



**CONNECTICUT
CRIMINAL
DEFENSE LAWYERS
ASSOCIATION**

Connecticut Criminal Defense Lawyers Association

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**Governor's Bill No. 18 - *An Act Concerning DNA Testing for Persons Arraigned for a Serious Felony*
Judiciary Public Hearing – March 23, 2016**

The Connecticut Criminal Defense Lawyers Association is a not-for-profit organization of more than three hundred lawyers who are dedicated to defending persons accused of criminal offenses. Founded in 1988, CCDLA is the only statewide criminal defense lawyers' organization in Connecticut. An affiliate of the National Association of Criminal Defense Lawyers, CCDLA works to improve the criminal justice system by insuring 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 concerns about **Raised Bill No. 5474 – An Act Concerning DNA Testing for Persons Arraigned for a Serious Felony**. 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.

This Raised Bill is an improvement over previous years' proposals because it requires the existence of an arraignment or finding of probable cause before DNA can be collected and it provides for the automatic destruction of DNA upon a dismissal or reversal of conviction.

However, there are other problems with the Raised Bill:

- There are no restrictions imposed on any agency to limit their use of the DNA collected.
- The crimes of arrest are broader than what the Supreme Court considered in *Maryland v. King*, seemingly applying to non-violent, non-“serious” felonies as well.

Part of the justification of the decision in *Maryland v. King* was the balancing of intrusion against its reasonableness. The court reasoned that identifying suspects who have a propensity for violence or who may have committed violent acts outweighs the right to be free from that intrusion of a buccal swab.

This is diluted in the instant bill because the crimes for which such a DNA draw is permitted are wide and varied and cover non-violent offenses as well, such as Burglary in the Third Degree and Sexual Assault in the Fourth Degree, a misdemeanor.

The CCDLA is concerned that this bill is broader than the one held constitutional in *Maryland v. King*.

In addition, the CCDLA opposes this bill on policy grounds. It is our belief that presumption of

innocence must be paramount and that subjecting arrestees to intrusions such as providing DNA must be resisted until and unless a person is actually found guilty of a crime.

Thus, the CCDLA urges this committee to take no action on **Raised Bill 5474**.