



MISSOURI HOUSE OF REPRESENTATIVES  
**WITNESS APPEARANCE FORM**

BILL NUMBER: <b>HB 2868</b>		DATE: <b>2/10/2026</b>	
COMMITTEE: <b>Crime and Public Safety</b>			
<b>TESTIFYING:</b> <input checked="" type="checkbox"/> IN SUPPORT OF <input type="checkbox"/> IN OPPOSITION TO <input type="checkbox"/> FOR INFORMATIONAL PURPOSES			
<b>WITNESS NAME</b>			
<b>REGISTERED LOBBYIST:</b>			
WITNESS NAME: <b>ALEX EATON</b>		PHONE NUMBER: <b>573616986</b>	
REPRESENTING: <b>ACTION NOW INITIATIVE</b>		TITLE:	
ADDRESS: <b>1717 WEST LOOP SOUTH</b>			
CITY: <b>HOUSTON</b>		STATE: <b>TX</b>	ZIP: <b>77027</b>
EMAIL:	ATTENDANCE:	SUBMIT DATE: <b>2/10/2026 12:00 AM</b>	
<b>THE INFORMATION ON THIS FORM IS PUBLIC RECORD UNDER CHAPTER 610, RSMo.</b>			



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<b>WITNESS NAME</b>			
<b>INDIVIDUAL:</b>			
WITNESS NAME: <b>ARNIE "HONEST-ABE" DIENOFF-STATE PUBLIC ADVOCATE</b>		PHONE NUMBER:	
BUSINESS/ORGANIZATION NAME:		TITLE:	
ADDRESS:			
CITY:		STATE:	ZIP:
EMAIL:	ATTENDANCE: <b>In-Person</b>	SUBMIT DATE: <b>2/10/2026 11:37 PM</b>	
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**I am in Support of the changes to current State Statute and Promulgated Rules governing the Collection of Biological Samples.**



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<b>WITNESS NAME</b>			
<b>BUSINESS/ORGANIZATION:</b>			
WITNESS NAME: <b>ASHLEY SPENCE</b>		PHONE NUMBER: <b>949-295-4852</b>	
BUSINESS/ORGANIZATION NAME: <b>DNA JUSTICE PROJECT</b>		TITLE: <b>FOUNDER</b>	
ADDRESS: <b>1908 VISTA LANE</b>			
CITY: <b>AUSTIN</b>		STATE: <b>TX</b>	ZIP: <b>78703</b>
EMAIL:	ATTENDANCE:	SUBMIT DATE: <b>2/10/2026 12:00 AM</b>	
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<b>WITNESS NAME</b>			
<b>INDIVIDUAL:</b>			
WITNESS NAME: <b>MEGHAN CIRRITO</b>		PHONE NUMBER:	
BUSINESS/ORGANIZATION NAME:		TITLE:	
ADDRESS:			
CITY:		STATE:	ZIP:
EMAIL:	ATTENDANCE: <b>Written</b>		SUBMIT DATE: <b>2/10/2026 10:05 PM</b>

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**This legislation negates the presumption of innocence, which violates the US Constitution.**



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<b>WITNESS NAME</b>		
<b>REGISTERED LOBBYIST:</b>		
WITNESS NAME: <b>SAGE CORAM</b>		PHONE NUMBER:
REPRESENTING: <b>AMERICAN CIVIL LIBERTIES UNION OF MISSOURI</b>		TITLE:
ADDRESS:		
CITY: <b>ST. LOUIS</b>	STATE: <b>MO</b>	ZIP: <b>63101</b>
EMAIL: <b>scoram@aclu-mo.org</b>	ATTENDANCE: <b>Written</b>	SUBMIT DATE: <b>2/10/2026 11:12 PM</b>
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<b>WITNESS NAME</b>			
<b>INDIVIDUAL:</b>			
WITNESS NAME: <b>SARAH BERRY</b>		PHONE NUMBER:	
BUSINESS/ORGANIZATION NAME:		TITLE:	
ADDRESS:			
CITY:		STATE:	ZIP:
EMAIL:	ATTENDANCE: <b>Written</b>	SUBMIT DATE: <b>2/10/2026 3:26 PM</b>	

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I oppose HB 2868 because it authorizes compulsory DNA collection from individuals who have not been convicted of a crime, permits the use of force to extract biological material, and expressly attempts to insulate constitutional violations from judicial remedy. DNA is not a fingerprint. It is a permanent biometric identifier containing deeply personal genetic information.

