



**State of Connecticut**  
**DIVISION OF CRIMINAL JUSTICE**

**Testimony of the Division of Criminal Justice**  
**Joint Committee on Judiciary – March 6, 2009**

- **S.B. No. 542 An Act Concerning the Taking of a DNA Sample from Convicted Persons**
- **H.B. No. 6381 An Act Concerning DNA Collection from Certain Convicted Individuals**
- **H.B. No. 6573 An Act Requiring DNA Testing of Certain Arrested Persons**

The Division of Criminal Justice appreciates this opportunity to comment on the various bills before the Committee dealing with the collection of DNA. The Division of Criminal Justice would call the Committee's attention to similar legislation pending before the Joint Committee on Public Safety and Security. We have met with representatives of the Public Safety Committee to initiate what we hope will be the drafting of a comprehensive bill dealing with all DNA-related issues.

Our proposals reflect the deliberations of the DNA Data Bank Oversight Panel established pursuant to section 54-102m of the general statutes and which consists of the Chief State's Attorney, the Attorney General, the Commissioner of Public Safety and the Commissioner of Correction or their designees. It oversees the administration of the DNA Data Bank where all DNA samples collected pursuant to state law are maintained.

The Division notes that two of the proposals currently before the Committee seek to expand the categories of individuals who are required to submit samples, Committee Bill No. 542 to all persons convicted of class A or B misdemeanors and Raised Bill No. 6573 to all persons arrested and charged with felonies. The Division of Criminal Justice supports the proposed expansions as they are consistent with what is being done in other states around the country and will provide law enforcement officials with a better means of ensuring the identities of those they have arrested and/or convicted. The Division recognizes, however, that the costs associated with expanding the pool from which samples may be taken will be substantial. The determination of whether those costs can be borne by the State at this point in time is one of policy that should be made by this body.

Aside from expanding the categories from which the samples may be taken the bills do provide some necessary changes to the manner in which DNA is collected. Governor's Bill No. 6381 increases the penalty for refusing to provide a sample to a class D felony and also authorizes Correction officials to use reasonable force to take a sample if the person required to provide it refuses to do so. A data bank is worthless without deposits -- in order to make the data bank work samples must be obtained so that profiles can be entered into it. At the present time, an individual can thwart the purpose of the data bank by simply refusing to provide a sample. While the person would be subject to the punishment for a class A misdemeanor, that punishment might pale in comparison to that which he or she might receive for a crime for which the person is responsible but has been able to avoid detection. The Division notes that other jurisdictions have provisions allowing the use of force to obtain a sample.

Committee Bill No. 542 authorizes the taking of samples from persons who have pleaded or been found guilty of a crime prior to sentencing. The Division believes that the procedure outlined in the bill would improve the efficiency with which the samples are collected but believes that a similar improvement in efficiency can be achieved by transferring the responsibility for collecting DNA samples from individuals who do not receive jail terms or probation from the Department of Public Safety to the Judicial Branch. The Division also supports the concept of Section 3 of this bill, which strengthens the procedures to ensure the removal from the DNA Data Bank and destruction of samples taken from individuals who are subsequently acquitted of the crime or crimes that resulted in the taking of the sample.

The Division also recommends a number of other changes to improve the efficiency and the effectiveness of the DNA Data Bank. These improvements include:

- A technical change to require that any sample collected is of sufficient quality to allow for analysis. This in no way expands the Data Bank, but merely clarifies that we have the right to collect a sample that can be analyzed. Current law is unclear about whether the State can obtain another sample if the previously obtained one is not sufficient for analysis.
- Making the submission of a sample under a false name a crime.
- Establishing that the Division of Scientific Services within the Department of Public Safety has the authority to set the standards for the means of collecting samples by buccal swabs to provide for consistency.
- Allow the administrators of the data bank to advise law enforcement officials whether a particular individual is in the data bank. Such a provision will help the police to more quickly eliminate suspects in criminal investigations. Currently, if law enforcement officials submit a sample for comparison and no match is obtained they are told simply that there was no match. If the law enforcement officials were able to find out that a particular suspect was in the data bank at the time of the comparison they very well might be able to eliminate that person as a suspect and continue on with their investigation. The mere knowledge that the person's DNA is in the data bank – but did not match that submitted for analysis – may be enough to remove that person as a suspect.
- Authorizing the addition of a representative of the Judicial Branch to the DNA Data Bank Oversight Panel.
- Prevent an arrest or conviction from being invalidated if it is determined that the biological sample from which the DNA profile was obtained was placed in the data bank in good faith.
- Provide that neither the state nor any of its officers is civilly liable for good faith efforts to collect biological samples for and maintain the data bank.

The Division of Criminal Justice believes a comprehensive DNA bill should include these provisions, which do not involve any additional costs to the state. The Division thanks the Committee for this opportunity address this issue and would be happy to provide any additional information or answer any questions the Committee might have.