

# MAINE STATE LEGISLATURE

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# 117th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1995

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Legislative Document

No. 1304

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S.P. 480

In Senate, April 12, 1995

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**An Act to Establish the DNA Data Base and Data Bank Act.**

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Submitted by the Department of Public Safety pursuant to Joint Rule 24.  
Reference to the Committee on Criminal Justice suggested and ordered printed.

A handwritten signature in cursive script that reads "May M. Ross".

MAY M. ROSS  
Secretary of the Senate

Presented by Senator BENOIT of Franklin.  
Cosponsored by Senator: PENDEXTER of Cumberland, Representatives: DRISCOLL of Calais, LINDAHL of Northport.

Be it enacted by the People of the State of Maine as follows:

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4       Sec. 1. 25 MRSA c. 194 is enacted to read:

6                               CHAPTER 194

8                               DNA DATA BASE AND DATA BANK ACT

10       §1571. Short title

12               This chapter may be known and cited as the "DNA Data Base and Data Bank Act."

14       §1572. Definitions

16               As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

18               1. CODIS. "CODIS" means the Federal Bureau of Investigation's national DNA identification index system that allows for storage and exchange of DNA records submitted by state and local forensic DNA laboratories and is derived from the Combined DNA Index System.

20               2. Crime lab. "Crime lab" means the Maine State Police Crime Laboratory located in Augusta.

22               3. DNA. "DNA" means deoxyribonucleic acid.

24               4. DNA analysis. "DNA analysis" means DNA typing tests that derive identification information specific to a person from that person's DNA.

26               5. DNA record. "DNA record" means DNA identification information obtained from DNA analysis and stored in the state DNA data base or CODIS.

28               6. DNA sample. "DNA sample" means a blood sample provided by a person convicted of one of the offenses listed in this chapter or submitted to the crime lab for analysis pursuant to a criminal investigation.

30               7. FBI. "FBI" means the Federal Bureau of Investigation of the United States Department of Justice.

32               8. State DNA data base. "State DNA data base" means the DNA identification record system administered by the Chief of the State Police.

2           9. State DNA data bank. "State DNA data bank" means the  
repository of DNA samples maintained by the Chief of the State  
Police at the crime lab collected pursuant to this chapter.

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6           §1573. Responsibility for DNA identification record system;  
procedural compatibility with the FBI

8           1. Responsibility for system. The Chief of the State  
Police is responsible for DNA analysis and establishing, managing  
and administering the state DNA data base and the state DNA data  
bank to support law enforcement and for liaison with the FBI  
regarding the State's participation in CODIS. The state DNA data  
base and state DNA data bank must be physically located at the  
crime lab.

16           2. Procedural compatibility. The state DNA data base  
established by the Chief of the State Police must be compatible  
with procedures specified by the FBI, including use of comparable  
test procedures, laboratory equipment, supplies and computer  
software.

22           3. DNA analysis. Notwithstanding subsection 1, the Chief  
of the State Police is not required to analyze DNA samples  
collected pursuant to section 1574 unless adequate funding is  
available.

26           §1574. Blood sample required for DNA analysis upon conviction

28           1. Conviction subsequent to effective date. A person  
convicted, on or after January 1, 1996, of a crime listed in this  
section shall have a DNA sample drawn upon intake to a jail or  
prison. A person who is not sentenced to a term of confinement  
shall provide a DNA sample as a condition of the sentence.

34           2. Conviction prior to effective date. A person convicted  
and incarcerated prior to January 1, 1996, as a result of a  
conviction for a crime listed in this section, shall have a DNA  
sample drawn before release from the corrections system.

40           3. Juvenile offenders. If a juvenile court adjudicates a  
juvenile to have committed a juvenile crime that, if committed by  
an adult, would constitute an offense listed in this section,  
then the juvenile is subject to the requirements of this section.

44           4. Blood sample taken during investigation. A blood sample  
taken during a criminal investigation may be used for the DNA  
sample required by this section.

