requires the PTO, in their report to Congress, to report the names of the applicants.

The SPEAKER pro tempore (Mr. YODER). The time of the gentleman has expired.

Mr. SMITH of Texas. I yield the gentleman an additional 1 minute.

Mr. ROHRABACHER. There is a requirement to report the names, so this bill requires in this report to have the names of the applicants and other identifying information that could be used by powerful outside groups—yes, read that foreign and multinational corporations—to make these applicants potential targets even before their patent is granted.

Anonymity could easily be accomplished by a simple change to one section of this bill. Perhaps the PTO could create a unique identifier for each applicant so that they could easily be tracked but without giving risk that the public would know about this and be able to identify the inventor.

We can make this a good bill. We just need to take a couple words out of it or one small section out of it, because as the ranking member suggested, it does a lot of good, but it does a lot of harm, much more harm, unless we take this out of the bill.

So I would ask my colleagues to oppose this legislation until it is perfected so we are not going to hurt the little inventors and hurt our country's ability on the technology front by trying to make a few technical corrections to the way the Patent Office does its job.

Mr. CONYERS. Mr. Speaker, I am pleased to recognize the ranking member of our Intellectual Property Subcommittee, MEL WATT of North Carolina. I yield him as much time as he may consume.

Mr. WATT. Mr. Speaker, I rise in support of H.R. 6621, as amended.

(Mr. WATT asked and was given permission to revise and extend his remarks.)

Mr. WATT. And with having been granted that unanimous consent, I think I can submit substantially all of my statement into the RECORD. However, I did want to acknowledge the outstanding stewardship of Under Secretary of Commerce for Intellectual Property and the director of the Patent and Trademark Office, David Kappos, and his remarkable staff for their tireless efforts both in getting patent reform across the finish line and in the timely implementation of its provisions.

In connection with these amendments to the bill, Director Kappos has announced that he intends to leave the Patent and Trademark Office in January. He will leave behind a long line of achievements and good will that were instrumental throughout this process, and he will leave behind a Patent and Trademark Office that is much better respected and equipped to serve the important purpose of recognizing and protecting our important intellectual property than the office was before he arrived there. His successor, no doubt, will have some big shoes to fill. And we wish Director Kappos all our best in all of his future endeavors.

Mr. Speaker, after concerted effort over at least three terms of Congress, last year we completed a major overhaul of our patent system designed to afford American inventors with a more efficient, effective, and well-resourced patent office. President Obama signed the Leahy-Smith America Invents Act into law on September 16, 2011. Since that time the PTO has been diligently working to implement the provisions of the Act which approved significant reforms designed to simplify the process for acquiring patents, enhance patent quality, reduce costs, improve fairness and make it easier for American inventors to market their products in the global marketplace.

As with almost every piece of major legislation, the need for technical corrections and improvements became obvious after passage. H.R. 6621 goes a long way towards addressing the concerns which have been identified by staff, the patent office and various stakeholders in the time since the law's enactment.

Among the provisions addressed by H.R. 6621, important adjustments have been made to ensure that inadvertent "dead zones," in which post grant review proceedings could not be initiated as intended, are eliminated. H.R. 6621 will also tighten language to prevent dilatory tactics and gamesmanship in the newly created derivation proceedings. A third fundamental correction involves PTO funding and will guarantee that all PTO administrative costs will be covered either by patent fees or trademark fees.

While there are other provisions of the America Invents Act that will likely require legislative corrections or adjustments, this bill, like the underlying Act, enjoys bipartisan support and should be passed.

Mr. Speaker, I would also like to acknowledge the outstanding stewardship of Under Secretary of Commerce for Intellectual Property and Director of the PTO, David Kappos, and his remarkable staff for their tireless efforts both in getting patent reform across the finish line and in the timely implementation of its provisions. Director Kappos has announced that he intends to leave the PTO in January. He will leave behind a long line of achievements and good will that were instrumental throughout this process and he will leave behind a Patent and Trademark office that is much better respected and equipped to serve the important purpose of recognizing and protecting our important intellectual property than it was when he arrived. His successor, no doubt, will have some big shoes to fill. We wish Director Kappos the best in all his future endeavors.

