

CCDLA
"Ready in the Defense of Liberty"
Founded 1988

**Connecticut Criminal Defense
Lawyers Association**
P.O. Box 1766
Waterbury, CT 07621-1776
(860) 283-5070 Phone/Fax
www.ccdla.com

March 20, 2015

The Honorable Eric D. Coleman
The Honorable William Tong
Chairmen
Joint Committee on Judiciary
Room 2500, Legislative Office Building
Hartford, Connecticut 06106

Re: Raised Bill No. 7013 – An Act Concerning DNA Testing for Persons Arrested for Murder or Sexual Assault

Dear Chairmen and Committee Members:

The Connecticut Criminal Defense Lawyers Association (CCDLA) is a statewide organization of over 300 licensed lawyers, in both the public and private sectors, dedicated to defending persons accused of criminal offenses. Founded in 1988, the CCDLA works to improve the criminal justice system by ensuring that the individual rights guaranteed by the Connecticut and United States constitutions are applied fairly and equally and that those rights are not diminished.

The CCDLA has significant concerns about the constitutionality of **Raised Bill No. 7013, An Act Concerning DNA Testing for Persons Arrested for Murder or Sexual Assault**. On June 3, 2013, in *Maryland v. King*, 133 S. Ct. 1958 (2013), by a vote of 5 to 4, the United States Supreme Court held that Maryland's statutory scheme governing the collection of DNA samples from people that have been arrested for—but not convicted of—serious felonies did not violate the constitutional right to be free of unreasonable searches and seizures, under the Fourth and Fourteenth Amendments to the United States Constitution.

With the addition of Raised Bill No. 7013, as drafted, Connecticut's statutory scheme for the collection of DNA samples from arrestees would be unconstitutional for at least three reasons: First, the statutory scheme would permit the collection of DNA samples from arrestees before a finding of probable cause. Second, it would not properly limit how the DNA samples could be used. For example, Maryland's statutory scheme explicitly limits the use of DNA samples of arrestees to the identification of the arrestees, and it explicitly prohibits the use of the DNA samples for conducting familial searches (investigations related to family of the arrestees). Third, it fails to mandate the destruction of DNA samples collected from arrestees when the charges do not result in a conviction.

While the collection of DNA samples from arrestees can be done in a manner that is consistent with the constitutional right to be free from unreasonable searches and seizures, Raised Bill No. 7013 falls far short of what was approved in *Maryland v. King*. For that reason, the CCDLA strongly urges that Raised Bill 1031 not be passed.

If you have any questions regarding this testimony please feel free to contact me.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Damon A. R. Kirschbaum', with a large, sweeping flourish extending to the right.

Damon A. R. Kirschbaum
Board of Directors, CCDLA
860-522-7000 x101