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.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

24-2608
11/05

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

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

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

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

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

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

LBA
24-2608
11/27/23

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: [X] 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? [X] No
- Does this bill authorize new positions to implement this bill? [X] 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