

## **California court revives DNA collection from felony arrestees**

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California law enforcement officials can continue collecting and processing DNA from people arrested for felonies after the California Supreme Court announced that it will hear a case challenging the state's policy of gleaning genetic material from felony arrestees.

In December, a California appeals court declared unconstitutional a 2004 voter-approved law that expanded the state's DNA-collection program to include all adults arrested for or charged with felony offenses. The decision dissuaded police officers from gathering genetic samples from people who had not yet been arraigned and prevented prosecutors from analyzing those samples before criminal charges were filed.

"Most law enforcement agencies stopped taking DNA samples, or at least many of them did," said Martin J. Mayer, general counsel to the California Police Chiefs Association and the California State Sheriffs' Association.

But the California Supreme Court has now agreed to hear the case. The decision effectively wipes out the lower court's decision and the legal precedent constraining law enforcement.

"We are pleased with the court's decision to review this case, and look forward to their review and reversal," said David Beltran, a spokesman for California Attorney General Kamala Harris, who had appealed the December ruling.

While the U.S. Supreme Court ruled in 2013 that police officers could extract DNA samples at the time of arrest, civil liberties advocates contend that California's constitution bars the practice.

"Under our state constitution, this program is unconstitutional whether or not it violates the Fourth Amendment," said Michael Risher, a senior staff attorney for the American Civil Liberties Union of Northern California. "If the government wants to take a DNA sample from an individual, it can either get a warrant or it can convict that person of a crime."

The case will not affect lower-level offenders facing reduced sentences because of Proposition 47, a measure passed in November that converts some nonviolent offenses from felonies to misdemeanors. Because the DNA collection mandate applies only to people accused of felonies,

people arrested for crimes downgraded to misdemeanors by Proposition 47 no longer trigger DNA collection. That has reduced the rate of samples taken by 10 percent to 20 percent, according to Harris' office.

Assemblyman Jim Cooper, D-Elk Grove, plans to announce legislation that would require police officers to take DNA from convicted criminals whose offenses Proposition 47 reclassified as misdemeanors. Those crimes include fraud, forgery, theft and certain drugs offenses.

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