



Maryland Chiefs of Police Association

Maryland Sheriffs' Association



MEMORANDUM

TO: The Honorable William C. Smith Jr., Chairman and
Members of the Judicial Proceedings Committee

FROM: Chief David Morris, Co-Chair, MCPA, Joint Legislative Committee
Sheriff Darren Popkin, Co-Chair, MSA, Joint Legislative Committee
Andrea Mansfield, Representative, MCPA-MSA Joint Legislative Committee

DATE: March 10, 2020

RE: **SB 848 – Public Safety – DNA Collection, Records, Analysis, and Reporting**

POSITION: OPPOSE

The Maryland Chiefs of Police Association (MCPA) and the Maryland Sheriffs' Association (MSA) OPPOSE SB 848. This bill puts numerous requirements in place with respect to the collection, analysis and reporting of DNA records.

The Judiciary Committee held a work session on the use of DNA and genealogical databases during the interim in which there seemed to be general agreement on a legislative approach that reflected recently released guidelines issued by the Department of Justice. SB 848 as introduced does not reflect the DOJ guidelines nor the discussions of the workgroup.

While understanding the broader concerns with respect to privacy and improper use of DNA and genealogical data. MCPA and MSA must raise several concerns with this legislation.

1. The Direct to Consumer Genetic Genealogy Service definition is incorrect. This definition should only apply to entities that test DNA samples, not include entities that store DNA records. The prior includes services such as 23andMe and Ancestry while the latter includes services such as GEDmatch.
2. Legislation specific to Genetic Genealogy should not be drafted to the Public Safety Article, Title 2, Subtitle 5. Genetic Genealogy is not related to State DNA Database System practices.
3. 2-504 (A) is very problematic for two reasons:
 - a. It eliminates the ability to secure "covert" samples (i.e. discarded cigarette, cup, etc.) under any circumstances. Collection of these items have been determined by the courts to be constitutional and furthermore the DOJ interim policy allows for the use of covert samples for genetic genealogy if that seeking consent would compromise the integrity of the investigation.

- b. It eliminates the ability to enter into the State DNA Database System samples from suspects and deceased victims which is currently allowed at the State level and although perhaps controversial, doesn't have anything to do with Genetic Genealogy.
4. 2-511 (A) (IV) requires DNA samples to be destroyed or expunged from the database if the sample does not match evidence from a crime scene. This runs counter to the basic premise of the State DNA Database System, which is the ability to match DNA Database Samples to Crime Scene Evidence Samples as samples are added to the database.

MCPA and MSA, joined by the Maryland State Police, has talked with the sponsor about law enforcement's concerns with the bill as introduced and we are committed to working with the sponsor and Committee on these issues. However, MCPA and MSA must oppose SB 848 as introduced.

For these reasons, MCPA and MSA OPPOSE SB 848 and urge an UNFAVORABLE Committee report.