

MAINE STATE LEGISLATURE

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116th MAINE LEGISLATURE

FIRST REGULAR SESSION-1993

Legislative Document

No. 1543

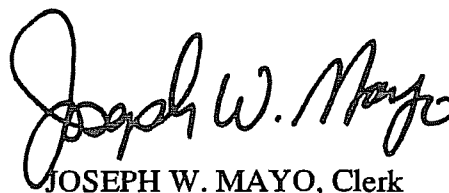
H.P. 1143

House of Representatives, June 1, 1993

An Act to Clarify the Laws Governing HIV Testing of Sexual Offenders.

(AFTER DEADLINE)

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27:
Reference to the Committee on Judiciary suggested and ordered printed.


JOSEPH W. MAYO, Clerk

Presented by Representative TOWNSEND of Eastport.

2
3 **Be it enacted by the People of the State of Maine as follows:**

4 **Sec. 1. 5 MRSA §19203-E, sub-§5,** as enacted by PL 1991, c.
5 803, §3, is amended to read:

6 **5. Determination.** ~~The~~ If the petitioner proves by a
7 preponderance of the evidence the following, the court may shall
8 require the convicted offender to obtain HIV Testing ~~only if the~~
9 ~~petitioner proves by a preponderance of the evidence that~~ testing:

10
11 A. The alleged exposure to blood or body fluids of the
12 convicted offender created a significant risk of HIV
13 infection as defined by the Department of Human Services,
14 Bureau of Health through the adoption of rules in accordance
15 with the Maine Administrative Procedure Act;

16
17 B. An authorized representative of the petitioner, the
18 prosecuting attorney or the court has sought to obtain
19 written informed consent from the convicted offender; and

20
21 C. Written informed consent was not given by the convicted
22 offender.

23
24
25
26 **STATEMENT OF FACT**

27
28 Current law provides that the court may order HIV testing of
29 convicted offenders of gross sexual assault only if the
30 petitioner proves certain facts. This bill amends the language
31 to clarify that if such facts are proven, the court must order
32 the testing.