

# MAINE STATE LEGISLATURE

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L.D. 1143

Date: 6/7/11

Majority

(Filing No. H-576)

**CRIMINAL JUSTICE AND PUBLIC SAFETY**

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**STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
125TH LEGISLATURE  
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT "A" to H.P. 849, L.D. 1143, Bill, "An Act To Require That Law Enforcement Officials Collect DNA Samples from Persons Arrested for Certain Crimes"

Amend the bill by striking out all of section 1 (page 1, lines 2 to 10 in L.D.)

Amend the bill in section 3 in §1574 by striking out all of subsection 7 (page 3, lines 22 to 39 and page 4, lines 1 to 9 in L.D.) and inserting the following:

**7. Applicable offenses for persons arrested on or after January 1, 2013. A person arrested on or after January 1, 2013 for an offense listed in this subsection shall submit to having a DNA sample taken by a law enforcement agency as part of the booking process. For a person who is charged with an offense listed in this subsection by an indictment, information or complaint on a Class A, B or C crime on or after January 1, 2013 and who is not arrested for the offense on or after January 1, 2013 because the person's arrest occurred prior to that date or the person's appearance is procured by summons or other means rather than arrest, if the booking process occurs on or after January 1, 2013, the law enforcement agency conducting the booking process shall collect the DNA sample from the person as part of the booking process. For a person who is charged with an offense listed in this subsection by an indictment, information or complaint on a Class A, B or C crime on or after January 1, 2013 and who is not arrested for the offense on or after January 1, 2013 because the person's arrest occurred prior to that date or the person's appearance is procured by summons or other means rather than arrest and is not subject to a booking process on or after January 1, 2013, the court shall order the person to submit to having a DNA sample collected by the investigating agency of the State responsible for fingerprinting. If the collection of a DNA sample pursuant to this subsection is impractical at the time specified by this subsection, an appropriate agency may collect the sample at any other time during the person's detention or during pendency of the charges. This subsection applies to the following offenses:**

**A. Murder or criminal homicide in the first or 2nd degree;**

**B. Felony murder;**

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- 1            C. Manslaughter;
- 2            D. Aggravated assault;
- 3            E. Elevated aggravated assault;
- 4            F. Gross sexual assault, including that formerly denominated as gross sexual
- 5            misconduct;
- 6            G. Rape;
- 7            H. Sexual abuse of a minor;
- 8            I. Unlawful sexual contact;
- 9            J. Visual sexual aggression against a child;
- 10           K. Sexual misconduct with a child under 14 years of age;
- 11           L. Kidnapping;
- 12           M. Criminal restraint;
- 13           N. Burglary;
- 14           O. Robbery;
- 15           P. Arson;
- 16           Q. Aggravated criminal mischief; or
- 17           R. Any lesser included offense of any crime identified in paragraphs A to Q if the
- 18           greater offense is initially charged. "Lesser included offense" has the same meaning
- 19           as in Title 17-A, section 13-A.

20           **8. Analysis and destruction of sample.** A DNA sample taken pursuant to

21           subsection 7 may not be analyzed and must be destroyed unless one of the following

22           conditions is met:

- 23           A. The arrest was made upon an arrest warrant for murder or a Class A, B or C
- 24           crime;
- 25           B. The defendant has appeared before a judge who made a finding that there was
- 26           probable cause for the arrest; or
- 27           C. The defendant posted bond or was released prior to appearing before a judge or
- 28           magistrate and then failed to appear for a scheduled hearing.'

29           Amend the bill in section 5 by striking out all of subsection 5 (page 4, lines 22 to 33

30           in L.D.) and inserting the following:

31           **'5. Expungement of profiles of persons arrested.** A person whose DNA record has

32           been stored in the state DNA data base pursuant to section 1574, subsection 7 may

33           request the Chief of the State Police for expungement of the person's DNA record from

34           the data base on the ground that the underlying charge that led to the arrest justifying the

35           inclusion of the DNA record in the data base has been resolved by the law enforcement

36           agency's not forwarding the charge to the prosecuting attorney, by the prosecuting

37           attorney's not filing a charge, by dismissal or by acquittal. The Chief of the State Police

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1 shall expunge the DNA record of a person under this subsection when the person  
2 provides a written request for expungement and:

- 3 A. A certified copy of the dismissal or acquittal; or
- 4 B. A sworn affidavit that no charges listed in section 1574, subsection 7 arising from
- 5 the arrest have been filed within one year.'

