



State of Connecticut

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Testimony of
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Raised Bill No. 5034

An Act Concerning DNA Collection from Certain Arrestees and Convicted Persons

Raised Bill No. 692

An Act Requiring DNA Testing of Certain Arrested Persons

Judiciary Committee Public Hearing
March 20, 2008

The Office of Chief Public Defender opposes *Raised Bill No. 5034, An Act Concerning DNA Collection from Certain Arrestees and Convicted Persons* and *Raised Bill No. 692, An Act Requiring DNA Testing of Certain Arrested Persons* to the extent that the bill requires that a DNA sample be taken from any person who is arrested for committing an A or B felony. In short, our objection to this bill is that it extends the requirement to submit to DNA testing to anyone accused of committing an A or B felony even though he/she has not been convicted of a crime. We submit that this proposed bill violates the constitutional protections afforded by the state and federal constitutions, is in conflict with the presumption of innocence and only minimally increases the size of the DNA databank.

The Office of Chief Public Defender does not oppose a legislative change that will increase the size of the DNA databank, thus enhancing its value as a law enforcement tool. In fact, we believe that legislative change is appropriate with respect to the timing of taking DNA samples from convicted felons. Under current law, all persons convicted of a felony must give DNA samples. The problem is that under current law, such samples must be taken prior to discharge from the Department of Correction and Court Support Services (probation). Accordingly, the law authorizes the state to obtain a great deal of forensic information, but allows for that process to be delayed by months, years and even decades. If the goal is to enhance the size of the data base for law enforcement purposes, the constitutional solution to this issue is to require that DNA samples be taken from those convicted of felonies upon their sentencing for those offenses.

Requiring DNA from every person who is arrested for A or B felonies violates the constitutional protections afforded pursuant to the 4th amendment of the Constitution of the

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United States as well as Article First, section 7 of the Connecticut Constitution as amended. While courts have held that a requirement to provide DNA samples is constitutional for those convicted of crimes, this proposed legislation requires that such samples be given based solely upon the status of being accused of a crime. In addition to violating the constitutional protections regarding search and seizure, this proposal also ignores the presumption of innocence. A person accused of a crime is presumed to be innocent: that presumption is lost, and the status of that person changes, only after guilt has been proven beyond a reasonable doubt.

In fact, the proposed legislation does little to enhance the size of the data base. All those charged with A or B felonies who are subsequently convicted of any felony are required by our law, as it exists today, to give a DNA sample. Any person who is charged with an A or B felony who is acquitted, or whose case is nolle or dismissed, would have their sample removed from the database. Thus, the enhancement of the database would only apply to those persons charged with A or B felonies, but who through the court process were determined to have committed misdemeanors. An informal survey of our attorneys reveals that this will be a very small group.

The taking of a DNA sample is a monumental invasion of a person's privacy. A genetic profile contains enormous amounts of medical and other information about a person. The information, however, is not only limited to that person, but also includes a vast amount of information about persons who are related to them. Scientists' understanding of the human genome is growing at an incredibly fast pace. While the amount of information from the genetic profile that scientists are able to discern today is great, it is likely to be only a fraction of what they will know in the years to come. Although used for identification purposes, the human genome contains untold information that is undiscoverable from any other source.

The present practice is that the Department of Public Safety Forensic Laboratory maintains the sample (containing the entire human genome and all that information) in perpetuity. Thus, in addition to the identification information contained in the DNA portions used for forensic comparison, samples also contain all of that person's genetic information. While it is true that the information sent to the Federal government is considerably less, it does contain identification information not only about the person from whom the sample was obtained, but also from their family members.

Another reason we object to this bill is that it will have the result of a **disproportional number of minorities** being included in the DNA data bank. For reasons that have been discussed for years, and continue to be discussed today, disproportional numbers of minorities are arrested for crimes in this country. Connecticut is no exception. Accordingly,

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expanding the submission of DNA samples to those arrested for crimes will only further increase the disproportional representation of minorities in the data banks.

For the reasons stated, the Office of Chief Public Defender requests that this bill not be adopted.