

THE MISCELLANEOUS PROVISIONS (TESTING AND IDENTIFICATION) BILL,

2021

EXECUTIVE SUMMARY

Bill No.:	House of Representatives Bill 2 of 2022
Introduced in:	House of Representatives
Introduced by:	The Honourable Fitzgerald Hinds [Minister of National Security]
Introduced on:	14-Jan-2022
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The Miscellaneous Provisions (Testing and Identification) Bill, 2022 was introduced to amend the following Acts:

- The Judicial and Legal Service Act, Chap. 6:01;
- The Prison Service Act, Chap. 13:02;
- The Defence Act, Chap. 14:01;
- The Police Service Act, Chap. 15:01;
- The Civil Service Act. Chap. 23:01;
- The Fire Service Act, Chap. 35:50;
- and The Financial Intelligence Unit of Trinidad and Tobago Act, Chap. 72:01

These amendments will provide a regulatory framework for polygraph and drug testing and biometric identification for members of the Protective Services and certain offices in the Judicial and Legal Service and the Civil Service.

The Bill was drafted to include nine clauses. The Bill has been considered inconsistent with Sections 4 and 5 of the Constitution – Rights Enshrined – and therefore, has required a special majority of three-fifths of the members of each House to be passed, pursuant to Section 13 – Exceptions For Certain Legislation.

The Bill has amended the aforementioned Acts to provide the relevant Heads of Departments with power to mandate the officers, under their purview, to submit polygraph or any other lie-detecting tests, drug tests, and the collection of their biometric information for the purposes of integrity testing.

The amendments have provided for the exercise of power to be restricted to the occurrence of specified circumstances such as, *inter alia*:

- where the officer performs intelligence or counter-intelligence;
- where the officer is assigned to a section, unit, department or division where top secret, secret, confidential or sensitive information is accessed, processed or stored;
- where there is reasonable suspicion that the officer is suspected of or involved in misconduct in relation to an ongoing investigation;
- where the officer has or had access to property, information or files that may be the subject of an investigation;
- where there is a reasonable suspicion that the officer was involved in a serious incident under investigation;
- where there is a reasonable suspicion that the officer is suspected of or involved in misconduct in relation to an ongoing investigation by law enforcement into the commission of a serious criminal offence;

- where a person is killed or injured as a result of the discharge of a firearm by the law officer or the use of physical force by the officer or while in lawful detention or custody (not applicable to the FIUTT); and
- where the officer is in proximity to a person charged or convicted of a serious criminal offence under any of the following Acts:
 - Dangerous Drugs Act
 - Anti-Terrorism Act
 - Trafficking in Persons Act

The Bill also provides for the results of the tests conducted and the biometric information collected to be treated as confidential and to be exempt from disclosure under the Freedom of Information Act, Chap. 22:02.