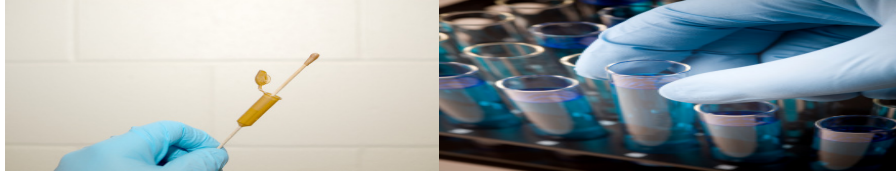


# Vote NO on HB 4466 (Rep. Mendoza/Sen. Althoff)



## **DNA Collection of Arrestees Tramples Medical Privacy**

House Bill 4466 would require the government to take DNA not only from convicted persons, as under current law, but also from *all* persons arrested for felonies – a population that has not been convicted and may never be. This expansion of forced DNA testing is a leap down a slippery slope towards forced testing of the general public.

### **Unlike Fingerprints, DNA Testing Discloses Highly Private Health Information:**

In addition to providing identifying information, DNA also **reveals intimate medical information** about a person and his or her family, including proclivity for certain diseases.

Although DNA labs are authorized to obtain only identifying information, they may also be extracting private medical information from “junk DNA.” Leaders in the DNA field, like the McKusick-Nathans Institute of Genetic Medicine at John Hopkins (2006) and the Stanford University Medical Center (2007), are reaching consensus that “[l]arge swaths of garbled human DNA once dismissed as junk appear to contain some valuable sections,” which reveal sensitive health information.

### **DNA Databank Expansions Do NOT Make Us Safer:**

Constant **expansions of DNA databanks overwhelm DNA labs and siphon resources away from high priority cases**, making us less safe. In Britain, where in recent years their DNA database has been flooded with thousands of arrestees, the number of crimes resolved has not significantly increased and crime rates have not declined.

### **Forced DNA Testing Should Stop with Convicted Persons:**

Arrests and convictions are fundamentally different. Arrested persons are **presumed innocent**, because a single police officer may make an arrest based on mere probable cause. Convicted persons, on the other hand, are **found guilty** beyond a reasonable doubt by a jury, after receiving all of the due process protections of the criminal justice system, including assistance of counsel.

The next logical step, after forced DNA testing of arrestees, will be testing of other groups with a diminished expectation of privacy, such as public school students and applicants for government jobs or licenses. Indeed, a leading conservative judge has warned: “The time to put the cork back in the brass bottle is now – before the genie escapes.” *United States v. Kincaid*, 379 F.3d 813, 875 (9th Cir. 2004) (Kozinski, J., dissenting) (arguing against forced DNA testing of parolees).

### **HB 4466 Would Disparately Impact People of Color:**

Arrest rates are partially the byproduct of police deployment decisions and the choices of individual officers. And, minorities are arrested – often wrongly – at a higher rate than the general population. Contrary to the claims of some forced testing supporters, HB4466 would not assist those falsely accused of crimes, who are likely to volunteer their DNA to exonerate themselves.

### **HB 4466 Would Cost Millions Per Year:**

Testing often costs \$100/sample, and **tens of thousands are arrested but not convicted** every year in Illinois.

### **HB 4466 Would Harm the Presumably Innocent:**

Police would invade the physical integrity of arrested persons by forcibly taking a tissue or saliva sample. The state would create a permanent dossier, which is shared with local, state and federal agencies across the country. This massive dissemination carries the intrinsic danger of wrongful disclosure of intimate medical information. **Expungement after acquittal, however, is NOT an adequate remedy.** During the months or years between arrest and acquittal, the DNA will be disseminated nationwide.

### **HB 4466 is Unconstitutional & Unnecessary:**

HB 4466 violates the Illinois Constitution’s protection of privacy (Article I, § 6), and the U.S. Constitution’s prohibition against unreasonable searches (the Fourth Amendment). A Minnesota appellate court recently struck down that state’s DNA-on-arrest statute as unconstitutional. *In re C.T.L.*, 722 N.W.2d 484 (Minn. App. Ct. 2006). “If we . . . allow law enforcement to obtain identifying [DNA] information . . . whenever a person is lawfully arrested for any offense, it would snuff out probable cause – the oxygen for the Fourth Amendment.” *State v. McKinney*, 730 N.W.2d 74, 84 (Neb. 2007).

The only possible justification for DNA testing of arrestees is investigatory and if law enforcement has reason to suspect an individual arrestee then the officers should seek a warrant.

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(4/26/2008)