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Bill Would Permit DNA Collection From All Those Arrested

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Suspects arrested or detained by federal authorities could be forced to provide samples of their DNA that would be recorded in a central database under a provision of a Senate bill to expand government collection of personal data.

The controversial measure was approved by the Senate Judiciary Committee last week and is supported by the White House, but has not gone to the floor for a vote. It goes beyond current law, which allows federal authorities to collect and record samples of DNA only from those convicted of crimes. The data are stored in an FBI-maintained national registry that law enforcement officials use to aid investigations, by comparing DNA from criminals with evidence found at crime scenes.

Sponsors insist that adding DNA from people arrested or detained would lead to prevention of some crimes, and help solve others more quickly.

"When police retrace the history of a serial predator after he is finally caught, they often find that he never had a prior criminal conviction, but did have a prior arrest," Sen. Jon Kyl (R-Ariz.) said in a statement. "That means the only way they are likely to catch such a perpetrator after his first crime

authorities can maintain a comprehensive database of all those who are arrested, just as we do with fingerprints."

Privacy advocates across the political spectrum say the proposal is another step in expanding government intrusion.

"DNA is not like fingerprinting," said Jesselyn McCurdy, a legislative counsel for the American Civil Liberties Union. "It contains genetic information and information about diseases." She added that the ACLU questions whether it is constitutional to put data from those who have not been convicted into a database of convicted criminals.

The provision, co-sponsored by



Sen. Jon Kyl (R) backs a database of all "who are arrested." (Ray Lustig - Ray Lustig - The Washington Post)

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Kyl and Sen. John Cornyn (R-Tex.), does not require the government to automatically remove the DNA data of people who are never convicted. Instead, those arrested or detained would have to petition to have their information removed from the database after their cases were resolved.

Privacy advocates are especially concerned about possible abuses such as profiling based on genetic characteristics.

"This clearly opens the door to all kinds of race- or ethnic-based stops" by police, said Jim Dempsey, executive director of the Center for Democracy and Technology, a digital policy think tank.

Originally, the federal DNA database was limited to convicted sex offenders, who often repeat their crimes. Then it was expanded to include violent felons. Several states, including Virginia, also collect DNA from those arrested for violent crimes.

"It's a classic mission-creep situation," said Jim Harper, a privacy specialist with the Cato Institute, a libertarian think tank. "These guys are playing a great law and order game . . . and in the process creating a database that could be converted into something quite dangerous."

Typically, DNA is taken from suspects via a swab of saliva. A DNA "profile" -- or unique numeric signature -- is generated, which can be stored without including private genetic information.

But privacy advocates say they are unclear how the growing number of state and federal samples are being handled, recorded and secured.

The Kyl measure was added to a bill to strengthen penalties for violent acts against women and was approved without a roll-call vote. McCurdy said she hopes that negotiations among Judiciary Committee members result in changes before the legislation is voted on by the Senate.

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