<h1 style="text-align:center">The Genetic Privacy Protection Act</h1>

Purpose:

This proposal prohibits suspicionless searches of DNA databases where law enforcement doesn't know the identity of a DNA sample's donor.

Text:

Section 1. Definitions.

1. "Combined DNA Index System" or "CODIS" means the program operated by the Federal Bureau of Investigation to support criminal justice DNA databases and the software used to run the databases.
2. "DNA" means deoxyribonucleic acid, ribonucleic acid, and chromosomes.
3. "DNA Sample" means a human biological specimen from which DNA can be extracted, or DNA extracted from such specimen.
4. "Genetic genealogy service" means a person that receives an individual's DNA sample or personal genetic information and uses the DNA sample or personal genetic information to obtain or provide information about the individual's genetic traits or biological relationships.
5. "Genetic testing company" means a person that receives an individual's DNA sample and uses the DNA sample to produce personal genetic information.
6. "Law enforcement agency" means:
   a. an entity of the state or a political subdivision of the state that exists to primarily prevent, detect, or prosecute crime and enforce criminal statutes or ordinances;
   b. an officer or employee of an entity described in Subsection (6)(a) acting in the officer or employee's official capacity; or
   c. a person contracted by an agency or an officer or employee of an agency described in Subsection (6)(a) to perform a task relating to DNA or personal genetic information analysis on the agency's behalf.
7. "Personal genetic information" means any information acquired from an analysis of a DNA sample, or from the analysis of any other element of an individual, that identifies an inherited or acquired genetic characteristic of the individual, including identification of the individual's biological relationships.
8. "Twenty core CODIS loci" means the twenty core loci required by the Federal Bureau of Investigation, as of January 1, 2017, to upload a DNA profile to the National DNA Index System.

Section 2. Restrictions on Law Enforcement.

1. Except as provided in Subsection (2), a law enforcement agency may not request, obtain, use, or share an individual's personal genetic information.
2. A law enforcement agency may:
   a. provide a lawfully obtained DNA sample to the (INSERT RELEVANT STATE AGENCY) or a genetic testing company for analysis; and
   b. use the resulting personal genetic information in a criminal investigation to:
      i. ascertain the identity of an individual by using CODIS or an alternative DNA database maintained by a state or local law enforcement agency, if the alternative DNA database:
         A) uses the twenty core CODIS loci and no other personal genetic information; and
         B) is not used to identify biological relatives of the individual; or
      ii. confirm a match to an existing DNA sample for purposes of a criminal investigation.
3. A law enforcement agency that obtains personal genetic information under Subsection (2) may not:
   a. provide the personal information to a genetic genealogy service; or
   b. share or use the personal genetic information in any manner not authorized by law.
4. A law enforcement agency may not:
   a. obtain, use, share, process, or retain a DNA sample unless authorized by (INSERT RELEVANT STATE CODE);
   b. retrieve a DNA sample from personal property currently or no longer in the possession of an individual, regardless of whether the individual has disposed of the personal property, without a warrant;
   c. request, obtain, use, share, process, or retain a DNA sample from, or information derived from, a newborn screening test conducted under Section 2; or
   d. provide false information or make false representation to a genetic testing company or genetic genealogy service.
5. Evidence obtained in violation of this section is inadmissible in any court proceeding.

To learn more about this model language, please contact Rees Empey at rees@libertas.org

Model language provided by Libertas Institute.