

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND SEVENTEENTH LEGISLATURE

FIRST REGULAR SESSION
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PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4

J.S. McCarthy Company
Augusta, Maine
1995

It is an affirmative defense that the failure to appear resulted from just cause.

See title page for effective date.

CHAPTER 457

S.P. 480 - L.D. 1304

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

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

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

CHAPTER 194

DNA DATA BASE AND DATA BANK ACT

§1571. Short title

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

§1572. Definitions

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

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.

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

3. DNA. "DNA" means deoxyribonucleic acid.

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

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

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.

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

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

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.

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

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.

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.

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

§1574. Blood sample required for DNA analysis upon conviction

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 or at any time during that confinement. A person who is not sentenced to a term of confinement shall provide a DNA sample as a condition of the sentence.

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.

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.

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

- A. Murder;
- B. Felony murder;
- C. Manslaughter;
- D. Aggravated assault;
- E. Gross sexual assault;
- F. Sexual abuse of a minor;
- G. Unlawful sexual contact;
- H. Kidnapping;
- I. Criminal restraint;
- J. Burglary;
- K. Robbery;
- L. Arson;
- M. Aggravated criminal mischief; or
- N. Any lesser included offense of any crime identified in paragraphs A to M if the greater offense is initially charged. "Lesser included offense" has the same meaning as in Title 17-A, section 13-A.

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

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

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

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

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

§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.

§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, county, 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. A person who has been identified and charged with a criminal offense has access only to that person's records and any other records that person is entitled to under the Maine Rules of Evidence.

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.

§1578. Unlawful dissemination

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.

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

Sec. 2. Report to Legislature. The Commissioner of Public Safety shall collect and evaluate data regarding the DNA data bank and testing processes and report the findings and any recommendations to the joint standing committee of the Legislature having jurisdiction over criminal justice and to the Legislature no later than January 1997 or one year after the program is fully operational, whichever is earlier. The report must include information about implementation of DNA testing standards and procedures, the number of tests being performed, federal funding resources utilized, the Maine State Police Crime Laboratory's capabilities and any other relevant information.

See title page for effective date.

CHAPTER 458

S.P. 571 - L.D. 1545

An Act to Update and Clarify the Corporate Laws

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

Sec. 1. 11 MRSA §9-407, sub-§2, as amended by PL 1993, c. 616, §3, is further amended to read:

(2) Upon the written request of any person, the filing officer shall issue ~~a certificate of information~~ an information request report, in such form as the Secretary of State may approve, showing whether there is on file on the date and hour stated therein any presently effective financing statement naming a particular debtor and any statement of assignment thereof and if there is, giving the date and hour of filing of each such statement and the names and addresses of each secured party therein. The uniform fee for ~~certification~~ an information request report is ~~\$10~~ \$5, plus 50¢ for each page of the ~~certificate after the first page report~~. Upon request the filing officer shall furnish a copy of any filed financing statement, continuation statement, termination statement, statement of assignment or statement of release for a fee of \$2, plus 50¢ for each page of the copy after the first page.

Notwithstanding this subsection, if the filing officer is a municipal clerk or a register of deeds, issuance of the certificate of information is discretionary.

Upon reasonable request and within the existing ability of the office of the Secretary of State to respond, the filing officer shall furnish to any

municipal clerk, without charge and for municipal purposes only, a copy of any filed financing statement, continuation statement, termination statement, statement of assignment or statement of release.

The uniform fee for certification is \$5 for a short-form certificate and \$10 for a specially worded certificate.

Sec. 2. 13-A MRSA §301, sub-§5, as amended by PL 1981, c. 544, §2, is further amended to read:

5. Any corporation may grant to any domestic corporation or any foreign corporation authorized to transact business in this State, or to any person, by executing and filing with the Secretary of State, as provided in sections 104 and 106, proof of a resolution of its board of directors making such grant, the exclusive right thereafter to authorize the use of a name similar to that of the granting corporation by any other corporation or corporations, or person for use as a name or as a trade mark or service mark as defined in Title 10, chapter 301-A. Any such resolution ~~shall be is~~ is revocable unless by its terms it is irrevocable. ~~No proof~~ Proof of a subsequent resolution by the board of directors of the granting corporation ~~shall~~ may not thereafter be required under subsection 1, paragraph B, until and unless the granting corporation ~~shall~~, in the case of a revocable resolution, ~~revoke~~ revokes the grant by executing and filing in the manner provided under this section proof of a further resolution of its board of directors revoking the grant.

If proof of a resolution is not appropriate, then the Secretary of State may accept without a filing fee a letter from the entity controlling use of the corporation name or mark in this State. The letter must state that a franchise relationship exists and must be dated and signed by an officer. If no franchise relationship exists, then the letter must demonstrate how the corporation attempting to file is affiliated with the controlling entity.

Sec. 3. 13-A MRSA §303, sub-§2, as amended by PL 1993, c. 316, §17, is further amended to read:

2. Such registration is made by delivering for filing, in accordance with section 106, an application for registration executed in accordance with section 104, setting forth the name of the corporation, the current principal or registered office, the state or territory under the laws of which it is incorporated, the date of its incorporation, a statement that it is actually doing business, ~~and~~ a brief statement of the business in which it is engaged, and a certificate setting forth that such corporation is in good standing under the laws of the state or territory wherein it is organized, executed by the secretary of state of such state or territory or by such other official as may have custody of the records pertaining to corporations.