



# BILL ESSENTIALS

BILL ESSENTIALS NO.13 2021–2022

2<sup>ND</sup> SESSION, 12<sup>TH</sup> PARLIAMENT

## Miscellaneous Provisions (Testing and Identification) Bill, 2021

THE PARLIAMENT OF  
TRINIDAD AND TOBAGO

### BILL ESSENTIALS

Date Introduced: January 14, 2022

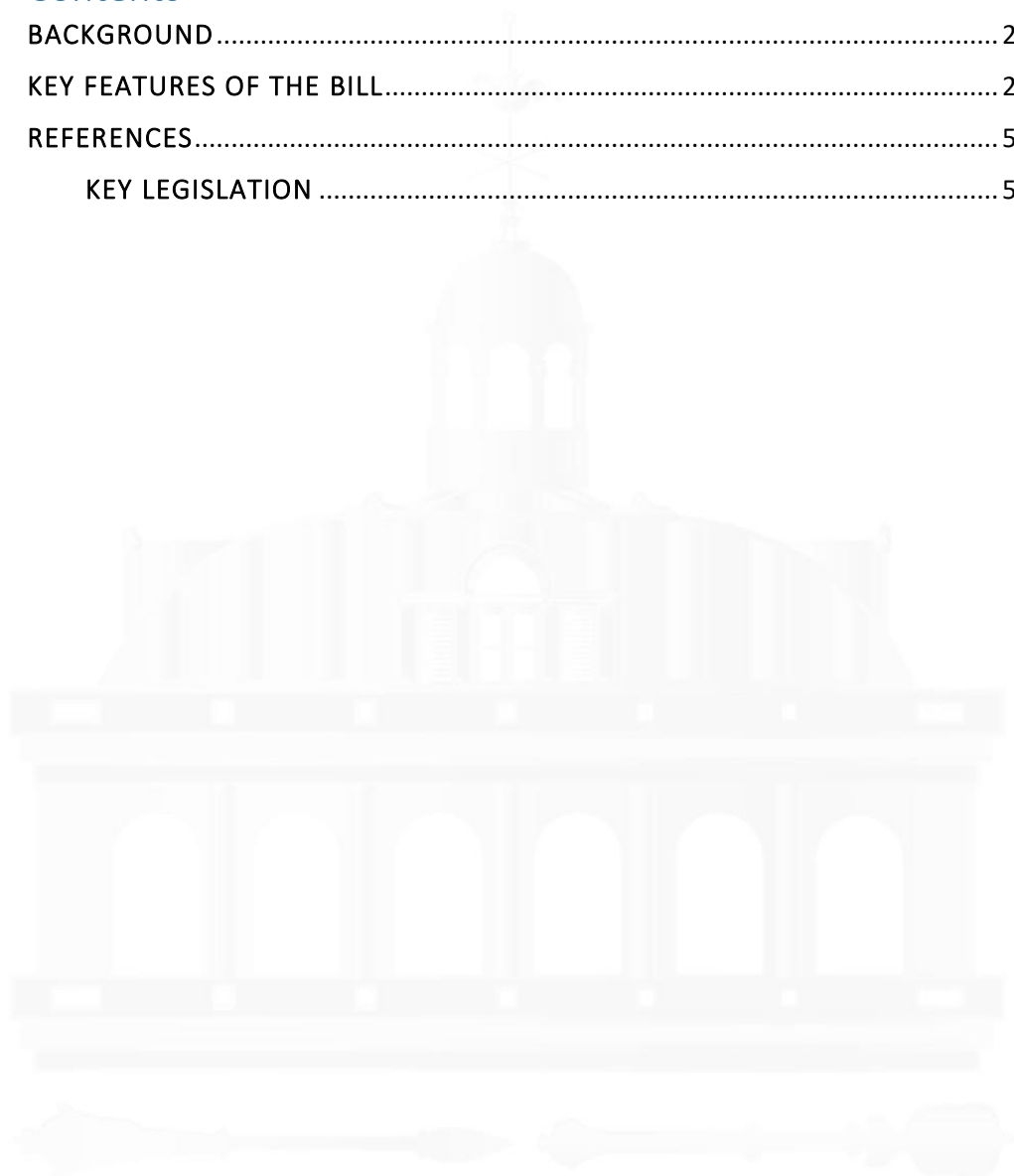
House: House of Representatives

Minister: The Honourable Attorney  
General and Minister of Legal Affairs

HOR Bill No: 13 of 2022

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Links: The links to the Bill, and its progress can be found on the Bill's home page through the Parliament's Website