Forcing its collection upon arrest — without conviction, individualized suspicion, or a warrant — constitutes a suspicionless search that violates the Fourth Amendment and Article I, Section 15 of the Missouri Constitution.

HB 2868 is not narrowly tailored. It applies to any felony arrest, including nonviolent and regulatory offenses, and to seventeen-year-olds processed as adults. It conditions probation and parole on compliance and authorizes physical force to obtain DNA. These are hallmarks of punishment, imposed prior to adjudication.

Most troubling, the bill declares that failures to expunge DNA records shall not result in suppression of evidence, reversal of convictions, or meaningful relief.

The legislature cannot immunize unconstitutional conduct by statute. That authority belongs exclusively to the judiciary.

This bill does not strengthen public safety. It weakens constitutional protections, exposes the state to immediate litigation, and invites injunction. Missouri can solve crimes without abandoning the presumption of innocence.

For these reasons, HB 2868 should be rejected.

HB 2868 authorizes forced DNA collection from people who haven't been convicted — and then tries to make constitutional violations legally meaningless. Courts won't allow that.

**FOOTNOTES:**

- U.S. Const. amend. IV
- Mo. Const. art. I, §15
- Maryland v. King, 569 U.S. 435 (2013)
- Missouri v. McNeely, 569 U.S. 141 (2013) (bodily intrusion = search)

**Schmerber v. California, 384 U.S. 757 (1966)**

**State v. Sund, 215 S.W.3d 719 (Mo. banc 2007) (MO privacy protections)**

**Marbury v. Madison, 5 U.S. (1 Cranch) 137 (1803) (courts decide constitutional violations)**



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<b>WITNESS NAME</b>			
<b>INDIVIDUAL:</b>			
WITNESS NAME: <b>SARAH BERRY</b>		PHONE NUMBER:	
BUSINESS/ORGANIZATION NAME:		TITLE:	
ADDRESS:			
CITY:		STATE:	ZIP:
EMAIL:	ATTENDANCE: <b>Written</b>	SUBMIT DATE: <b>2/5/2026 12:53 PM</b>	

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House Bill 2868 represents a significant and dangerous expansion of compulsory DNA collection in Missouri that exceeds constitutional boundaries, undermines due process, and erodes the presumption of innocence.

This bill dramatically broadens DNA collection to include individuals arrested but not convicted of felony offenses, individuals charged under entire chapters of law, and individuals subjected to supervision without a judicial determination of guilt.

In doing so, HB 2868 transforms DNA collection from a post-conviction identification tool into a preemptive surveillance mechanism, untethered from individualized suspicion or adjudicated guilt.

The bill explicitly authorizes mandatory, non-consensual biological extraction “without the right of refusal,” including the use of force, and ties refusal to revocation of probation or parole.

This coercive structure raises profound Fourth Amendment concerns and violates basic notions of bodily autonomy. The state may not condition liberty on compelled biological surrender absent a narrowly tailored, compelling interest supported by individualized judicial findings.

While the bill gestures toward expungement procedures, those provisions are illusory in practice. Expungement is reactive, burdensome, and dependent on flawless inter-agency notification. Meanwhile, the statute expressly preserves the evidentiary use of DNA matches even when the state fails to expunge records as required — effectively rewarding procedural violations and stripping expungement of meaningful remedy.

HB 2868 also creates asymmetric risk: innocent individuals bear permanent privacy harm, while the state bears no consequence for error, delay, or misuse.

DNA is not a fingerprint. It is immutable, deeply personal biological data that implicates familial relationships, genetic traits, and future technological uses far beyond the scope contemplated today.

The mass collection and retention of such data without conviction is neither minimal nor reasonable.

Further, this bill conflicts with principles of proportionality.

It treats arrest the same as guilt, and low-level or dismissed cases the same as adjudicated violent

offenses, collapsing critical constitutional distinctions that protect against state overreach.

Public safety does not require abandoning constitutional guardrails.

Missouri already possesses robust post-conviction DNA authority.

