

The Virgin Islands Consortium

Bill Mandating DNA Testing For Charges Of Felony, Sexual Offense Or Violent Crime Wins Committee Approval

Government / **Published On February 25, 2016 09:40 AM /**

Ernice Gilbert **February 25, 2016**



ST. THOMAS -- An arrest, not conviction, may soon give authorities the power to take DNA samples of suspects in the U.S. Virgin Islands, as required by a [bill](#) sponsored by Senator Novelle Francis, above, which won the Committee on Homeland Security, Justice and Public Safety's approval on Wednesday at the Earl B. Ottley Legislative Hall.

The bill targets felony, misdemeanor sexual assault and violent crime arrests.

Mr. Francis, who chairs the committee, introduced his measure by stating that it would lead to faster convictions while providing law enforcement officers with the tools needed to effectively do their jobs. Mr. Francis, a former police commissioner and police chief, said the measure is consistent with national initiatives.

"By collecting DNA from arrestees, law enforcement can identify criminals early and create more efficient investigation practices," Mr. Francis said. "With DNA match, law enforcement can quickly narrow on the right suspects, saving untold man hours and manpower." The senator, a first-term Democrat, argued that manpower saved because of DNA testing could be used elsewhere.

And he said DNA testing could also bring resolution to cases in the territory that have gone cold, which would "subsequently bring closure to victims and their families." Mr. Francis sought to remind his colleagues that there were 54 rape and sexual assault cases in the territory in 2014; and 51 such cases in 2015.

"Rape has a lasting effect on victims and creates serious family issues," Mr. Francis reminded, as he solicited the support of senators, all of whom, notwithstanding a few concerns, supported the measure.

The bill cites recent precedent when in 2003 a New Mexico State University graduate, Katie Sepich, [was brutally raped and strangled](#). Ms. Sepich's body was later discovered burned and abandoned at a dumpsite on the outskirts of Las Cruces, New Mexico.

Ms. Sepich's killer was captured three years later only after a DNA match -- her attacker's skin and blood were found under her fingernails -- identified Gabriel Adrian Avila, who had been arrested in November 2003 for aggravated burglary and was serving time in the New Mexico Corrections System since November 2004, as the perpetrator of the heinous crime.

The measure contends that had there been a law in place that allowed for DNA testing "for all persons arrested on felony charges," Ms. Sepich's killer would have been brought to justice immediately. And it references "Katie's Law", which was passed in 2006 by New Mexico's Legislature and swiftly signed into law by the state's governor. The bill also points to Congress' decision in 2013 to make available grants to states and territories for meeting startup funding costs associated with arrestee DNA programs through Katie's Act -- which was signed into law by President Barack Obama on January 10, 2013.

DNA testing after arrest was given the ultimate stamp of approval when the Supreme Court of the United States upheld Katie's Law by denying a challenge that said laws to require DNA upon arrest were a violation of Fourth Amendment rights.

For its part, the Department of Justice is in full support of the measure, with Deputy Attorney General Renée Gumbs-Carty stating that D.O.J. "enthusiastically stands by and supports" the measure. She said the bill would bring local law in line with the federal government's statute, "as well as 30 other states." Mrs. Gumbs-Carty revealed that currently 15 states allow for DNA testing for certain felony arrests while 14 allow for all felonies.

She added: "It is smart, it is sensible, and perhaps one of the strongest crime-fighting measures in our view that this legislature has ever considered." The deputy attorney

general said the territory's laws currently only provide for DNA collection from persons after they've been convicted and sentenced. However, she added, the new measure would change that requirement by mandating testing following arrests.

Senators did express some concern. Sen. Nereida Rivera-O'Reilly inquired whether DNA samples taken from suspects who were exonerated would be destroyed. Mrs. Gumbs-Carty said they would not, revealing that the samples would be held digitally in a database on the U.S. mainland. She did say, however, that the local government could destroy those samples if it chooses to do so by developing "internal policies and procedures."

And D.O.J. currently does not have the funds to fully implement the bill if it were to become law. But Mrs. Gumbs-Carty pointed to funding made available by the federal government, suggesting that D.O.J., following the passage of the measure, could apply for and receive funding.

Later, the committee unanimously held a bill that sought to create an executive branch bureau that would oversee law enforcement who are not employed by the Virgin Islands Police Department. The measure saw strong opposition from Supreme Court Chief Justice Rhys Hodge and Superior Court Presiding Judge Michael Dunston, who argued that creating such a bureau with oversight over law enforcement in the judicial and legislative branches of government would violate local separation of powers laws.

Present at Wednesday's hearing were senators Almando Liburd, Jean Forde, Kenneth Gittens, Mrs. Rivera-O'Reilly, Justin Harrigan, Sr., Sammuel Sanes and Mr. Francis.

Correction: February 27, 2016

A previous version of this story, because of a text error, included the wrong day that the bill was heard. It was heard on Wednesday, not Thursday.