

# MAINE STATE LEGISLATURE

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**LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED BY THE**

**ONE HUNDRED AND EIGHTEENTH LEGISLATURE**

**SECOND REGULAR SESSION**  
**January 7, 1998 to March 31, 1998**

**SECOND SPECIAL SESSION**  
**April 1, 1998 to April 9, 1998**

**THE GENERAL EFFECTIVE DATE FOR**  
**SECOND REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**JUNE 30, 1998**

**SECOND SPECIAL SESSION**  
**NON-EMERGENCY LAWS IS**  
**JULY 9, 1998**

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

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**J.S. McCarthy Company**  
**Augusta, Maine**  
**1997**

## CHAPTER 608

S.P. 749 - L.D. 2027

**An Act to Ensure Collection of  
Essential Data by the Department of  
Public Safety**

**Mandate preamble.** This measure requires one or more local units of government to expand or modify activities so as to necessitate additional expenditures from local revenues but does not provide funding for at least 90% of those expenditures. Pursuant to the Constitution of Maine, Article IX, Section 21, two thirds of all of the members elected to each House have determined it necessary to enact this measure.

**Emergency preamble.** Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

**Whereas,** it is essential that the law be clear regarding who may draw blood samples and whose blood samples must be drawn for purposes of DNA analysis; and

**Whereas,** since the DNA Data Base and Data Bank Act was enacted new crimes have been defined and other crimes need to be clarified for the purpose of identifying what offenses require a blood sample be drawn for the purpose of DNA analysis; and

**Whereas,** in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

**Sec. 1. 25 MRSA §1573, sub-§1,** as enacted by PL 1995, c. 457, §1, is amended to read:

**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~~ must be physically located at the crime lab or at State Police Headquarters in Augusta. The state DNA data bank must be physically located at the crime lab.

**Sec. 2. 25 MRSA §1574, sub-§1,** as enacted by PL 1995, c. 457, §1, is repealed and the following enacted in its place:

**1. Conviction subsequent to effective date.** A person convicted, on or after January 1, 1996, of a crime listed in subsection 4 shall submit to having a DNA sample drawn and at the time of sentencing the court shall enter an order directing that the DNA sample be drawn. If the convicted person's sentence includes a straight term of imprisonment or a split term of imprisonment, the DNA sample may be drawn at any time following the commencement of the straight term or initial unsuspended portion of the term of imprisonment. If the convicted person's sentence includes a period of probation but no immediate imprisonment, the DNA sample may be drawn at any time following commencement of the probation period as directed by the probation officer. If the convicted person's sentence includes a period of probation, the court may attach the duty to submit to having a DNA sample drawn as a condition of probation.

**Sec. 3. 25 MRSA §1574, sub-§4,** as enacted by PL 1995, c. 457, §1, is amended to read:

**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 or criminal homicide in the first or 2nd degree;
- B. Felony murder;
- C. Manslaughter;
- D. Aggravated assault;
- D-1. Elevated aggravated assault;
- E. Gross sexual assault, including that formerly denominated as gross sexual misconduct;
- E-1. Rape;
- F. Sexual abuse of a minor;
- G. Unlawful sexual contact;
- G-1. Visual sexual aggression against a child;
- G-2. Sexual misconduct with a child under 14 years of age;
- 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.

**Sec. 4. 25 MRSA §1575, sub-§2**, as enacted by PL 1995, c. 457, §1, is amended to read:

**2. Person to draw sample.** Only a duly licensed physician, physician assistant, registered nurse ~~or a licensed practical nurse~~, person certified by the Department of Human Services ~~or person whose occupational license or training allows that person to draw blood samples~~ may draw a ~~blood~~ DNA sample ~~for the purpose of DNA analysis~~.

**Sec. 5. 25 MRSA §2154, sub-§1, ¶C**, as enacted by PL 1993, c. 425, §2, is amended to read:

C. ~~Transmit~~ Enter or cause the report to be entered for inclusion in the State Police and National Crime Information Center computer files on missing children; and

**Sec. 6. 25 MRSA §2154, sub-§4** is enacted to read:

**4. Medical and dental records.** Within 60 days after a law enforcement agency enters the report of a missing child into the State Police and National Crime Information Center computers, that law enforcement agency shall verify and update the record with any additional information, including, when available, medical and dental records.

**Emergency clause.** In view of the emergency cited in the preamble, this Act takes effect when approved.

Effective March 18, 1998.

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**CHAPTER 609**

**H.P. 1434 - L.D. 1998**

**An Act to Increase the Cap on the Total Acreage of Aquaculture Leases That May Be Held by One Person**

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

**Sec. 1. 12 MRSA §6072, sub-§2, ¶E**, as amended by PL 1995, c. 383, §1, is further amended to read:

E. The lease does not result in a person being a tenant of any kind in leases covering an

aggregate of more than ~~150~~ 250 acres, ~~except that the aggregate amount may be up to 200 acres when the leases are used exclusively for the aquaculture of marine organisms by methods other than suspended culture~~; and

**Sec. 2. 12 MRSA §6072, sub-§12**, as amended by PL 1995, c. 383, §2, is further amended to read:

**12. Renewal.** The commissioner shall grant a lease renewal unless the prior lessee has not complied with the lease agreement during its term, substantially no research or aquaculture has been conducted, the commissioner finds that it is not in the best interest of the State to renew the lease or the renewal will cause the lessee to continue being a tenant of any kind in leases covering an aggregate of more than ~~150~~ 250 acres, ~~except that the aggregate amount may be up to 200 acres when the leases are used exclusively for the aquaculture of marine organisms by methods other than suspended culture~~. Renewals may be granted if applied for no later than 30 days after the lapse of the prior lease. A lease renewal is an adjudicatory proceeding under the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter IV. Public notice must be given as required under subsection 6 of this section and a hearing must be held if it is requested in writing by 5 persons.

**Sec. 3. 12 MRSA §6072, sub-§12-A, ¶B**, as amended by PL 1995, c. 383, §3, is further amended to read:

B. The commissioner may grant lease transfers if the commissioner determines that:

- (1) The change in lessee does not violate any of the standards in subsection 7;
- (2) The transfer is not intended to circumvent the intent of subsection 8;
- (3) The transfer is not for speculative purposes; and
- (4) The transfer will not cause the transferee to be a tenant of any kind in leases covering an aggregate of more than ~~150~~ 250 acres, ~~except that the aggregate amount may be up to 200 acres when the leases are used exclusively for the aquaculture of marine organisms by methods other than suspended culture~~ 250 acres.

See title page for effective date.

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