



Maryland Chiefs of Police Association

Maryland Sheriffs' Association



MEMORANDUM

TO: The Honorable Melanie Griffith, Chair and
Members of the Finance Committee

FROM: Darren Popkin, Executive Director, MCPA-MSA Joint Legislative Committee
Andrea Mansfield, Representative, MCPA-MSA Joint Legislative Committee
Natasha Mehu, Representative, MCPA-MSA Joint Legislative Committee

DATE: February 8, 2023

RE: **SB 169 – Commercial Law – Consumer Protection – Biometric Data Privacy**

POSITION: **OPPOSE**

The Maryland Chiefs of Police Association (MCPA) and the Maryland Sheriffs' Association (MSA) **OPPOSE SB 169**. This bill sets standards and mandates policies and procedures private entities must follow when handling biometric data but does so in an overly broad and restrictive manner that conflicts with recently established privacy laws under Title 17 of the Criminal Procedure Article and jeopardizes criminal investigations.

The MCPA and MSA are significantly concerned with the impact this bill would have on the ability of law enforcement to use advancements in DNA and ancestry technology to solve difficult criminal cases. In 2021, legislation was passed into law establishing important guardrails and protocols for law enforcement and ancestry databases that govern how biometric data can be used for the investigative process of Forensic Genetic Genealogy. The provisions in Title 17 of the Criminal Procedure Article were carefully worded to balance the need for privacy protections while allowing individuals to voluntarily share the DNA they have provided to ancestry databases with law enforcement to help solve crimes. SB 169 would override all those thoughtful provisions and prevent the effective use of Forensic Genetic Genealogy.

Some of the most concerning aspects of SB 169 are the definition of biometric data in 14-4501, the mandatory destruction protocols in 14-4502, and the various non-disclosure provisions in 14-4503 – 14-4505. Among other things, these provisions require the mandatory destruction of all biometric data in the possession of private entities including DNA profiles that consumers have provided to certain ancestry search companies. The provisions do not reflect or account for the provisions in Title 17 or federal guidelines that were established to specifically deal with the sensitive nature of Forensic Genetic Genealogy.

Forensic Genetic Genealogy has been critical for solving decades-old cold cases. Most notably the technology was used to identify the Golden Gate Killer. It is important to note that DNA from ancestry databases can only be used for law enforcement purposes with the explicit consent of the individual submitting their DNA and that not all databases chose to partner with law enforcement. This process is truly voluntary and ensures that all parties involved are adhering to stringent privacy protections and biometric data management established under both Title 17 and US Department of Justice guidelines.

Local law enforcement is actively working on cases using Forensic Genetic Genealogy. For instance, the Prince George's County Police Department's Cold Case Homicide Unit in partnership with the Prince George's County State's Attorney's Office is currently working on 15 cold cases involving murder or sex offenses. The Prince George's State's Attorney's Office was awarded a \$470,000 grant to support the investigation of unsolved homicides and sex offense cases using recently developed forensic genealogy (FGG) processes. Local agencies across the state are even partnering with the FBI's Investigative Genealogy Unit on some of their cold cases. The passage of SB 169 as written would hinder the ability of the department to work locally or with their federal partners to use this innovative and burgeoning technology to solve these crimes and bring justice to the victims and their families.

DNA and Forensic Genetic Genealogy are extraordinary investigative tools for identifying violent offenders that would be crippled by the passage of this bill. It is critical to ensure that there are exemptions that allow for the continued use of Forensic Genetic Genealogy and the regulatory provisions already established under Title 17. For these reasons, MCPA and MSA **OPPOSE SB 169** and urge an **UNFAVORABLE** report.