



## Testimony for the Senate Judicial Proceedings Committee

March 10, 2020

### SB 848 Public Safety - DNA Collection, Records, Analysis, and Reporting

#### FAVORABLE with AMENDMENTS

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The ACLU of Maryland urges a favorable report on SB 848, with the sponsor's amendments to make the bill a study of the use of DNA records by law enforcement.

Several companies, including Ancestry.com and 23andMe, maintain databases of DNA and other genealogical information about persons who willingly submit samples with the hope of learning more about their familial relationships. These individuals—and their familial networks—should not waive their basic privacy rights as a result of this personal, commercial activity.

Privacy safeguards maintained by these companies, though laudable, are inadequate. For example, 23AndMe maintains a policy that its results cannot be considered “proof in a legal context” because the company lacks “the means to reliably connect any particular DNA sample or account to an individual.”<sup>1</sup> Additionally, the company bars law enforcement from submitting samples from incarcerated people or defendants in criminal proceedings. However, these companies also maintain that they will comply with valid legal processes which attempt to gain consumers' information. It is therefore unclear whether individuals' information is actually protected from use in criminal proceedings. Moreover, companies' policies can change often, drastically, and without notice to the public. Marylanders' should not be forced to choose between the personal and familial benefits of DNA technology and maintaining their basic privacy rights, and this choice should not depend on the commercial inclinations of private businesses.

For the foregoing reasons, we urge a favorable report on SB 848, which as amended, would call for further study of the issue.

<sup>1</sup> 23andMe Guide for Law Enforcement, available at <https://www.23andme.com/law-enforcement-guide/> (last accessed Jan. 19, 2019).