With that, Mr. Speaker, I urge support for H.R. 6621.

Mr. SMITH of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, The report on pre-GATT applications refers to applications that were filed prior to the Uruguay Round amendments taking effect in June 1995. The 103rd Congress intended for a brief transition period as the United States patent system was updated. Unfortunately, a small number of applicants have engaged in clearly dilatory behavior and continue to maintain pending applications with effective filing dates that predate 1995. In fact, some of these applications have been pending for 20, 30, and even 40 years.

The 103rd Congress never intended for such applications to stay pending for half a century. To remove such technology from the public domain in 2012, would bear no relation to the patent system's Constitutional purpose to promote the progress of science and the useful arts.

Now it is important for the 113th Congress and the Public to learn fully about these applications from the USPTO. The Committee expects that the report will contribute to an understanding of whether these applications present special circumstances that require further action to protect the public's interests.

Those who may have concerns about this report must understand that there is no way to "target" these submarine applications—the targets are, in fact, the people who will be sued once these submarine patents surface. The real targets are American job creators like small businesses, innovators and university researchers. And the public has a right to know in advance if certain widely used and long known technology is about to be withdrawn from the public domain.

The patent system was never intended to be a playground for trial lawyers and frivolous lawsuits. Sound patents should issue in a timely manner and should be used to create wealth and jobs.

I urge my colleagues to support this bill, and I reserve the balance of my time.

Mr. CONYERS. Mr. Speaker, I am pleased to yield back any time remaining on our side.

Mr. SMITH of Texas. Mr. Speaker, I yield back the balance of my time, as well.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. SMITH) that the House suspend the rules and pass the bill, H.R. 6621, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. ROHRABACHER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

KATIE SEPICH ENHANCED DNA COLLECTION ACT OF 2012

Mr. SMITH of Texas. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6014) to authorize the Attorney General to award grants for States to implement minimum and enhanced DNA collection processes, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 6014

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Katie Sepich Enhanced DNA Collection Act of 2012''.

SEC. 2. DEFINITIONS.

For purposes of this Act:

(1) DNA ARRESTEE COLLECTION PROCESS.—The term ''DNA arrestee collection process'' means, with respect to a State, a process under which the State provides for the collection, for purposes of inclusion in the index described in section 210304(a) of the DNA Identification Act of 1994 (42 U.S.C. 14132(a)) (in this Act referred to as the ''National DNA Index System''), of DNA profiles or DNA data from the following individuals who are at least 18 years of age:

(A) Individuals who are arrested for or charged with a criminal offense under State law that consists of a homicide.

(B) Individuals who are arrested for or charged with a criminal offense under State law that has an element involving a sexual act or sexual contact with another and that is punishable by imprisonment for more than 1 year.

(C) Individuals who are arrested for or charged with a criminal offense under State law that has an element of kidnaping or abduction and that is punishable by imprisonment for more than 1 year.

(D) Individuals who are arrested for or charged with a criminal offense under State law that consists of burglary punishable by imprisonment for more than 1 year.

(E) Individuals who are arrested for or charged with a criminal offense under State law that consists of aggravated assault punishable by imprisonment for more than 1 year.

(2) STATE.—The term ''State'' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands.

SEC. 3. GRANTS TO STATES TO IMPLEMENT DNA ARRESTEE COLLECTION PROCESSES.

(a) IN GENERAL.—The Attorney General shall, subject to amounts made available pursuant to section 5, carry out a grant program for the purpose of assisting States with the costs associated with the implementation of DNA arrestee collection processes.

(b) APPLICATIONS.—

(1) IN GENERAL.—To be eligible to receive a grant under this section, in addition to any other requirements specified by the Attorney General, a State shall submit to the Attorney General an application that demonstrates that it has statutory authorization for the implementation of a DNA arrestee collection process.

(2) NON-SUPPLANTING FUNDS.—An application submitted under paragraph (1) by a State shall include assurances that the amounts received under the grant under this section shall be used to supplement, not supplant, State funds that would otherwise be available for the purpose described in subsection (a).

(3) OTHER REQUIREMENTS.—The Attorney General shall require a State seeking a grant under this section to document how such State will use the grant to meet expenses associated with a State's implementation or planned implementation of a DNA arrestee collection process.

