

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

An Act To Make Maine Safer by Collecting DNA from Those Convicted of Felonies

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

Sec. 1. 25 MRSA §1574, sub-§1, as amended by PL 2003, c. 393, §3, is further amended to read:

1. Conviction and submission to DNA sampling. A person convicted, ~~on or after January 1, 1996 and before October 1, 2001,~~ of a crime listed in subsection 4 ~~or a person convicted on or after October 1, 2001,~~ of a crime listed in subsection 5 shall submit to having a DNA sample taken and at the time of sentencing the court shall enter an order directing that the DNA sample be taken. If the convicted person's sentence includes a straight term of imprisonment or a split term of imprisonment, the DNA sample may be taken 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 taken 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~~shall attach the duty to submit to having a DNA sample taken as a condition of probation.

Sec. 2. 25 MRSA §1574, sub-§2, as amended by PL 2003, c. 393, §3, is further amended to read:

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 subsection ~~4,5~~ must have a DNA sample taken before release from the corrections system.

Sec. 3. 25 MRSA §1574, sub-§4, as corrected by RR 2003, c. 1, §23, is repealed.

Sec. 4. 25 MRSA §1574, sub-§5, as corrected by RR 2003, c. 1, §23, is amended to read:

5. Applicable offenses. This section applies to a person convicted ~~on or after October 1, 2001~~ of one or more of the following offenses or an attempt of one or more of the following offenses:

- A. Murder;
- B. A Class A, B or C crime;
- C. Sexual abuse of a minor;
- D. Unlawful sexual contact;
- E. Visual sexual aggression against a child;
- F. Sexual contact with a child under 14 years of age;

G. Solicitation of a child by a computer to commit a prohibited act; or

H. Any lesser included offense of any crime identified in paragraphs A to G if the greater offense is initially charged. "Lesser included offense" has the same meaning as in Title 17-A, section 13-A.

Sec. 5. Report. The Chief of the Maine State Police shall determine the most appropriate method for ensuring that all those persons who have been convicted of a crime listed in the Maine Revised Statutes, Title 25, section 1574, subsection 5 and who still reside in this State submit a biological sample for DNA analysis as required by Title 25, section 1574, subsection 1. The chief shall report back to the Joint Standing Committee on Criminal Justice and Public Safety with any necessary implementing legislation no later than December 1, 2007. The Joint Standing Committee on Criminal Justice and Public Safety shall submit a bill, which may include the recommendations of the Chief of the State Police, to the Second Regular Session of the 123rd Legislature by February 15, 2008 that implements the intent of this Act.

Sec. 6. Effective date. Those sections of this Act that amend the Maine Revised Statutes, Title 25, section 1574 take effect July 1, 2008.

SUMMARY

Current law requires persons convicted of certain crimes after January 1, 1996 to submit a biological sample for DNA testing and inclusion in Maine's DNA databank maintained by the Chief of the State Police or in the Federal Bureau of Investigation's national DNA identification index system, which 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.

This bill requires all persons who have been convicted of murder, a Class A, B or C crime, commonly known as felonies, or specified other crimes to submit a sample for DNA testing and storage. The requirement is delayed until July 1, 2008 to allow the Chief of the State Police to develop a plan to obtain and store the DNA of all those persons who are subject to this requirement. The chief is required to submit that plan to the Joint Standing Committee on Criminal Justice and Public Safety, which is required to submit a bill to the Second Regular Session of the 123rd Legislature implementing the plan.