

CONSENT CALENDAR

February 2, 2024

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

**The Committee on Criminal Justice and Public Safety
to which was referred HB 1448-FN,**

**AN ACT relative to requiring retention of a blood
sample for the duration of a criminal case, including
appeal. Having considered the same, report the same
with the following resolution: RESOLVED, that it is
INEXPEDIENT TO LEGISLATE.**

Rep. Jonathan Stone

FOR THE COMMITTEE

COMMITTEE REPORT

Committee:	Criminal Justice and Public Safety
Bill Number:	HB 1448-FN
Title:	relative to requiring retention of a blood sample for the duration of a criminal case, including appeal.
Date:	February 2, 2024
Consent Calendar:	CONSENT
Recommendation:	INEXPEDIENT TO LEGISLATE

STATEMENT OF INTENT

After hearing witness testimony, it is the opinion of the committee that this bill as written should be found inexpedient to legislate. The Department of Safety spoke on the issue of storage and time frames and stated they could support increasing to six months with minimal financial impact. Some members of the committee felt nine months was also a reasonable time frame. The sponsor was given an opportunity to submit an amendment in regards to the time frames of holding samples and failed to do so.

Vote 18-0.

Rep. Jonathan Stone
FOR THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

CONSENT CALENDAR

Criminal Justice and Public Safety

HB 1448-FN, relative to requiring retention of a blood sample for the duration of a criminal case, including appeal. **INEXPEDIENT TO LEGISLATE.**

Rep. Jonathan Stone for Criminal Justice and Public Safety. After hearing witness testimony, it is the opinion of the committee that this bill as written should be found inexpedient to legislate. The Department of Safety spoke on the issue of storage and time frames and stated they could support increasing to six months with minimal financial impact. Some members of the committee felt nine months was also a reasonable time frame. The sponsor was given an opportunity to submit an amendment in regards to the time frames of holding samples and failed to do so. **Vote 18-0.**

Original: House Clerk
Cc: Committee Bill File

HOUSE COMMITTEE ON CRIMINAL JUSTICE AND PUBLIC SAFETY

EXECUTIVE SESSION on HB 1448-FN

BILL TITLE: relative to requiring retention of a blood sample for the duration of a criminal case, including appeal.

DATE: February 2, 2024

LOB ROOM: 202-204

MOTIONS: **INEXPEDIENT TO LEGISLATE**

Moved by Rep. Stone

Seconded by Rep. Selig

Vote: 18-0

CONSENT CALENDAR: YES

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep Alissandra Murray, Clerk



STATE OF NEW HAMPSHIRE
OFFICE OF THE HOUSE CLERK

2023 SESSION

2/27/2023 4:08:32 PM
Roll Call Committee Registers
Report

Criminal Justice and Public Safety

Bill #: 1448 Motion: 17 L AM #: _____ Exec Session Date: 2/2/204

<u>Members</u>	<u>YEAS</u>	<u>Nays</u>	<u>NV</u>
Roy, Terry Chairman			
Rhodes, Jennifer M. Vice Chairman	X		
Pratt, Kevin M.	X		
Sytek, John	X		
Proulx, Mark L.	X		
Janvrin, Jason A.	X		
Mannion, Dennis	X		
Reid, Karen A	X		
Stone, Jonathan F.	X		
Tenczar, Jeffrey	X		
Harriott-Gathright, Linda C.			
Meuse, David	X		
Bouldin, Amanda C.	X		
Bradley, Amy	X		
Murphy, Nancy A.	X		
Newman, Ray E.	X		
Murray, Alissandra Clerk <u>802 NEWMAN</u>	X		
Newell, Jodi K	X		
Selig, Loren	X		
Wheeler, Jonah O	X		
TOTAL VOTE:	18	0	

HOUSE COMMITTEE ON CRIMINAL JUSTICE AND PUBLIC SAFETY

PUBLIC HEARING ON HB 1448-FN

BILL TITLE: relative to requiring retention of a blood sample for the duration of a criminal case, including appeal.

