

**Oppose HB 779:
Forced DNA testing of arrestees threatens the privacy of all**

HB 779 would require the government to take DNA not only from convicted persons, as under current law, but also from all persons arrested for felonies. This expansion of forced DNA testing is a leap down a slippery slope towards forced testing of the general public.

DNA testing discloses highly private information.

- DNA reveals intimate medical and other information about a person and his or her family, such as proclivity for certain diseases. DNA is unlike fingerprints, which serve as mere identifiers.
- Although DNA labs are authorized to obtain only identifying information, they may also be obtaining private medical information. For example, scientists previously believed that “junk DNA” does not reveal medical characteristics, but new research in this fast-moving science shows that it may contain information about diseases like cancer. *See, e.g., Genetic Code of Mouse Published*, Wash. Post (Dec. 5, 2002).

Forced DNA testing should stop with convicted persons, and not expand to arrested persons.

- Arrests and convictions are fundamentally dissimilar. 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.
- After forced DNA testing of arrested persons, the next logical step will be testing of other groups with a diminished expectation of privacy, such as public school students, and applicants for government jobs and 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. Kincade*, 379 F.3d 813, 875 (9th Cir. 2004) (Kozinski, J., dissenting) (arguing against testing parolees).

HB 779 would disparately impact people of color, who are arrested – often wrongly – at a higher rate than the general population. And contrary to the claims of some forced testing supporters, HB 779 would not assist those falsely accused of crimes, who are likely to volunteer their DNA to exonerate themselves.

HB 779 would cost Illinois taxpayers many millions of dollars per year. Testing often costs \$100 per sample, and tens of thousands of people are arrested but not convicted every year in Illinois.

HB 779 would cause severe and continuing harms to the presumably innocent arrested persons.

- Police would invade the physical integrity of arrested persons by forcibly taking a tissue or saliva sample.
- The state would create a permanent dossier and repeatedly search it to investigate future crimes.
- Illinois DNA records are shared with local, state and federal agencies across the country. This massive dissemination carries the intrinsic danger of wrongful disclosure of intimate medical information. Resulting harms could include discrimination by employers and insurers.
- Expungement after acquittal is not an adequate remedy. During the months or years between arrest and acquittal, the DNA will be disseminated nationwide.

HB 779 is unconstitutional. It violates the Illinois Constitution’s protection of privacy (Article I, § 6), and the U.S. Constitution’s prohibition against unreasonable searches (the Fourth Amendment).

**For further information, please contact:
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