

The Virgin Islands Consortium

Bill Mandating DNA Testing Without Criminal Conviction Becomes Law With Veto Override

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Ernice Gilbert **April 02, 2016**



ST. THOMAS -- Senator Novelle Francis' biggest piece of legislation that gives law enforcement the authority to conduct DNA testing on persons charged with felony, misdemeanor sexual assault and violent crimes — even before those accused are convicted of said crimes -- became law on Wednesday after 31st Legislature senators voted to override Governor Kenneth Mapp's veto.

The governor had contended that 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).”

"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," Mr. Mapp said. "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."

Mr. Mapp had invited Mr. Francis to meet with him and the attorney general "to further discuss amendments to the statute which will comport with the standards approved by the U.S. Supreme Court."

The invite, however, was rendered useless as Mr. Francis, during a marathon Senate session at the Earl B. Ottley Legislative Hall, brought a motion to override the governor's veto, which was supported unanimously.

During a recent hearing, Mr. Francis had argued passionately in favor of the measure, and 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, notwithstanding a few concerns, supported the measure.

Feature Image: Officers inspect a crime scene near Central High School in September, 2015 during a drive-by shooting incident.

Image Credit: The Virgin Islands Consortium.