(c) GRANT ALLOCATION.—

(1) IN GENERAL.—The amount available to a State under this section shall be based on the projected costs that will be incurred by the State to implement a DNA arrestee collection process. Subject to paragraph (2), the Attorney General shall retain discretion to determine the amount of each such grant awarded to an eligible State.

(2) MAXIMUM GRANT ALLOCATION.—In the case of a State seeking a grant under this section with respect to the implementation of a DNA arrestee collection process, such State shall be eligible for a grant under this section that is equal to no more than 100 percent of the first year costs to the State of implementing such process.

(d) GRANT CONDITIONS.—As a condition of receiving a grant under this section, a State shall have a procedure in place to—

(1) provide written notification of expungement provisions and instructions for requesting expungement to all persons who submit a DNA profile or DNA data for inclusion in the index;

(2) provide the eligibility criteria for expungement and instructions for requesting expungement on an appropriate public Web site; and

(3) make a determination on all expungement requests not later than 90 days after receipt and provide a written response of the determination to the requesting party.

SEC. 4. EXPUNGEMENT OF PROFILES.

The expungement requirements under section 210304(d) of the DNA Identification Act of 1994 (42 U.S.C. 14132(d)) shall apply to any DNA profile or DNA data collected pursuant to this Act for purposes of inclusion in the National DNA Index System.

SEC. 5. OFFSET OF FUNDS APPROPRIATED.

Any funds appropriated to carry out this Act, not to exceed $10,000,000 for each of fiscal years 2013 through 2015, shall be derived from amounts appropriated pursuant to subsection (j) of section 2 of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135) in each such fiscal year for grants under such section.

SEC. 6. CONFORMING AMENDMENT TO THE DEBBIE SMITH DNA BACKLOG GRANT PROGRAM.

Section 2(a) of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135(a)) is amended by adding at the end the following new paragraph:

''(6) To implement a DNA arrestee collection process consistent with the Katie Sepich Enhanced DNA Collection Act of 2012.''.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas (Mr. SMITH) and the gentleman from Virginia (Mr. SCOTT) each will control 20 minutes.

The Chair recognizes the gentleman from Texas.

GENERAL LEAVE

Mr. SMITH of Texas. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous materials on H.R. 6014, as amended, currently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. SMITH of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the gentleman from California (Mr. SCHIFF) for sponsoring this commonsense, bipartisan legislation. H.R. 6014, the Katie Sepich Enhanced DNA Collection Act, authorizes incentive grants to States that implement programs to collect DNA samples from felony arrestees.

DNA arrestee programs provide an important law enforcement tool to identify perpetrators of open and unsolved cases. DNA arrestee programs can also prevent crimes by linking career criminals to crimes and locking them up before they have the chance to strike again.

By collecting DNA samples from arrestees and uploading them into the national DNA database, States can empower police and prosecutors to not only solve cold cases but also to apprehend violent criminals before more innocent people are victimized or precious lives are lost. Similar legislation passed the House last Congress by an overwhelming bipartisan vote of 357–32.

H.R. 6014 adds a new purpose area to the DNA Analysis Backlog Elimination Act to fund State DNA arrestee programs. This is limited, cost-effective legislation that will help States make use of DNA evidence to catch serious criminals at the earliest stage possible.

In the 20th century, law enforcement used fingerprints to link criminals to unsolved crimes. In the 21st century, law enforcement can now use DNA fingerprint technology to apprehend dangerous offenders.

I want to thank my colleague from California, again, Mr. SCHIFF, for his hard work on this issue. I urge my colleagues to support this legislation, and I reserve the balance of my time.

Mr. SCOTT of Virginia. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Katie Sepich Enhanced DNA Collection Act of 2012, or Katie's Law, has laudable goals of helping to prevent violent crime, exonerating the innocent, giving our police access to cutting-edge forensic techniques, reducing the cost of criminal investigations, and giving victims of violent crime and their families the answers and closure they deserve. All of this can result from the enhanced DNA collection provided for in this bill.