6 Amend the bill by striking out all of sections 6 to 9 and inserting the following:

7 'Sec. 6. Appropriations and allocations. The following appropriations and  
8 allocations are made.

9 **PUBLIC SAFETY, DEPARTMENT OF**

10 **State Police 0291**

11 Initiative: Provides funding for one Senior Lab Scientist position, 3 DNA Forensic  
12 Analyst positions, one Office Associate II position and related costs to collect and process  
13 DNA samples.

14	<b>GENERAL FUND</b>	<b>2011-12</b>	<b>2012-13</b>
15	POSITIONS - LEGISLATIVE COUNT	0.000	5.000
16	Personal Services	\$0	\$117,299
17	All Other	\$0	\$48,174
18			
19	<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>\$165,473</b>

20	<b>HIGHWAY FUND</b>	<b>2011-12</b>	<b>2012-13</b>
21	Personal Services	\$0	\$112,699
22	All Other	\$0	\$46,285
23			
24	<b>HIGHWAY FUND TOTAL</b>	<b>\$0</b>	<b>\$158,984</b>

26 Amend the bill by relettering or renumbering any nonconsecutive Part letter or  
27 section number to read consecutively.

28 **SUMMARY**

29 This amendment is the majority report of the committee. The amendment requires a  
30 person who has been arrested, charged or indicted on or after January 1, 2013 for murder  
31 or criminal homicide in the first or 2nd degree; felony murder; manslaughter; aggravated  
32 assault; elevated aggravated assault; gross sexual assault, including that formerly  
33 denominated as gross sexual misconduct; rape; sexual abuse of a minor; unlawful sexual  
34 contact; visual sexual aggression against a child; sexual misconduct with a child under 14  
35 years of age; kidnapping; criminal restraint; burglary; robbery; arson; aggravated criminal  
36 mischief; or any lesser included offense of any of these crimes if the greater offense is  
37 initially charged to submit to having a DNA sample taken by a law enforcement agency

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COMMITTEE AMENDMENT "A" to H.P. 849, L.D. 1143

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as part of the booking process. "Lesser included offense" has the same meaning as in the Maine Revised Statutes, Title 17-A, section 13-A.

The amendment specifies that the DNA sample taken pursuant to this requirement may not be analyzed and must be destroyed unless one of the following conditions is met: the arrest was made upon an arrest warrant for murder or a Class A, B or C crime; the defendant has appeared before a judge who made a finding that there was probable cause for the arrest; or the defendant posted bond or was released prior to appearing before a judge or magistrate and then failed to appear for a scheduled hearing.

The amendment also clarifies that the Chief of the State Police shall expunge the DNA record if the arresting law enforcement agency does not forward the charge to the prosecuting attorney, the prosecuting attorney does not file a charge, the case is dismissed or the defendant is acquitted.

The amendment also strikes from the bill new surcharges and the establishment of the State DNA Data Base Fund.

The amendment also adds an appropriations and allocations section.

**FISCAL NOTE REQUIRED**

(See attached)

**COMMITTEE AMENDMENT**



# 125th MAINE LEGISLATURE

LD 1143

LR 1070(02)

## An Act To Require That Law Enforcement Officials Collect DNA Samples from Persons Arrested for Certain Crimes

Fiscal Note for Bill as Amended by Committee Amendment "A"

Committee: Criminal Justice and Public Safety

Fiscal Note Required: Yes

### Fiscal Note

	FY 2011-12	FY 2012-13	Projections FY 2013-14	Projections FY 2014-15
<b>Net Cost (Savings)</b>				
General Fund	\$0	\$165,473	\$330,946	\$337,984
Highway Fund	\$0	\$158,984	\$317,967	\$324,738
<b>Appropriations/Allocations</b>				
General Fund	\$0	\$165,473	\$330,946	\$337,984
Highway Fund	\$0	\$158,984	\$317,967	\$324,738

### Fiscal Detail and Notes

The bill includes a General Fund appropriation of \$165,473 and a Highway Fund allocation of \$158,984 in fiscal year 2012-13 to the Department of Public Safety to collect and process DNA samples.