



March 27, 2025

House Committee on Judiciary
Oregon State Legislature
900 Court St. NE
Salem, OR 97301

RE: Testimony in Opposition to House Bill 3093

Dear Chair Kropf, Vice-Chairs Chotzen and Wallan, and members of the Committee,

Thank you for the opportunity to provide testimony on behalf of the American Civil Liberties Union of Oregon (ACLU of Oregon). The ACLU of Oregon is a nonpartisan, nonprofit organization dedicated to preserving and enhancing civil liberties and civil rights, with more than 44,000 supporters statewide. **We oppose House Bill 3093, which would require the involuntary collection of an Oregonian's DNA after an arrest and before any legal process establishing their guilt has occurred. We also oppose the -1 amendment, which would only change who would make the collection and where, rather than remove this provision from the bill. HB 3093 would erode our individual privacy rights and is likely unconstitutional.**

Our DNA is the most unique and personal aspect of our identity.

- It is our genetic code and can be used to identify us, reveal a tremendous amount of information about our family history, our genetic traits, and predispositions for our future health.
- There are very few circumstances in which this information should be taken from us without our explicit, informed consent.

Yet, HB 3093 would greatly expand the circumstances under which an Oregonian's DNA can be collected by law enforcement without their consent, and included in a statewide, and ultimately national, database.

- The bill mandates collecting the DNA of anyone arrested for a person felony, a sex crime, or first-degree burglary.
- This presents a significant threat to individual privacy interests of all Oregonians: an arrest does not mean guilt and numerous arrests are ultimately proven to be mistaken and are even sometimes wrongful or unlawful
 - The rights of Black, Indigenous, and other Oregonians of color are particularly threatened as these communities are most likely to be affected by over-policing, racial profiling, and mass incarceration
 - They are therefore likely to be disproportionately arrested for offenses requiring DNA collection.

The law also raises serious constitutional concerns. Article I, Section 9 of the Oregon Constitution guarantees that “[n]o law shall violate the right of the people to be secure in their persons, houses, papers, and effects, against unreasonable search, or seizure.”

- The collection of an arrested Oregonian’s DNA is a search that requires a warrant or an exception to the warrant requirement.
- While the bill may attempt to create a blanket exception to the warrant requirement, that does not mean the state Constitution does not require one.
- It is highly likely that this statute will be challenged, particularly by criminal defendants who are facing charges in connection with the DNA sample taken following an arrest.
 - This will lead to costly appeals and retrials in criminal cases and will also result in uncertainty and years of delay for crime victims.
- In fact, at the same time the Oregon Supreme Court acknowledged that the current law—requiring DNA sampling of individuals convicted of certain crimes—is constitutional, it noted that:

[I]t is the requirement of a felony conviction that is the key here. In most of the cases that we have cited above, the person whose privacy interests were invaded without a warrant had not been convicted. In those cases, the state had no basis for arguing that the person had any lesser privacy right than the general public.

State v. Sanders, 343 OR 35, 40 (2007).

Expanding the collection of individual DNA samples to all individuals arrested for certain crimes is especially disconcerting in the current political climate, where we are witnessing heightened federal aggression against immigrants and refugee communities, LGBTQ+ individuals, and those engaged in dissent or deemed “enemies” by a hostile federal government.

- Arrests can easily be used as a pretext to collect the DNA of members of these groups, not as part of legitimate police investigations or for public safety, but to intimidate them or acquire vital information about them for unrelated investigations.

Due to these serious privacy and constitutional concerns about this major expansion of collecting the most sensitive personal data an individual possesses, the ACLU of Oregon urges this committee to oppose HB 3093.

Respectfully,

Michael Abrams, Policy Counsel
ACLU of Oregon

If you have any questions or requests for clarifications, please email Jessica Maravilla, Policy Director, at jmaravilla@aclu-or.org