I voted for Katie's Law last Congress, and the goals of Katie's Law are goals that I wholeheartedly support, but unfortunately, right now is not the time to pass the law. This bill would enable the Attorney General to provide grant money to States if they implement a process for DNA testing upon arrest and preservation of the DNA profile.

□ 1320

The last time I voted for the bill, or one similar to it, I viewed the collection of arrestee DNA as essentially the same from a constitutional point of view as the collection of fingerprints, which are collected and preserved in a database for arrestees, whether there is a conviction or not. Since then, however, serious questions have been raised about the constitutionality of arrestee DNA collection and the preservation of that information in a database where there has been no subsequent conviction.

These constitutional questions are currently before the Supreme Court in Maryland v. King. The Supreme Court granted certiorari in that case in November, and we're taking this bill up now before the Supreme Court has had a chance to hear the case and issue its decision. In just a couple of months, the Supreme Court will have decided the King case, and we'll know whether

or not it's constitutional to preserve this data and how the States can collect it from people upon arrest and what to do with that information. With the decision at hand, we can then craft a program that encourages States to implement DNA collecting and testing systems that fully comply with whatever the Supreme Court rules in the King case.

Whereas I believe that the Supreme Court will find this proposed bill constitutional, it just makes sense that we wait until the decision is rendered before we pass the bill. For that reason, I will oppose the bill.

With that, I reserve the balance of my time.

Mr. SMITH of Texas. Mr. Speaker, I yield 4 minutes to the gentleman from Colorado (Mr. TIPTON), who happens to have passed legislation very similar to this when he was in the legislature in Colorado.

Mr. TIPTON. Mr. Speaker, I would like to thank the gentleman from Texas for this time.

I think it's important for us to understand the importance of this legislation and the opportunity that this literally presents for the protection of our wives and our daughters across this Nation.

I visited with Jayann Sepich. Her daughter Katie literally had to fight for her life. And the only evidence after her body was discovered, raped and burned in a garbage dump, was the DNA collected under those fingernails. While we now have the empirical evidence, had Katie's law been in place at that time, we could have saved an additional 13 lives: 12 women who were raped and murdered and another who was pregnant with child. That is the importance, and the timeliness, as well, of moving forward with this legislation.

In the State of Colorado, we've taken perpetrators off the streets. In fact, one of the challenges that we often don't discuss is not just future events that could potentially happen, but bringing resolution to families who have lost a loved one: solving cold cases. In the State of Colorado, we've now had 398 people identified for past crimes, those unsolved murders that haunt families.

This is a piece of legislation that's revenue neutral for Americans, a piece of legislation that's going to provide that opportunity for other States to do what Colorado has been able to accomplish, to be able to pass legislation that is going to stand up and protect our daughters and our wives from violent predators who are impacting families across this country.

The time is now. It is of essence. We are approaching the 10th anniversary of the death of Katie Sepich. I would see no greater tribute to her, her mother and father, and all families across this country, than to put forward this legislation, allow it to pass, to move forward, and to be able to do the right thing.

This legislation is designed so well that when we look at those identifiers, it is the 21st century fingerprint. We cannot tell the color of skin, and we cannot tell the color of hair. It is just an identifier for who the person is. It's well thought out, and it's important. I believe our daughters, our wives, and our mothers count on this type of practical legislation. I urge its adoption.

Mr. SCOTT of Virginia. Mr. Speaker, I yield such time as he may consume to the author of the bill, a former prosecutor and valued member of the House Judiciary Committee, the gentleman from California (Mr. SCHIFF).

Mr. SCHIFF. I thank the gentleman for yielding, and I rise in support of the Katie Sepich Enhanced DNA Collection Act.

Katie's Law is named for Katie Sepich, a bright, vivacious 22-year-old from New Mexico who was brutally assaulted, raped, and murdered in 2003. Police were able to extract the DNA profile of her killer from underneath Katie's fingernails, but they got no match in the offender database. When they finally did get a hit on the attacker's DNA 3 years later, they discovered that the murderer had been arrested repeatedly after 2003, but because he was never convicted, he was not required to submit a DNA sample for the database. Had New Mexico required arrestees to submit a DNA sample, Katie's killer would have been apprehended and taken off the street years earlier.

