

MAINE STATE LEGISLATURE

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117th MAINE LEGISLATURE

FIRST REGULAR SESSION-1995

Legislative Document

No. 799

H.P. 589

House of Representatives, March 14, 1995

**An Act to Amend the Laws Governing HIV Testing at the Request of
Victims of Sexual Assault.**

Submitted by the Department of Public Safety pursuant to Joint Rule 24.
Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative McALEVEY of Waterboro.
Cosponsored by Representatives: BUNKER of Kossuth Township, DONNELLY of Presque
Isle, LINDAHL of Northport, PLOWMAN of Hampden, Senator: MICHAUD of Penobscot.

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

4 **Sec. 1. 5 MRSA §19203, sub-§10, ¶B,** as enacted by PL 1991, c.
803, §1, is amended to read:

6 B. A victim-witness advocate authorized by section ~~19203-E~~
7 19203-F to receive test results of a person convicted of
8 ~~gross-sexual-assault~~ a crime involving a sexual act, as
9 defined in Title 17-A, section 251, who shall disclose to a
10 petitioner under section ~~19203-E~~ 19203-F.

12 **Sec. 2. 5 MRSA §19203-A, sub-§5,** as enacted by PL 1991, c.
13 803, §2, is amended to read:

14 **5. Exposure from a crime involving a sexual act.** Consent
15 need not be obtained when a victim of ~~gross-sexual-assault~~ a
16 crime involving a sexual act, as defined in Title 17-A, section
17 251, has been exposed to the blood or body fluids of the
18 convicted offender ~~and the exposure creates a significant risk of~~
19 ~~infection,~~ provided that a court order has been ~~obtained~~ issued
20 under section ~~19203-E~~ 19203-F. The fact that an HIV test was
21 given as a result of the exposure and the results of that test
22 may not appear in a convicted offender's medical record.
23 Counseling on risk reduction must be offered, but the convicted
24 offender may choose not to be informed about the result of the
25 test.

26 **Sec. 3. 5 MRSA §19203-E,** as amended by PL 1993, c. 391, §§1
27 and 2, is repealed.

28 **Sec. 4. 5 MRSA §19203-F** is enacted to read:

29 **§19203-F. HIV test after conviction for sexual assault**

30 **1. Request for testing.** A person who is the victim of a
31 crime involving a sexual act, as defined in Title 17-A, section
32 251, and who allegedly has been exposed to the blood or body
33 fluids of the convicted offender may request at the time of
34 sentencing that the court order the convicted offender to submit
35 to HIV testing.

36 **2. Duties of the court.** Upon receipt of a request, the
37 court shall order the convicted offender to obtain HIV testing.

38 **3. Reporting and counseling.** The health care facility in
39 which a convicted offender required to undergo an HIV test is
40 tested shall disclose the results of the convicted offender's
41 test to the victim-witness advocate, who shall disclose the
42 results to the victim. The convicted offender's HIV test results
43 may not be disclosed to the victim until the victim has received
44 counseling, pursuant to section 19204-A, regarding the nature,
45

reliability and significance of the convicted offender's HIV test.

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4 **Sec. 5. 5 MRSA §19204-A, first ¶**, as amended by PL 1991, c.
803, §4, is further amended to read:

6 Except as otherwise provided by this chapter, persons who
obtain an HIV test must be offered pretest and post-test
8 counseling. Persons who are authorized by section 19203-C or
19203-E 19203-F to receive test results after exposure must be
10 offered counseling regarding the nature, reliability and
significance of the HIV test and the confidential nature of the
12 test.

14

STATEMENT OF FACT

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18 This bill amends the laws to require a court to order a
person convicted of a crime involving a sexual act, gross sexual
assault or sexual abuse of a minor to be tested for HIV if the
20 victim makes a request at the time of sentencing.