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Date: (Filing No. H-)

CRIMINAL JUSTICE AND PUBLIC SAFETY

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
125TH LEGISLATURE
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT “ ” to H.P. 849, L.D. 1143, Bill, “An Act To Require That Law Enforcement Officials Collect DNA Samples from Persons Arrested for Certain Crimes”

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 indicted on or after January 1, 2014. An appropriate agency may take a DNA sample of a person who is indicted or who has waived indictment for murder or a Class A, B or C crime listed in this subsection on or after January 1, 2014. A person who is indicted or has waived indictment shall submit to having a DNA sample taken by an appropriate agency for any of the following crimes:

- 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 crime 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;

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1 M. Criminal restraint;

2 N. Robbery;

3 O. Arson;

4 P. Aggravated criminal mischief; and

5 Q. Any lesser included offense of any crime identified in paragraphs A to P if the
6 greater offense is initially charged. For purposes of this paragraph, "lesser included
7 offense" has the same meaning as described in Title 17-A, section 13-A.'

8 Amend the bill by striking out all of section 5 (page 4, lines 21 to 33 in L.D.) and
9 inserting the following:

10 '**Sec. 5. 25 MRSA §1577, sub-§5** is enacted to read:

11 **5. Expungement of profiles of persons indicted.** A person whose DNA record has
12 been stored in the state DNA database pursuant to section 1574, subsection 7 may request
13 the Chief of the State Police for expungement of the person's DNA record from the
14 database on the ground that the underlying charge that led to the indictment or waiver of
15 indictment justifying the inclusion of the DNA record in the database has been resolved
16 by dismissal or by acquittal. The Chief of the State Police shall expunge the DNA record
17 of a person under this subsection when the person provides a written request for
18 expungement and a certified copy of the dismissal or acquittal.'

19 Amend the bill by striking out all of sections 6 to 9.

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

22 **SUMMARY**

23 The bill requires a person to submit to having a DNA sample taken if the person is
24 arrested on or after January 1, 2012 for certain offenses. This amendment replaces that
25 provision and requires a person to submit to having a DNA sample taken by an
26 appropriate agency if that person has been indicted or has waived indictment on or after
27 January 1, 2014 for murder or criminal homicide in the first or 2nd degree; felony
28 murder; manslaughter; aggravated assault; elevated aggravated assault; gross sexual
29 assault, including that crime formerly denominated as gross sexual misconduct; rape;
30 sexual abuse of a minor; unlawful sexual contact; visual sexual aggression against a
31 child; sexual misconduct with a child under 14 years of age; kidnapping; criminal
32 restraint; robbery; arson; aggravated criminal mischief; or any lesser included offense of
33 any of these crimes if the greater offense is initially charged. The amendment strikes the
34 establishment of the State DNA Data Base Fund and also strikes the provision that
35 imposes a surcharge to support that fund.

36 **FISCAL NOTE REQUIRED**

37 (See attached)