DATE: January 10, 2024

LOB ROOM: 202-204

Time Public Hearing Called to Order: 12:00 p.m.

Time Adjourned: <<End

Time>>

Committee Members: Reps. Roy, Rhodes, A. Murray, Pratt, Sytek, Janvrin, D. Mannion, Reid, Stone, Tenczar, Harriott-Gathright, Meuse, Bouldin, N. Murphy, R. Newman, Newell, Selig and Wheeler

Bill Sponsors:
Rep. Hynes

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

Rep Dan Hynes introduces his bill

- Requires the crime lab to hold onto a blood sample for the duration of the case, instead of 30 days. As it stands, many defendants may not even have legal representation within those 30 days and those would not be able to independently test and verify the blood samples
- Rep Stone asks if the crime lab receives a judge's order to destroy the sample or if they destroy it as a matter of policy, Rep Hynes says it's a matter of policy
- Rep Sue Newman asks if storage is an issue with the crime labs storing this evidence, Rep Hynes says yes they will need more storage but the costs to make that possible does not outweigh a defendant's right to due process
- Rep Reid asks if it's possible to require the attorney notify the lab that the case is over instead of require the state pay the police time for this notification, Rep Hynes says there are cases where people don't hire an attorney so it's not a reliable substitute
- Rep Wheeler
- Rep Stone asks if this would also apply to felony cases and do those not last longer than misdemeanor cases, Hynes says yes but they also make up a smaller percentage of blood samples, only 5-10%
- Chairman Roy
- Rep Newell

Melissa Staples, NH Department of Safety & Forensic Crime Lab

- Shares that in her experience emails are not sent letting the laboratory know that it's okay to dispose of evidence, and it's often on the lab to seek out that information for themselves. They are not provided with the prosecutors of a case or the status of a case.
- In a needs-assessment a few years back, it was determined that the lab is 2 and a half times undersized for the services they provide
- Rep Stone asks if something like 90 days would have no financial impact, Staples says even 180 days would be fine
- Rep Wheeler asks if Staples would want the committee to address the lack of notification from county attorneys, Staples shares that it may be amenable to require that the evidence and samples be returned to the submitting agency so the onus of storage would be on them instead of the lab

Respectfully submitted,

Rep. Alissandra Murray, Clerk

Daniel Richardson

Amend that a written email notice stating the sample will not be used for any current or conceivable future case shall be preserved as public record.

House Remote Testify

Criminal Justice and Public Safety Committee Testify List for Bill HB1448 on 2024-01-10

Support: 1 Oppose: 0 Neutral: 0 Total to Testify: 0

Export to Excel

<u>Name</u>	<u>City, State</u> <u>Email Address</u>	<u>Title</u>	<u>Representing</u>	<u>Position</u>	<u>Testifying</u>	<u>Non-Germane</u>	<u>Signed Up</u>
Richardson, Daniel	Nashua, NH daniel6_22@comcast	A Member of the Public	Myself	Support	No	No	1/8/2024 12:29 PM

Register Your Opinion If Not Testifying

Date: 1/10/24

[illegible]

HB 1448-FN - AS INTRODUCED

2024 SESSION

24-2608

11/05

HOUSE BILL ***1448-FN***

AN ACT relative to requiring retention of a blood sample for the duration of a criminal case, including appeal.

SPONSORS: Rep. Hynes, Hills. 2

COMMITTEE: Criminal Justice and Public Safety

ANALYSIS

This bill requires preservation of blood samples until conclusion of a criminal or motor vehicle case.

Explanation: Matter added to current law appears in ***bold italics***.
 Matter removed from current law appears ~~[in brackets and struck through]~~
 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Four

AN ACT relative to requiring retention of a blood sample for the duration of a criminal case, including appeal.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 Driving or Operating Under the Influence of Drugs or Liquor; Additional Tests. Amend RSA
2 265-A:7, II to read as follows:

3 II. A sample of blood taken pursuant to RSA 265-A:4 shall be of sufficient quantity to allow 2
4 tests; and the testing laboratory shall retain [~~for a period of 30 days~~], subsequent to the test
5 conducted pursuant to RSA 265-A:4, a quantity of said sample sufficient for another test according to
6 paragraph III, which quantity shall be made available to the respondent or his or her counsel upon
7 request.

