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

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

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

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

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

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

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

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

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

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

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

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

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

§ 1574-B. Collection from missing and unidentified persons

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

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

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

- A. The completion of a permission-to-search form authorizing the collection of a DNA sample;
- B. The receipt of a properly executed search warrant; or
- C. The issuance of a court order.

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

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

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

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

A. A person whose DNA record is stored in the state DNA data base pursuant to section 1574 or section 1574-A may petition the Superior Court for expungement on the grounds that the conviction or adjudication 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 or adjudication, 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 or adjudication and ensure that the person's DNA sample and records are expunged from CODIS.

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

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

§ 1577-A. DNA Fund

The DNA Fund is established as an interest-bearing account for payment of reasonable expenses by the Chief of the State Police in the administration of this chapter. All fees collected pursuant to this chapter must be deposited into the fund as well as income from any other source directed to the fund. All interest earned by the account becomes part of the fund. Any balance remaining in the fund at the end of the fiscal year does not lapse but is carried forward into subsequent fiscal years. After covering reasonable

expenses for the administration of this chapter, the Chief of the State Police may use proceeds of the fund for loans, grants, purchase of equipment or payment of personnel for any law enforcement agency, county jail, Department of Corrections facility, judicial agency, Office of the Chief Medical Examiner or any other person to carry out the purposes of this chapter.

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

§ 1579. Rules

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

SUMMARY

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