Katie's Law applies the lesson that New Mexico and now 24 States across the country have learned: arrestee testing works. This bill would create a new category of grants for States that collect DNA from arrestees for certain felonies. By joining the 25 States, plus the Federal Government, that already collect DNA from arrestees, additional State participation will make the national DNA index system more effective in helping to solve violent crimes. It does so without authorizing any new spending and while protecting civil liberties by putting in place strong expungement requirements.

We passed very similar legislation in 2010 with an overwhelming bipartisan majority. In the few short days we have left before the end of this year, we have a window to potentially send this bill to the Senate, where we'll also attract bipartisan support. I believe we should take that opportunity.

It has been argued by my colleague that we should wait to consider this bill until the Supreme Court rules on Maryland v. King, the case in which the Maryland State Supreme Court overturned the State's arrestee testing statute on Fourth Amendment grounds. I would simply note that three Federal courts of appeals and the State Supreme Court of California have looked at arrestee testing, and all have found it constitutional. The Supreme Court also took the unusual step of staying the order of the Maryland court. In his order staying the Maryland decision, Chief Justice Roberts writes:

> Collecting DNA from individuals arrested for violent felonies provides a valuable tool for investigating unsolved crimes and thereby helping to remove violent offenders from the general population. Crimes for which DNA evidence is implicated tend to be serious, and serious crimes cause serious injuries. That Maryland may not employ a duly enacted statute to help prevent these injuries constitutes irreparable harm.

This is a practice that is used in 25 States and by the Federal Government. It is not new. I'm confident the practice will be upheld by the Court. And even if we are wrong, the Court will decide this case long before any grant funding would be dedicated to help States build arrestee collection laws, so no funding would be wasted.

I want to acknowledge my friend and colleague, Chairman SMITH, who has been so supportive of this effort and has done such a marvelous job chairing the Judiciary Committee. I also want to acknowledge Ranking Member CONYERS and the ranking member of the subcommittee, BOBBY SCOTT, for their great work on the committee and subcommittee. I also want to thank my colleague from Washington (Mr. REICHERT), who knows firsthand the power of DNA evidence from his years as a sheriff. And finally and most importantly, I thank Katie's family and her mother, Jayann Sepich. Jayann has endured every parent's worst nightmare. Her determination and dedication are inspiring. And when Katie's Law is signed into law—and it will be—it will be a testament to her work and her love for her daughter.

Mr. Speaker, I urge the House to pass Katie's Law.

Mr. SMITH of Texas. Mr. Speaker, I yield 4 minutes to the gentleman from New Mexico (Mr. PEARCE).

□ 1330

Mr. PEARCE. I thank the gentleman from Texas for yielding. I thank the gentleman from California (Mr. SCHIFF) for his leadership on this.

I rise in strong support of H.R. 6014. Today, Katie Sepich, pictured here, tells us a lot. She is fun, loving, vibrant, outgoing. She was leader in her age group. She made things happen. Katie, beginning in January of 2002, was in her last year of grad school. During that year, in one of the last conversations with her daughter, Jayann Sepich—her mom—asked her the same question that many of us receive from our parents: What are you going to do when you graduate with your master's degree in business? The reply was the same one that many of us have given: I'm not sure, but I want to change the world.

That's what each one of us as parents aspires to develop in our children—it's what each one of us tries to train them for—and Katie was at the point of decision. She was on her way until her journey of life was brutally interrupted by someone who raped her and strangled her. Then he burned her body and left her body abandoned at a dumpsite.

Now, there was a full DNA sample under Katie's fingernails, attesting to Katie's character, but the uploaded DNA did not match anything in the government database. Meanwhile, Gabriel Avila was arrested 6 weeks after the murder; but because New Mexico and the Federal Government had no laws, no DNA sample was taken, and so no match was made. For 3 years, Mr. Avila walked free on the streets of America and on the streets of New Mexico after having committed this horrendous crime, but there was nothing to link them until New Mexico passed a statute very similar to this one that we are passing today.

It simply said that we are going to collect DNA samples when we have people who are under the suspicion of violent crimes. It is no different than my fingerprints, which are available to anyone who wants to look. They were taken by the U.S. Government when I entered into the United States Air Force. I understand the constitutional concerns, but I also understand the pain of families who have no answers. After New Mexico passed this law, Mr. Avila committed another violent crime. This time, by New Mexico law, they had to take his DNA sample, and immediately they matched that now-3-year-old crime that took Katie's life.

