

DNA Legislation Case Law

- DNA legislation exists in 17 states currently – Alaska, Arizona, Arkansas, California, Kansas, Louisiana, Maryland, Michigan, Minnesota, New Mexico, North Dakota, South Carolina, South Dakota, Tennessee, Texas and Virginia.
- **Virginia Supreme Court:** “DNA sampling is no different than acquiring fingerprints and photos.” *Anderson v Commonwealth of Virginia*
- **Maryland Circuit Court:** “The Maryland DNA Collection Act, Md. Code (2003), §2-501 *et seq.* of the Public Safety Article, (the Act) does not violate the Fourth Amendment of the United States Constitution because the method of collection is minimally intrusive and is reasonable.” *State v Raines*
- **United States Court of Appeals for the Second Circuit:** The collection and maintenance of DNA information “in our view plays the same role as fingerprinting...DNA differs primarily from fingerprinting in its greater accuracy.” *2nd Circuit in Nicholas V Goord*
- **United States Court of Appeals for the Ninth Circuit:** “Gathering of DNA information that requires the drawing of blood rather than inking and rolling a person’s finger tips does not elevate the intrusion upon the plaintiff’s Fourth Amendment interests.” *9th Circuit Court in Rise v State 1995*
- **Oregon State Court of Appeals:** “The procedure involved consisted of the use of a swab to take a DNA sample from the mucous membrane of defendant’s cheek, a procedure that appears to be no more invasive than the taking of his fingerprints, except that the person must open his or her mouth for the procedure to be performed. Indeed, such a procedure is less invasive than the drawing of a blood sample from a person, which requires the puncturing of the skin. Consequently, we conclude that the reasoning in *Orozco* remains apt. Because the procedure that occurred in this case is akin to the fingerprinting of a person in custody, we conclude that the seizure of defendant’s DNA did not constitute an unreasonable seizure under either constitution.” *Oregon State v Brown*
- **Minnesota Court of Appeals:** The **only** court to rule that taking DNA before conviction is unconstitutional.