What HB 2868 adds is not safety — it adds state convenience at the expense of civil liberty, and it does so by normalizing compelled bodily intrusion for people the law still recognizes as innocent.

For these reasons, HB 2868 should be rejected.

If the General Assembly wishes to expand DNA collection, it must do so narrowly, conviction-based, judicially supervised, and with enforceable remedies for unlawful retention — none of which this bill provides.

Legislators who genuinely intend to serve in future General Assemblies may wish to begin by voting “No” on bills that erode legislative authority, obscure accountability, and trade transparency for administrative convenience. Governance is not measured by how much passes—but by how well the people can see what was done in their name.

#### **FOOTNOTES & LEGAL REFERENCES**

[1] U.S. Constitution, Amendment IV

Protects against unreasonable searches and seizures. Compulsory DNA collection constitutes a search requiring reasonableness and proportionality.

[2] Missouri Constitution, Article I, §15

Missouri’s parallel protection against unreasonable searches and seizures, often interpreted more broadly than its federal counterpart.

[3] *Maryland v. King*, 569 U.S. 435 (2013)

Upheld DNA collection only for serious offenses, emphasizing booking identification and expressly warning against expansive, suspicionless DNA databases.

[4] Missouri Constitution, Article I, §10

Guarantees due process of law; implicated when liberty is conditioned on compelled biological compliance absent conviction.

[5] Missouri Constitution, Article I, §14

Equal protection concerns arise when arrestees are treated identically to convicted offenders for purposes of permanent data retention.

[6] Missouri Revised Statutes §650.055 (current law)

Historically ties DNA collection primarily to conviction, reflecting legislative recognition of constitutional limits.

[7] Missouri Constitution, Article III, §36

Requires public actions to serve a legitimate public purpose in a reasonable and accountable manner.

[8] Missouri Sunshine Law, Chapter 610 (privacy provisions)

While DNA records are closed, statutory confidentiality does not cure unconstitutional collection or retention.

[9] *State v. Johnson*, 354 S.W.3d 627 (Mo. banc 2011)

Affirms Missouri courts’ willingness to enforce constitutional protections beyond federal minimums.

[10] General Principles of Expungement Law

A remedy that places the burden on the innocent to correct state overreach is not a meaningful safeguard.



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<b>WITNESS NAME</b>		
<b>REGISTERED LOBBYIST:</b>		
WITNESS NAME: <b>SHARON GEUEA JONES</b>		PHONE NUMBER: <b>573-808-2156</b>
REPRESENTING: <b>MO NAACP</b>		TITLE:
ADDRESS: <b>227 JEFFERSON ST</b>		
CITY: <b>JEFFERSON CITY</b>		STATE: <b>MO</b>
		ZIP: <b>65102</b>
EMAIL: <b>sharon@jonesadvocacy.com</b>	ATTENDANCE: <b>Written</b>	SUBMIT DATE: <b>2/10/2026 3:52 PM</b>

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This bill puts the private biological data of thousands of Missourians who have not been convicted of any crime at risk of having that data hacked or otherwise released. Black and Brown Missourians are over-represented in arrests in Missouri and often the target of criminal stereotypes. The release, even accidental, of this type of biological data is especially harmful to those who were arrested and never charged or convicted.



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<b>WITNESS NAME</b>			
<b>BUSINESS/ORGANIZATION:</b>			
WITNESS NAME: <b>ALEXANDER VIVAS</b>		PHONE NUMBER: <b>816-876-9931</b>	
BUSINESS/ORGANIZATION NAME: <b>MISSOURI STATE HIGHWAY PATROL</b>		TITLE: <b>CHIEF OF STAFF</b>	
ADDRESS: <b>1510 EAST ELM</b>			
CITY: <b>JEFFERSON CITY</b>		STATE: <b>MO</b>	ZIP: <b>65101</b>
EMAIL:	ATTENDANCE:	SUBMIT DATE: <b>2/10/2026 12:00 AM</b>	
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<b>WITNESS NAME</b>			
<b>INDIVIDUAL:</b>			
WITNESS NAME: <b>JOSHUA KEZER</b>		PHONE NUMBER:	
BUSINESS/ORGANIZATION NAME:		TITLE:	
ADDRESS:			
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EMAIL:	ATTENDANCE:	SUBMIT DATE: <b>2/10/2026 12:00 AM</b>	
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