All this bill does is simply help provide funds to States to take these DNA samples. The U.S. Government will put them in the database and compare them. They're the 21st-century version of fingerprints.

One in six American women is a victim of rape or attempted rape, and 90 percent of the people who commit the crimes are repeat offenders like Mr. Avila; yet they walk free because we care more for the rights of perpetrators than of victims. This bill will not prevent violent crimes, but it will help stem the tide of the repeat offenders.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. SMITH of Texas. I yield the gentleman an additional minute.

Mr. PEARCE. Dave and Jayann Sepich, Katie's parents, have worked tirelessly, first to get the bill through New Mexico and then to get it to the attention of the Federal Government. The bill stands poised here on the floor of the House of Representatives today, asking that we as Americans and we as legislators take a stand on behalf of the families who have young daughters and young sons who want to change the world; and maybe, just maybe, we will do something right here.

Katie's legacy will live on no matter what we do here today, because of her parents and because of her sacrifice. I humbly suggest that we would want to pass this bill.

Mr. SCOTT of Virginia. Mr. Speaker, I yield such time as he may consume to the ranking member of the Judiciary Committee, the gentleman from Michigan (Mr. CONYERS).

Mr. CONYERS. Thank you, Ranking Member SCOTT.

This is an unusual circumstance in which the Fourth Amendment, which protects individual privacy from unreasonable searches and seizures by the government, has hardly been mentioned. Another thing that is curious about this measure is that there hasn't been a hearing on the bill, not a single hearing. Now, I suppose we should just skip over that. Oh, by the way, the Supreme Court of the United States has a case which is testing the issue of the appropriateness of collecting the DNA of arrestees, which will soon reasonably be decided.

As one who supports the goals of this legislation—its objectives to apprehend offenders and provide relief to victims—it seems like, in our haste, we've tossed procedure into the waste basket. I just can't understand why we can't examine the constitutionality of the practice of DNA in an appropriate manner, and that's what Maryland v. King would do. I know it's being used in other places, but I have never participated in legislation that attempts to become law while the matter is still in the Supreme Court, about to be decided. Maybe if I looked hard enough, we could find some cases in which that may have happened.

When you combine all of these unusual circumstances, as a former chairman of the Committee on the Judiciary, I would urge that we follow the recommendations of our ranking member and have this matter brought before the committee in a more proper and orderly way. I hope that we can ensure the constitutionality of H.R. 6014 since that test is about to be submitted before the Supreme Court of the United States.

Mr. Speaker, I rise today in opposition to H.R. 6014, the "Katie Sepich Enhanced DNA Collection Act of 2012," or "Katie's Law."

I want to begin by noting that I support the important goals of this legislation, which are to apprehend offenders and provide relief to victims.

But we must not allow our criminal justice system to circumvent the protections of the Constitution so that criminal offenders are caught at all costs.

It is critical that we adhere to the Constitution and consider any measure that possibly conflicts with it through a deliberate process.

Unfortunately, there has not been nearly enough process to ensure that H.R. 6014 is constitutional.

For example, there has neither been a single hearing on this bill, nor has the Judiciary Committee marked up this measure.

As many of you know, the constitutionality of collecting DNA from arrestees is an unresolved question under the Fourth Amendment, which protects individuals' privacy from unreasonable searches and seizures by the government.

In fact, the constitutionality of the practice of DNA testing upon arrest is currently before the Supreme Court in Maryland v. King. We should at least wait until the Court decides this issue before we rush to pass this legislation.

I voted for Katie's law in the last Congress, and I support the goals of Katie's law, but right now is not the time to pass this measure.

Mr. SMITH of Texas. Mr. Speaker, in closing, I would like to, once again, thank my friend and colleague from California (Mr. SCHIFF) for introducing this bill and for getting us to the point at which we are now—hopefully, on the cusp of passage.

I yield back the balance of my time.

Mr. SCOTT of Virginia. Mr. Chairman, I yield such time as he may consume to a member of the Judiciary Committee, the gentleman from Georgia (Mr. JOHNSON).

