

The Virgin Islands Consortium

Mapp Vetoes Bill Mandating D.N.A. Testing Upon Arrest

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ST. THOMAS -- A Novelle Francis-sponsored bill that [sought to mandate](#) DNA testing on persons charged for felony, misdemeanor sexual assault and violent crimes — even if they had not been convicted of said crimes -- has been vetoed by Governor Kenneth Mapp.

Mr. Francis had said in February that DNA testing would lead to faster convictions while providing law enforcement officers with the tools needed to effectively do their jobs. A former police commissioner and police chief, he said the measure was consistent with national initiatives.

But Governor Kenneth Mapp said the measure, as written, "runs afoul of the Fourth Amendment, and in its entirety, does not comport with the standard approved in *Maryland v. King*, 133 S. Ct. 1958 (2013)."

The governor said Attorney General Claude Walker, who'd previously supported the measure, reconsidered his position after further consideration and deliberation. Mr. Mapp added that while Mr. Walker supports the collection of DNA samples, he's requesting that it be restricted to buccal cell collection (saliva swabbing).

He added: "While the bill references *Maryland v. King* as support, it fails to acknowledge that the U.S. Supreme Court's decision was expressly limited to factual considerations in the case before it, i.e. use of cheek swab along with the statutory safeguards against government misuse of information collected. The existing statute for convicted persons is simply not amenable to application to arrested, but not convicted, persons through the simple barebones amendments in this bill. Without additional work, this measure would not pass constitutional muster.

"I invite the sponsors of this measure to meet with the attorney general and me to further discuss amendments to the statute which will comport with the standards approved by the U.S. Supreme Court," the governor concluded.

The veto will come as a blow to Mr. Francis, who had sought to push the legislation as one of the cornerstone achievements of his first term as a senator. Mr. Francis had argued passionately in favor of the measure, and its supporters invited to testify during a Committee on Homeland Security, Justice and Public Safety hearing, came fully prepared to demonstrate the bill's importance.

"By collecting DNA from arrestees, law enforcement can identify criminals early and create more efficient investigation practices," Mr. Francis said last month. "With DNA match, law enforcement can quickly narrow on the right suspects, saving untold man hours and manpower."

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, not withstanding a few concerns, supported the measure.

Feature Image: Technicians test urine samples at Renaissance RX, a new company that uses DNA to help doctors better tailor prescriptions to their patients' individual needs.
KATHLEEN FLYNN/THE TIMES-PICAYUNE.