8 2 New Paragraphs; Preservation for Criminal or Motor Vehicle Cases. Amend RSA 265-A:7 by
9 inserting after paragraph III the following new paragraphs:

10 IV. Where a blood sample is taken pursuant to RSA 265-A:4, the testing facility or other
11 facility where the sample is stored shall preserve the sample until it has received written notice from
12 the relevant prosecutor for the jurisdiction where the incident warranting the taking of the sample
13 occurred. The written notice shall state that the sample will not be used for any current or
14 conceivable future motor vehicle, criminal case, or case brought under RSA 214:20-d stemming from
15 the incident. For the purposes of this paragraph, an email shall be sufficient written notice.
16 Nothing in this paragraph shall be interpreted to mean that a sample storage facility, or law
17 enforcement or other prosecuting body, may disregard a notice of preservation by an attorney
18 representing the person tested. This paragraph does not apply to department of motor vehicle
19 hearings or hearing officers.

20 V. Any violation of paragraph IV shall result in the exclusion of the blood sample test results
21 in any relevant case where the individual tested is a defendant.

22 3 Effective Date. This act shall take effect January 1, 2025.

HB 1448-FN- FISCAL NOTE
AS INTRODUCED

AN ACT relative to requiring retention of a blood sample for the duration of a criminal case, including appeal.

FISCAL IMPACT: ☒ State ☐ County ☐ Local ☐ None

Estimated State Impact - Increase / (Decrease)				
	FY 2024	FY 2025	FY 2026	FY 2027
Revenue	\$0	\$0	\$0	\$0
Revenue Fund(s)	None			
Expenditures	\$0	Indeterminable Increase		
Funding Source(s)	General Fund			
Appropriations	\$0	\$0	\$0	\$0
Funding Source(s)	None			

- Does this bill provide sufficient funding to cover estimated expenditures? ☒ No
- Does this bill authorize new positions to implement this bill? ☒ No

Estimated Political Subdivision Impact - Increase / (Decrease)				
	FY 2024	FY 2025	FY 2026	FY 2027
County Revenue	\$0	\$0	\$0	\$0
County Expenditures	\$0	Indeterminable		
Local Revenue	\$0	\$0	\$0	\$0
Local Expenditures	\$0	Indeterminable		

METHODOLOGY:

This bill requires long-term storage of blood samples collected in relation to driving under the influence (DUI) investigations, which may be preserved by either the testing facility or another facility. Currently, the New Hampshire State Police Forensic Lab receives approximately 2,700 blood samples annually for toxicology analysis.

The Department of Safety states it would need to periodically invest in free-standing walk-in freezers to store the samples, and currently does not have adequate space to place such freezers. The cost of each freezer is approximately \$10,000 and would provide adequate storage for about three (3) years' worth of blood samples. Any new space needed for the placement of these new freezer units would be required to have adequate security (audible alarms and motion sensors) as well as a temperature monitoring system. Additionally, the Department states it would need

to hire one (1) new criminal evidence technician position to proactively seek permission to destroy each sample. Assuming a hire date of September 1, 2024, this position would cost approximately \$70,000 in FY 2025, \$81,000 in FY 2026, and \$84,000 in FY 2027. This bill provides neither authority nor an appropriation for a new position.

Alternatively, the Department states it could return such blood samples to the submitting agencies for storage, as it does for every other type of evidence sample which is analyzed. The submitting agencies would be knowledgeable about the status of the case and the identity of the prosecutor, and thus may be in a better position to follow-up on whether continued storage is necessary. This would shift the storage burden to individual law enforcement agencies (other state agencies, county, local and federal). To this extent, the Department would have no costs, however, other state agencies, and county and local law enforcement agencies may then incur a cost to acquire sufficient storage for the samples.

AGENCIES CONTACTED:

Department of Safety