Mr. JOHNSON of Georgia. Mr. Speaker, I rise in opposition to H.R. 6014, the Katie Sepich Enhanced DNA Collection Act of 2012.

I strongly support measures to increase our public safety, and the rationale behind the bill is laudable. I care about using DNA evidence in criminal prosecutions in order to solve crimes and to convict wrongdoers. I also appreciate the fact that DNA can many times clear persons, even persons who have been wrongfully convicted; but there is much doubt, Mr. Speaker, surrounding whether or not the DNA collection of arrested persons is good policy, let alone constitutional.

By providing more incentives to extract DNA at arrests, this bill promotes restrictions on civil liberties, which are restrictions we do not and should not tolerate as a society, and it undermines the very criminal justice system it seeks to strengthen. Unlike collecting the DNA from a convicted felon, collecting DNA samples during arrests violates the Fourth Amendment's protection against unreasonable searches and seizures.

I sincerely doubt that the Framers intended the Fourth Amendment to allow the State to hold a person's genetic blueprint without first finding that person guilty of a crime. Although the bill provides for the expungement of DNA profiles, it only does so after lengthy procedures undertaken by an innocent person.

□ 1340

Moreover, it does not address the physical DNA samples that would remain in storage. We should not permit our government, Mr. Speaker, to hold DNA samples of arrested persons forever, despite the fact that the arrestee was never convicted of a crime. To keep these DNA samples under these circumstances is the essence of violating the arrested person's right to privacy. There can be no more fundamental right to privacy than that which exists in the DNA profile of a person. One should not give up that right to privacy in one's DNA profile simply because one has been arrested.

Not only is this inconsistent with our fundamental beliefs, but DNA profiling of arrestees diverts resources away from DNA profiles with far greater impact on aiding investigations.

I'm also concerned that this practice would perpetuate the current racial disparities in our criminal justice system. As more minority DNA profiles

are included in databases, more minorities are potential suspects, regardless of their actual guilt. We cannot allow this injustice to blossom in a free country where people are presumed innocent until proven guilty.

Mr. SCOTT of Virginia. Mr. Speaker, I think the chairman has the right to close, and I would yield him time if he has any concluding comments. He apparently doesn't have any further comments.

I yield back the balance of my time.

Mr. REICHERT. Mr. Speaker, I rise today in support of Katie's Law. I rise as a Congressman, but also as a cop and a sheriff with 33 years of experience investigating crimes.

This bill, simply put, assists states with the implementation of DNA arrestee collection programs so that the DNA collected can be entered into the national DNA database. DNA is an invaluable piece of evidence when solving crimes.

As the lead investigator on the Green River Killer Task Force my colleagues and I started collecting evidence in the early 80's . . . hoping only for, in those days, a saliva or a blood-type match that would tie a suspect to the crimes.

We worked that case for nearly two decades, continuing to collect evidence, interrogate suspects, and discover horrific murder scenes. In 2001, the technology finally caught up and through DNA we made a match and were finally able to arrest a single suspect on four counts of murder. That arrest eventually led to 49 murder convictions.

This bill is named for Katie Sepich. Katie was a young woman from Carlsbad, New Mexico who was 22 years old when she was brutally raped and murdered—because of the lack of DNA collection procedures in New Mexico at the time, it was three years before Katie's parents, Jayann and David, had the closure of knowing Katie's attacker.

Katie's Law provides a critical resource to aid our law enforcement officials in investigating crimes and protecting the innocent. It does so without the appropriation of new funds and with privacy protections.

What happened to Katie Sepich is a shocking, horrible tragedy. It is our duty to assist law enforcement in preventing these tragedies from ever re-occurring, and to continue the tireless work of keeping our communities safe.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. SMITH) that the House suspend the rules and pass the bill, H.R. 6014, as amended.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill, as amended, was passed.

The title was amended so as to read: ''A bill to authorize the Attorney General to award grants for States to implement DNA arrestee collection processes.''.

A motion to reconsider was laid on the table.

THEFT OF TRADE SECRETS CLARIFICATION ACT OF 2012

Mr. SMITH of Texas. Mr. Speaker, I move to suspend the rules and pass the bill (S. 3642) to clarify the scope of the Economic Espionage Act of 1996.