2           5. Applicable offenses. This section applies to a person  
convicted of one of the following offenses or an attempt of one  
of the following offenses:

4           A. Murder;

6           B. Felony murder;

8           C. Manslaughter;

10          D. Aggravated assault;

12          E. Gross sexual assault;

14          F. Sexual abuse of a minor;

16          G. Unlawful sexual contact;

18          H. Kidnapping;

20          I. Criminal restraint;

22          J. Burglary;

24          K. Robbery;

26          L. Arson; or

28          M. Aggravated criminal mischief.

30           §1575. Procedure for withdrawal of blood sample for DNA analysis

32           1. Collection equipment. The crime lab shall provide  
34 collection equipment or a kit for the collection of a blood  
sample required by section 1574 to persons authorized to draw  
36 blood samples.

38           2. Person to draw sample. Only a duly licensed physician,  
physician assistant, registered nurse or a person certified by  
40 the Department of Human Services may draw a blood sample for the  
purpose of DNA analysis.

42           3. Liability. A person authorized under this section to  
44 draw blood samples is not liable for damages or liable for the  
act of drawing a blood sample for DNA analysis when that person  
46 exercises due care in drawing the blood sample.

48           4. Crime lab. All blood samples collected pursuant to this  
Act must be forwarded to the crime lab for DNA analysis.

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**§1576. Procedure for collection; conducting DNA analysis**

The Chief of the State Police may adopt rules governing the procedures to be used in the collection, submission, identification, analysis and storage of DNA samples and the results of the typing of blood samples submitted pursuant to this Act. The DNA sample must be securely stored in the state DNA data bank. The results of the typing of the blood samples must be securely stored in the state DNA data base.

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**§1577. DNA records**

1. Confidentiality. All DNA records are confidential and may not be disclosed to any person or agency unless disclosure is authorized by this section.

2. Access to records. The following persons or agencies may have access to DNA records:

A. Local, state and federal criminal justice and law enforcement agencies, including forensic laboratories serving the agencies, for identification purposes that further official criminal investigations;

B. The FBI for storage and maintenance of CODIS;

C. Medical examiners and coroners for the purpose of identifying remains; and

D. A person who has been identified and charged with a criminal offense as a result of a search of DNA records stored in the state DNA data base.

3. Statistical interpretation. Notwithstanding subsections 1 and 2, DNA records may be released to advance DNA analysis methods and support statistical interpretation of DNA analysis, including development of population data bases, if personal identifying information is removed from DNA records prior to the release of those records.

4. Expungement. A person whose DNA record has been stored in the state DNA data base may petition the Superior Court for expungement on the ground that the conviction justifying the inclusion of the DNA record in the state DNA data base has been reversed or dismissed. Upon receipt of an expungement order and a certified copy of the order reversing and dismissing the conviction, the Chief of the State Police shall purge from the state DNA data base the DNA record and all identifiable information resulting exclusively from the reversed conviction.

2 **§1578. Unlawful dissemination**

4 **1. Offense.** A person is guilty of unlawful dissemination  
of a DNA record if the person knowingly disseminates a DNA record  
in violation of this Act.

6 **2. Penalty.** Unlawful dissemination of a DNA record is a  
8 Class E crime.

10 **STATEMENT OF FACT**

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14 This bill creates the DNA Data Base and Data Bank Act. The  
Chief of the State Police is responsible for DNA analysis and  
16 establishing, managing and administering a DNA identification  
system comprised of a DNA data base and DNA data bank. The DNA  
data base and DNA data bank will be housed at the Maine State  
18 Police Crime Laboratory in Augusta. The DNA data base will  
provide information to law enforcement agencies to aid in  
20 criminal investigations and be designed so that DNA  
identification information may be exchanged with the federal data  
22 base, CODIS, maintained by the FBI.

24 Persons, including juveniles, convicted of or adjudicated to  
have committed serious crimes are required to have a blood sample  
26 drawn for the purpose of DNA analysis at the State Police Crime  
Lab. The resulting DNA record is then entered into a data base  
28 for the exchange of information with CODIS, the FBI's DNA data  
base. The DNA records are confidential except for criminal  
30 investigation purposes and limited research, provided that  
identifying information is removed. A DNA record must be  
32 expunged if the conviction or adjudication of a person is  
subsequently reversed or dismissed on appeal.