



**ANGUILLA**

**A BILL FOR**

**ANGUILLA POLICE (AMENDMENT) ACT, 2016**

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I Assent

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Christina Scott  
Governor

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Date

ANGUILLA

No. /2016

A BILL FOR

**ANGUILLA POLICE (AMENDMENT) ACT, 2016**

An Act to amend the Anguilla Police Act, R.S.A. c. A70 to give the police power to take measurements, photographs, fingerprint impressions and non-intimate samples on arrest.

[Gazette Dated: , 2016] [Commencement: Assent under section 57 of the Constitution]

ENACTED by the Legislature of Anguilla

**Interpretation**

1. In this Act the Anguilla Police Act, R.S.A. c. A70 is referred to as the “principal Act”.

**Amendment of section 1 of the principal Act**

2. (1) Section 1 of the principal Act is amended by inserting the following before the definition of “Commissioner of Police”—

““arrestable offence” means an offence for which a person may be arrested without a warrant under section 365 of the Criminal Code R.S.A. c C140;”.

(2) Section 1 of the principal Act is amended by inserting the following after the definition of—

(a) “Medical Board”—

““non-intimate sample” means—

(a) a footprint or a similar impression of any part of a person’s body other than a part of his or her hand;

- (b) a sample taken from a nail or from under a nail;
  - (c) a sample of hair other than a pubic hair;
  - (d) a swab taken from any part of a person's body other than a body orifice;
  - (e) a swab taken from the mouth; and
  - (f) saliva;" and
- (b) "non-intimate sample"—
- "photograph" includes digital photographs;".

### **Insertion of section 26A of the principal Act**

3. Section 26A is inserted in the principal Act as follows—

#### **Power to take measurements, photographs and fingerprints on arrest**

"26A (1) It shall be lawful for a *Gazetted* Police Officer or for any police officer of or below the rank of Inspector who is authorized by the Commissioner of Police to take and record for the purposes of identification, the measurements, photograph and fingerprint impressions of any person when he reasonably suspects based on information in his possession and the nature or character of the offence for which the person was arrested that his or her measurements, photograph and fingerprint impressions are required in the interest of justice for the purpose of investigating, detecting and prosecuting the offence for which the person was arrested.

(2) Any arrested person who refuses to consent to the taking of his or her measurements, photograph or fingerprint impressions shall be taken before a Magistrate and where the Magistrate is satisfied that the suspicion of the *Gazetted* or other police officer under subsection (1) is reasonable he may make an order authorising the taking of the measurements, photograph and fingerprint impressions.

(3) For the purposes of taking non-intimate samples in accordance with subsection (2) reasonable force may be used.

(4) Where any measurements, photograph and fingerprint impressions are taken of a person who has not previously been convicted of any criminal offence and that person is—

- (a) charged with that offence but discharged or acquitted by a court; or
- (b) not charged with the offence for which he or she was arrested;

all records relating to the measurements, photograph and fingerprint impressions shall be destroyed in the presence of a Gazetted Police Officer or handed over to the person within 48 hours of the discharge or acquittal.

(5) Where any measurements, photograph or fingerprint impression is destroyed in the presence of a Gazetted Police Officer the person shall be notified by mail within seven days that the measurements, photograph or fingerprint impressions has been destroyed.”.

#### **Amendment of section 27 of the principal Act**

4. Section 27 of the principal Act is amended by deleting subsection (4).

#### **Insertion of section 27A of the principal Act**

5. Section 27A is inserted in the principal Act as follows—

##### **Power to take non-intimate samples on arrest**

“27A (1) It shall be lawful for a *Gazetted* Police Officer or for any police officer of the rank of Inspector who is authorized in writing by the Commissioner of Police to take and record for the purposes of evidence non-intimate samples from any person arrested upon reasonable suspicion of being about to commit, in the act of committing or having committed an arrestable offence when he reasonably suspects based on information in his possession that the taking of non-intimate samples are required in the interest of justice for the purpose of investigating, detecting and prosecuting the offence for which the person was arrested.

(2) Before requesting consent to take and record for the purpose of evidence non-intimate samples from any person that person shall be given in writing the grounds for his arrest without warrant and the reason for taking non-intimate samples.

(3) Where a person gives consent to the taking of a non-intimate sample that consent shall be in writing.

(4) Any arrested person who refuses to consent to the taking of non-intimate samples shall be taken before a Magistrate and where the Magistrate is satisfied that the suspicion of the *Gazetted* or other police officer under subsection (1) is reasonable and that the taking of non-intimate samples are required in the interest of justice for the purpose of investigating, detecting and prosecuting the offence for which the person was arrested he may make an order authorising the taking of the non-intimate samples.

(5) Notwithstanding subsection (4) non-intimate samples may be taken for the purposes of subsection (1) from a person under arrest without consent where that person has been charged with an arrestable offence.

(6) For the purposes of taking non-intimate samples in accordance with subsection (4) or (5) reasonable force may be used.

(7) Non-intimate samples shall only be taken at a government hospital or health facility or at a police station.

(8) Where any non-intimate sample is taken of a person who has not previously been convicted of any criminal offence and that person is—

- (a) charged with that offence but discharged or acquitted by a court; or
- (b) not charged with the offence for which he was arrested;

all records relating to the non-intimate sample shall be destroyed in the presence of a *Gazetted* Police Officer or handed over to the person within 48 hours of the discharge or acquittal.

(9) Where any non-intimate sample is destroyed in the presence of a *Gazetted* Police Officer the person shall be notified by mail within seven days that the non-intimate sample has been destroyed.”.

#### **Insertion of section 27B of the principal Act**

6. Section 27B is inserted in the principal Act as follows—

##### **Admissibility as evidence**

“27B. Measurements, photographs, fingerprint impressions and non-intimate samples obtained under this Act are admissible in evidence before all courts having jurisdiction in Anguilla.

#### **Citation**

7. This Act may be cited as the—

Anguilla Police (Amendment) Act, 2016.

Leroy C. Rogers

*Speaker*

Passed by the House of Assembly this      day of      , 2016.

Lenox J. Proctor

*Clerk of the House of Assembly*

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**OBJECTS AND REASONS**  
**(The objects and reasons do not form part of the Bill)**

The Anguilla Police (Amendment) Bill, 2016 seeks to give the police the power to take measurements, photographs, fingerprint impressions and non-intimate samples from arrested persons. Further, those measurements, photographs, fingerprint impressions and non-intimate samples are admissible as evidence before the courts.

Rupert Jones  
Honourable Attorney General