<http://www.ttparliament.org/publications.php?mid=28&id=930>

## BACKGROUND

1. The **Miscellaneous Provisions (Testing and Identification) Bill, 2021** (hereinafter referred to as “the Bill”) was introduced in the House of Representatives by the Honourable Attorney General and Minister of Legal Affairs on January 14, 2022.
2. The Bill seeks to amend the following legislation:
  -  **Judicial and Legal Service Act, Chap. 6:01<sup>1</sup>,**
  -  **Prison Service Act, Chap. 13:02<sup>2</sup>,**
  -  **Defence Act, Chap. 14:01<sup>3</sup>,**
  -  **Police Service Act, Chap. 15:01<sup>4</sup>,**
  -  **Civil Service Act, Chap. 23:01<sup>5</sup>,**
  -  **Fire Service Act, Chap. 35:50<sup>6</sup>, and**
  -  **Financial Intelligence Unit of Trinidad and Tobago Act, Chap. 72:01<sup>7</sup>.**
3. The Bill would provide a regulatory framework for the conduct of polygraph or lie-detecting testing, drug testing and the collection of biometric information for members of the Protective Services and certain offices in the Judicial and Legal Service, the Civil Service and the Financial Intelligence Unit of Trinidad and Tobago.
4. The Bill is inconsistent with sections 4 and 5 of the Constitution and is therefore required, pursuant to section 13 of the Constitution, to be passed by a special majority of three-fifths of the members of each House.
5. The Bill, once passed, will come into effect on such date as is fixed by the President for proclamation.

## KEY FEATURES OF THE BILL

6. The Bill would confer an express power on the following office holders to order an officer or law officer, to submit to a polygraph or lie-detecting test, a drug test:

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<sup>1</sup> [https://rgd.legalaffairs.gov.tt/Laws2/Alphabetical\\_List/lawspdfs/6.01.pdf](https://rgd.legalaffairs.gov.tt/Laws2/Alphabetical_List/lawspdfs/6.01.pdf)

<sup>2</sup> [https://rgd.legalaffairs.gov.tt/laws2/Alphabetical\\_List/lawspdfs/13.02.pdf](https://rgd.legalaffairs.gov.tt/laws2/Alphabetical_List/lawspdfs/13.02.pdf)








<sup>3</sup> [https://rgd.legalaffairs.gov.tt/laws2/Alphabetical\\_List/lawspdfs/14.01.pdf](https://rgd.legalaffairs.gov.tt/laws2/Alphabetical_List/lawspdfs/14.01.pdf)

<sup>4</sup> [https://rgd.legalaffairs.gov.tt/laws2/alphabetical\\_list/lawspdfs/15.01.pdf](https://rgd.legalaffairs.gov.tt/laws2/alphabetical_list/lawspdfs/15.01.pdf)








<sup>5</sup> [https://rgd.legalaffairs.gov.tt/laws2/Alphabetical\\_List/lawspdfs/23.01.pdf](https://rgd.legalaffairs.gov.tt/laws2/Alphabetical_List/lawspdfs/23.01.pdf)


<sup>6</sup> [https://rgd.legalaffairs.gov.tt/laws2/Alphabetical\\_List/lawspdfs/35.50.pdf](https://rgd.legalaffairs.gov.tt/laws2/Alphabetical_List/lawspdfs/35.50.pdf)


<sup>7</sup> [https://rgd.legalaffairs.gov.tt/laws2/Alphabetical\\_List/lawspdfs/72.01.pdf](https://rgd.legalaffairs.gov.tt/laws2/Alphabetical_List/lawspdfs/72.01.pdf)

-  Head of Department in the Customs and Excise Division, the Immigration Division, the Board of Inland Revenue and the Registrar General's Department of the Judicial and Legal Service Commission, respectively;
-  Commissioner of Prisons;
-  Chief of Defence Staff;
-  Commissioner of Police;
-  Head of Department in the Customs and Excise Division, the Immigration Division, the Board of Inland Revenue and the Registrar General's Department of the Civil Service, respectively;
-  Chief Fire Officer; and
-  Head of the Financial Unit of Trinidad and Tobago.

