

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

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.** If the arrest was made upon an arrest warrant for murder or a Class A, B or C crime or if the defendant has appeared before a judge who made a finding that there was probable cause for the arrest, a DNA sample may be taken pursuant to this subsection. 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;
- C. Manslaughter;
- D. Aggravated assault;
- E. Elevated aggravated assault;
- F. Gross sexual assault, including that formerly denominated as gross sexual misconduct;
- G. Rape;
- H. Sexual abuse of a minor;
- I. Unlawful sexual contact;

- J. Visual sexual aggression against a child;
- K. Sexual misconduct with a child under 14 years of age;
- L. Kidnapping;
- M. Criminal restraint;
- N. Burglary;
- O. Robbery;
- P. Arson;
- Q. Aggravated criminal mischief; or
- R. Any lesser included offense of any crime identified in paragraphs A to Q if the greater offense is initially charged. "Lesser included offense" has the same meaning as in Title 17-A, section 13-A.

**8. Analysis and destruction of sample.** A DNA sample taken pursuant to subsection 7 may not be analyzed and must be destroyed unless one of the following conditions is met:

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

Amend the bill in section 5 by striking out all of subsection 5 (page 4, lines 22 to 33 in L.D.) and inserting the following:

**'5. Expungement of profiles of persons arrested.** A person whose DNA record has been stored in the state DNA data base pursuant to section 1574, subsection 7 may request the Chief of the State Police for expungement of the person's DNA record from the data base on the ground that the underlying charge that led to the arrest justifying the inclusion of the DNA record in the data base has been resolved by the law enforcement agency's not forwarding the charge to the prosecuting attorney, by the prosecuting attorney's not filing a charge, by dismissal or by acquittal. The Chief of the State Police shall expunge the DNA record of a person under this subsection when the person provides a written request for expungement and:

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

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

**Sec. 6. Appropriations and allocations.** The following appropriations and allocations are made.

**PUBLIC SAFETY, DEPARTMENT OF**

**State Police 0291**

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

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

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

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

**SUMMARY**

This amendment is the minority report of the committee. The amendment is the same as the majority report, except that it does not automatically allow a DNA sample to be taken upon arrest. The amendment specifies that a DNA sample may not be taken immediately upon arrest unless the arrest was made upon an arrest warrant for murder or a Class A, B or C crime or if the defendant has appeared before a judge who made a finding that there was probable cause for the arrest. If one of these 2 requirements is met, the DNA sample may be taken and the rest of the new provisions apply.

The amendment also adds an appropriations and allocations section.

**FISCAL NOTE REQUIRED**  
**(See attached)**