

MAINE STATE LEGISLATURE

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124th MAINE LEGISLATURE

FIRST REGULAR SESSION-2009

Legislative Document

No. 815

H.P. 551

House of Representatives, March 3, 2009

An Act To Require the Collection of DNA from a Person under Certain Circumstances

Reference to the Committee on Criminal Justice and Public Safety suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative CELLI of Brewer.

Cosponsored by Representatives: BICKFORD of Auburn, DAVIS of Sangerville, HAMPER of Oxford, WAGNER of Lyman, WEAVER of York.

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

2 Sec. 1. 25 MRSA §1572, sub-§7-B is enacted to read:

3 7-B. Fund. "Fund" means the DNA Fund established in section 1577-A.

4 Sec. 2. 25 MRSA §1574, sub-§7 is enacted to read:

5 7. Exemption. If a DNA sample of a person is already deposited into the state DNA
6 data bank, that person is exempt from the provisions of this section.

7 Sec. 3. 25 MRSA §1574, sub-§8 is enacted to read:

8 8. Fee. A person who is subject to submitting a DNA sample under this section must
9 pay a fee in an amount to be determined by the Chief of the State Police in addition to
10 any fee, fine or restitution ordered by the court. A fee paid under this subsection must be
11 paid to the fund.

12 Sec. 4. 25 MRSA §1574-A, sub-§3 is enacted to read:

13 3. Exemption. If a DNA sample of a person is already deposited into the state DNA
14 data bank, that person is exempt from the provisions of this section.

15 Sec. 5. 25 MRSA §1574-A, sub-§4 is enacted to read:

16 4. Fee. A person who is subject to submitting a DNA sample under this section must
17 pay a fee in an amount to be determined by the Chief of the State Police in addition to
18 any fee, fine or restitution ordered by the court. A fee paid under this subsection must be
19 paid to the fund.

20 Sec. 6. 25 MRSA §1574-B is enacted to read:

21 §1574-B. Collection from missing and unidentified persons

22 1. Missing person. The Chief of the State Police shall accept a DNA sample of a
23 missing person upon a court order or the request of a relative of the missing person or an
24 investigating law enforcement agency. A DNA sample under this subsection may be
25 taken from known reference material or a relative of a missing person.

26 2. Unidentified person. The Chief of the State Police shall accept a DNA sample of
27 an unidentified person or unidentified human remains upon a request from an
28 investigating law enforcement agency or the Chief Medical Examiner.

29 3. Required submission. A DNA sample must be submitted upon:

30 A. The completion of a permission-to-search form authorizing the collection of a
31 DNA sample;

32 B. The receipt of a properly executed search warrant; or

33 C. The issuance of a court order.

1 4. DNA search for missing person. Upon the request of a relative of a missing
2 person or investigating law enforcement agency under subsection 1, the Chief of State
3 Police shall search DNA samples in the state DNA data base and state DNA data bank for
4 purposes of finding the missing person. A search conducted under this subsection may
5 not search DNA samples consisting of evidentiary samples resulting from criminal
6 investigations.

7 5. Fee. If a DNA sample is accepted under subsection 1 or a search is conducted
8 under subsection 4 pursuant to the request of a relative of the missing person, the Chief of
9 the State Police may require a fee to reasonably cover the costs of the State Police in
10 administering subsection 1. A fee collected under this subsection must be paid to the
11 fund.

12 **Sec. 7. 25 MRSA §1577, sub-§4,** as amended by PL 2003, c. 393, §7, is repealed
13 and the following enacted in its place:

14 4. Expungement. A person whose DNA record has been stored in the state DNA
15 data base may have the record expunged as provided in this subsection.

16 A. A person whose DNA record is stored in the state DNA data base pursuant to
17 section 1574 or section 1574-A may petition the Superior Court for expungement on
18 the grounds that the conviction or adjudication justifying the inclusion of the DNA
19 record in the state DNA data base has been reversed or dismissed. Upon receipt of an
20 expungement order and a certified copy of the order reversing and dismissing the
21 conviction or adjudication, the Chief of the State Police shall purge from the state
22 DNA data base the DNA record and all identifiable information resulting exclusively
23 from the reversed conviction or adjudication and ensure that the person's DNA
24 sample and records are expunged from CODIS.

25 B. A person whose DNA sample has been stored in the state DNA data base pursuant
26 to section 1574-B may request in writing that the DNA sample be expunged. Upon
27 receipt of a written request pursuant to this paragraph, the Chief of the State Police
28 shall purge from the state DNA data base the DNA record and all identifiable
29 information of the DNA sample taken pursuant to section 1574-B and ensure that the
30 person's DNA sample and records are expunged from CODIS.

31 **Sec. 8. 25 MRSA §1577-A** is enacted to read:

32 **§1577-A. DNA Fund**

33 The DNA Fund is established as an interest-bearing account for payment of
34 reasonable expenses by the Chief of the State Police in the administration of this chapter.
35 All fees collected pursuant to this chapter must be deposited into the fund as well as
36 income from any other source directed to the fund. All interest earned by the account
37 becomes part of the fund. Any balance remaining in the fund at the end of the fiscal year
38 does not lapse but is carried forward into subsequent fiscal years. After covering
39 reasonable expenses for the administration of this chapter, the Chief of the State Police
40 may use proceeds of the fund for loans, grants, purchase of equipment or payment of
41 personnel for any law enforcement agency, county jail, Department of Corrections

1 facility, judicial agency, Office of the Chief Medical Examiner or any other person to
2 carry out the purposes of this chapter.

3 **Sec. 9. 25 MRSA §1579** is enacted to read:

4 **§1579. Rules**

5 The Chief of the State Police may adopt rules to carry out the purposes of this
6 chapter. Rules adopted pursuant to this section are routine technical rules pursuant to
7 Title 5, chapter 375, subchapter 2-A.

8 **SUMMARY**

9 This bill modifies the DNA Data Base and Data Bank Act by providing for DNA
10 samples, state DNA data base searches and expungement from the state DNA data base
11 for missing or unidentified persons or human remains, providing for fees to be paid by
12 various persons required to submit DNA samples or requesting DNA searches and
13 establishing the DNA Fund to pay for the reasonable expenses of the Chief of the State
14 Police in administering the DNA Data Base and Data Bank Act.