7. The proposed legislation also empowers these office holders to collect biometric information for the purpose of, *inter alia*, integrity testing where:


-  the officer performs any intelligence or counter-intelligence functions;
-  the officer is assigned to a section, unit, department or division where top secret, secret, confidential or sensitive information is accessed, processed or stored;
-  the officer is part of or involved in an ongoing investigation involving economic loss such as theft, embezzlement, misappropriation, serious or complex fraud or an act of sabotage or espionage or money laundering;
-  the officer has or had access to property, information or files that may be the subject of an investigation;
-  there is a reasonable suspicion that the officer was involved in a serious incident under investigation;
-  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;
-  the duties performed by the officer in relation to his office, post or activities involves having access to or dealing with top secret, secret, confidential or sensitive information;

 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<sup>8</sup>; or

 the officer is in proximity to a person charged or convicted of a serious criminal offence under any of the following Acts<sup>9</sup>:

- **Dangerous Drugs Act<sup>10</sup>**;
- **Anti-Terrorism Act<sup>11</sup>**; or
- **Trafficking in Persons Act<sup>12</sup>**.

8. As a result of the proposed changes to the relevant legislation, the Bill would also provide for the interpretation of the following terms:


 “*confidential or sensitive information*” means information which reasonably could be expected to cause damage to national security if disclosed without prior written authorization;

 “*law officer*” means:

- A legal officer of a Department;
- An Attorney-at law employed by the State on contract in a Department.

 “*officer*” means:

- An expert or consultant on contract or an employee of such expert or consultant on that particular job with the Prison Service, the Defence Force, the Police Service, the specified Department, the Fire Service and the Financial Intelligence Unit.
- Person employed on contract in the Prison Service, the Defence Force, the Police Service, and the specified Department, the Fire Service and the Financial Intelligence Unit.

 “*secret information*” means information which reasonably could be expected to cause serious damage to national security if disclosed without prior written authorization;




<sup>8</sup> This circumstance is not applicable to the Head of the Financial Unit of Trinidad and Tobago.

<sup>9</sup> This circumstance is not applicable to the Chief Fire Officer and the Head of the Financial Unit of Trinidad and Tobago.



<sup>10</sup> [https://rgd.legalaffairs.gov.tt/laws2/Alphabetical\\_List/lawspdfs/11.25.pdf](https://rgd.legalaffairs.gov.tt/laws2/Alphabetical_List/lawspdfs/11.25.pdf)

<sup>11</sup> [https://rgd.legalaffairs.gov.tt/laws2/Alphabetical\\_List/lawspdfs/12.07.pdf](https://rgd.legalaffairs.gov.tt/laws2/Alphabetical_List/lawspdfs/12.07.pdf)

<sup>12</sup> [https://rgd.legalaffairs.gov.tt/laws2/alphabetical\\_list/lawspdfs/12.10.pdf](https://rgd.legalaffairs.gov.tt/laws2/alphabetical_list/lawspdfs/12.10.pdf)

-  “serious criminal offence” means an offence punishable with a term of imprisonment of five or more years;
-  “serious incident” means an accident resulting in the death of or injury to a person, damage to or destruction of property or environmental harm or any risk of such death, injury, damage, destruction or harm; and
-  “top secret information” means information which reasonably could be expected to cause exceptionally grave damage to national security if disclosed without prior written authorization.





9. The Bill would also empower the President<sup>13</sup> to make Regulations, subject to the affirmative resolution of Parliament, for:

-  the conduct of the tests on, and the collection of biometric information of an Officer and a person applying for appointment to an office in the specified section, unit, department or division; and
-  the storage, maintenance, disclosure and destruction of the results of the tests and the collection of the information.

