides for the disqualification from appointment to these offices and the circumstances which result in the vacation and retirement of the Forensic Director and Forensic Director.

Part IV – Financial Provisions (Clause 14)

This Part details the sources of revenue for the ABFS.

Part V – Forensic Procedures (Clauses 15-31)

This Part contains guidelines for conducting forensic procedures under this Act. It provides for the taking of bodily substances, the use of results of forensic DNA analysis as well as the retention, storage and expunging and the destruction DNA profiles. It also outlines general rules applicable to the conduct of forensic procedures, and requires that the Forensic Director develop and recommend to the Minister standards for quality management in relation to the operations of the ABFS.

Part VI – Post Collection Procedures (Clauses 32-33)

This Part outlines procedures which follow the conduct of forensic procedures to include the packing of samples and other DNA material, the generation of forensic reports and the provision of the results of DNA analysis to the relevant persons.

Part VII – Admissibility of Evidence (Clauses 34-35)

This Part details the admissibility of lawfully obtained forensic evidence and outlines the factors which the court may consider in determining whether to grant its admission into evidence. It also provides that forensic evidence obtained from analysis of forensic material which is to be destroyed is inadmissible.

Part VIII - Powers of Special Forensic analysts (Clauses 36-37)

This Part provides that outlines the powers of Affiliates of the ABFS or Special Forensic analysts in the execution of the provision of the Act.

Part IX – Offences and Penalties (Clauses 38-44)

This Part prescribes the offences under the Act and the penalties therefor.

Part X – Regulations (Clause 45)

This Part provides that the Minister may make regulations for the proper carrying of the provisions of the Act.

Schedules

Schedule 1 contains a list of the enactments for the purpose of which the ABFS may be required to conduct forensic procedures.

Schedule 2 contains the oath or affirmation of office and the oath or affirmation of secrecy that must be taken by every employee of the ABFS.

Hon. Sir Steadroy C.O. Benjamin KGCN
*Attorney General and
Minister with responsibility for Public Safety*