The Clerk read the title of the bill.

The text of the bill is as follows:

S. 3642

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Theft of Trade Secrets Clarification Act of 2012''.

SEC. 2. AMENDMENT.

Section 1832(a) of title 18, United States Code, is amended in the matter preceding paragraph (1), by striking ''or included in a product that is produced for or placed in'' and inserting ''a product or service used in or intended for use in''.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas (Mr. SMITH) and the gentleman from Michigan (Mr. CONYERS) each will control 20 minutes.

The Chair recognizes the gentleman from Texas.

GENERAL LEAVE

Mr. SMITH of Texas. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous materials on S. 3642, currently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. SMITH of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 3642, the Theft of Trade Secrets Clarification Act of 2012, clarifies the scope of the Economic Espionage Act, EEA, and protects American jobs and businesses from the theft of their valuable trade secrets. I want to thank Senator LEAHY for his hard work on this piece of legislation.

Since 1996, the EEA has served as the primary tool the Federal Government uses to protect secret, valuable, commercial information from theft. The Second Circuit's Aleynikov decision revealed a dangerous loophole that demands our attention. In response, the Senate unanimously passed S. 3642 in November. We need to act today to send this important measure directly to the President. We must also take action in response to the Second Circuit's call and ensure that we have appropriately adapted the scope of the EEA to the digital age.

I again thank Senator LEAHY for his leadership on this issue. I urge my colleagues to support the bill, and I reserve the balance of my time.

Mr. Speaker, S. 3642, the ''Theft of Trade Secrets Clarification Act of 2012,'' clarifies the scope of the Economic Espionage Act (EEA) and protects American jobs and businesses from the theft of their valuable trade secrets. I thank Senator LEAHY for his hard work on this bill.

Sergey Aleynikov was convicted for stealing and transferring valuable proprietary computer source code that belonged to his former employer, Goldman Sachs. Earlier this year, he was released from a federal penitentiary after serving only one year of an eight-year sentence.

According to the Second Circuit Court of Appeals, he had accepted an offer in 2009, to become a senior executive at a Chicago-based startup that intended to compete against Goldman in the provision of high frequency trading (HFT) services.

The Appeals Court explained:

> just before his going-away party, Aleynikov encrypted and uploaded to a server in Germany more than 500,000 lines of source code for Goldman's HFT system . . . On June 2, 2009, Aleynikov flew . . . to Chicago to attend meetings at Teza. He brought with him a flash drive and a laptop containing portions of the Goldman source code. When Aleynikov flew back the following day, he was arrested by the FBI . . .''

Aleynikov was convicted of violating the EEA and the National Stolen Property Act. After reviewing the trial record, the Appeals Court issued an order in February 2012, which reversed Aleynikov'convictions on both counts.

The court's decision construed the scope of the two federal criminal statutes. It observed that there is a limitation that products be ''produced for'' or ''placed in'' interstate or foreign commerce.

The court concluded, ''Goldman's HFT system was neither 'produced for' nor 'placed in' interstate or foreign commerce,'' despite evidence that it facilitated millions of proprietary trades and transactions each year. It then determined that the theft of source code was not an offense under the EEA.

The court explained that when a statute, particularly a criminal statute, is ambiguous, it is appropriate to construe it narrowly and, ''to require that Congress should have spoken in language that is clear and definite'' before choosing a stricter interpretation.

In his concurring opinion, Judge Calabresi [Cal-abress-E] directly called upon Congress to clarify the scope of the EEA as he wrote:

> [I]t is hard for me to conclude that Congress, in [the EEA], actually meant to exempt the kind of behavior in which Aleynikov engaged . . . [n]evertheless, while concurring [in the opinion], I wish to express the hope that Congress will return to the issue and state, in appropriate language, what I believe it meant to make criminal in the EEA.

The FBI estimated earlier this year that U.S. companies had lost $13 billion to trade secret theft in just over six months. Over the past six years, losses to individual U.S. companies have ranged from $20 million to as much as $1 billion.

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The SPEAKER pro tempore. Without objection, the gentleman from Virginia controls the time.