10. The Bill would provide that the results of the tests conducted and the information collected must be treated as confidential and are not to be disclosed except where disclosure is requested under the **Freedom of Information Act Chap 22:02**<sup>14</sup>.

## REFERENCES

### KEY LEGISLATION

-  **The Judicial and Legal Service Act, Chap. 6:01**  
[https://rgd.legalaffairs.gov.tt/Laws2/Alphabetical\\_List/lawspdfs/6.01.pdf](https://rgd.legalaffairs.gov.tt/Laws2/Alphabetical_List/lawspdfs/6.01.pdf)
-  **Prison Service Act, Chap. 13:02**  
[https://rgd.legalaffairs.gov.tt/laws2/Alphabetical\\_List/lawspdfs/13.02.pdf](https://rgd.legalaffairs.gov.tt/laws2/Alphabetical_List/lawspdfs/13.02.pdf)
-  **The Defence Act, Chap. 14:01**  
[https://rgd.legalaffairs.gov.tt/laws2/Alphabetical\\_List/lawspdfs/14.01.pdf](https://rgd.legalaffairs.gov.tt/laws2/Alphabetical_List/lawspdfs/14.01.pdf)
-  **Police Service Act, Chap. 15:01**  
[https://rgd.legalaffairs.gov.tt/laws2/alphabetical\\_list/lawspdfs/15.01.pdf](https://rgd.legalaffairs.gov.tt/laws2/alphabetical_list/lawspdfs/15.01.pdf)

<sup>13</sup> The Minister has the power to make Regulations in the Civil Service and the Financial Unit of Trinidad and Tobago, respectively.

<sup>14</sup> [https://rgd.legalaffairs.gov.tt/laws2/alphabetical\\_list/lawspdfs/22.02.pdf](https://rgd.legalaffairs.gov.tt/laws2/alphabetical_list/lawspdfs/22.02.pdf)

**Civil Service Act, Chap. 23:01**

[https://rgd.legalaffairs.gov.tt/laws2/Alphabetical\\_List/lawspdfs/23.01.pdf](https://rgd.legalaffairs.gov.tt/laws2/Alphabetical_List/lawspdfs/23.01.pdf)

**Fire Service Act, Chap. 35:50**

[https://rgd.legalaffairs.gov.tt/laws2/Alphabetical\\_List/lawspdfs/35.50.pdf](https://rgd.legalaffairs.gov.tt/laws2/Alphabetical_List/lawspdfs/35.50.pdf)

**Financial Intelligence Unit of Trinidad and Tobago Act, Chap. 72:01**

[https://rgd.legalaffairs.gov.tt/laws2/Alphabetical\\_List/lawspdfs/72.01.pdf](https://rgd.legalaffairs.gov.tt/laws2/Alphabetical_List/lawspdfs/72.01.pdf)

**Freedom of Information Act, Chap. 22:02.**

[https://rgd.legalaffairs.gov.tt/laws2/alphabetical\\_list/lawspdfs/22.02.pdf](https://rgd.legalaffairs.gov.tt/laws2/alphabetical_list/lawspdfs/22.02.pdf)

**Dangerous Drugs Act, Chap: 11:25**

[https://rgd.legalaffairs.gov.tt/laws2/Alphabetical\\_List/lawspdfs/11.25.pdf](https://rgd.legalaffairs.gov.tt/laws2/Alphabetical_List/lawspdfs/11.25.pdf)

**Anti-Terrorism Act, Chap. 12:07**

[https://rgd.legalaffairs.gov.tt/laws2/Alphabetical\\_List/lawspdfs/12.07.pdf](https://rgd.legalaffairs.gov.tt/laws2/Alphabetical_List/lawspdfs/12.07.pdf)

**Trafficking in Persons Act, Chap. 12:10**

[https://rgd.legalaffairs.gov.tt/laws2/alphabetical\\_list/lawspdfs/12.10.pdf](https://rgd.legalaffairs.gov.tt/laws2/alphabetical_list/lawspdfs/12.10.pdf)

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