

MAINE STATE LEGISLATURE

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L.D. 1304

DATE: June 5, 1995 (Filing No. S- 219)

CRIMINAL JUSTICE

Reported by: Senator BENOIT of Franklin for the Committee.

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**STATE OF MAINE
SENATE
117TH LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT "A" to S.P. 480, L.D. 1304, Bill, "An Act to Establish the DNA Data Base and Data Bank Act"

Amend the bill in section 1 in that part designated "§1573." in subsection 3, in the 2nd line (page 2, line 23 in L.D.) by inserting after the following: "required to" the following: 'collect or'

Further amend the bill in section 1 in that part designated "§1574." in subsection 1 in the 4th line (page 2, line 32 in L.D.) by inserting after the following: "prison" the following: 'or at any time during that confinement'

Further amend the bill in section 1 in that part designated "§1574." by striking out all of subsection 4 (page 2, lines 45 to 47 in L.D.).

Further amend the bill in section 1 in that part designated "§1574." in subsection 5 in the first paragraph in the 2nd line (page 3, line 2 in L.D.) by inserting after the following: "convicted of one" the following: 'or more' and inserting after the following: "attempt of one" the following: 'or more'

Further amend the bill in section 1 in that part designated "§1574." in subsection 5 in paragraph L in the first line (page 3, line 27 in L.D.) by striking out the following: "or"

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2 Further amend the bill in section 1 in that part designated
3 "§1574." in subsection 5 in paragraph M in the first line (page
4 3, line 30 in L.D.) by striking out the following: "1" and
5 inserting in its place the following: '; or'

6 Further amend the bill in section 1 in that part designated
7 "§1574." in subsection 5 by inserting after paragraph M the
8 following:

10 'N. Any lesser included offense of any crime identified in
11 paragraphs A to M if the greater offense is initially
12 charged. "Lesser included offense" has the same meaning as
13 in Title 17-A, section 13-A.'

14 Further amend the bill in section 1 in that part designated
15 "§1574." by renumbering the subsections to read consecutively.

16 Further amend the bill in section 1 in that part designated
17 "§1577." in subsection 2 in paragraph A in the first line (page
18 4, line 20 in L.D.) by inserting after the following: "Local,"
19 the following: 'county,'

20 Further amend the bill in section 1 in that part designated
21 "§1577." in subsection 2 in paragraph D in the last line (page 4,
22 line 32 in L.D.) by inserting after the following: "base." the
23 following: 'A person who has been identified and charged with a
24 criminal offense has access only to that person's records and any
25 other records that person is entitled to under the Maine Rules of
26 Evidence.'

27 Further amend the bill by inserting after section 1 the
28 following:

29 **'Sec. 2. Report to Legislature.** The Commissioner of Public
30 Safety shall collect and evaluate data regarding the DNA data
31 bank and testing processes and report the findings and any
32 recommendations to the joint standing committee of the
33 Legislature having jurisdiction over criminal justice and to the
34 Legislature no later than January 1997 or one year after the
35 program is fully operational, whichever is earlier. The report
36 must include information about implementation of DNA testing
37 standards and procedures, the number of tests being performed,
38 federal funding resources utilized, the Maine State Police Crime
39 Laboratory's capabilities and any other relevant information.'

40 Further amend the bill by inserting at the end before the
41 statement of fact the following:

42 **'FISCAL NOTE**

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2 The Department of Public Safety may require additional
3 General Fund appropriations to establish a DNA identification
4 system. The exact amount required can not be determined at this
5 time and will depend on the amount of federal funding available
6 for this purpose.

7 The Department of Corrections may also require additional
8 General Fund appropriations. The exact amount required can not
9 be determined at this time and will depend on the department's
10 specific responsibilities concerning the drawing and
11 transportation of the samples, which are not detailed in this
12 bill.

13 This bill may increase prosecutions for Class E crimes. If
14 a jail sentence is imposed, the additional costs to the counties
15 are estimated to be \$83.22 per day per prisoner. These costs are
16 not reimbursed by the State. The number of prosecutions that may
17 result in a jail sentence and the resulting costs to the county
18 jail system are expected to be insignificant.

19 The additional workload and administrative costs associated
20 with the minimal number of new cases filed in the court system
21 can be absorbed within the budgeted resources of the Judicial
22 Department. The collection of additional fines may increase
23 General Fund revenue by minor amounts.

24 The additional costs associated with reporting to the
25 Legislature on the DNA data bank and testing processes can be
26 absorbed by the Department of Public Safety utilizing existing
27 budgeted resources.'

32 **STATEMENT OF FACT**

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34 This amendment clarifies that the Chief of the State Police
35 is not required to collect or analyze DNA samples unless adequate
36 funding is available.

37
38 The amendment clarifies that for any conviction subsequent
39 to the effective date of this bill a DNA sample may be taken at
40 any time during the defendant's period of confinement.

41
42 The amendment removes the provision that would allow a blood
43 sample taken during a criminal investigation to be used for a DNA
44 sample. Eliminating this provision avoids confusion in
45 administration and removes potential challenges to the secondary
46 use of a sample that goes beyond the State's purpose covered in a
47 search warrant.
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COMMITTEE AMENDMENT

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The amendment allows for DNA tests when a person is convicted of a lesser included offense of any crime that mandates a DNA test if the greater offense is initially charged.

The amendment also clarifies that a person charged with a criminal offense has access only to that person's DNA records and any other records that are otherwise discoverable to that person under the Maine Rules of Evidence.

The amendment also adds a fiscal note to the bill.

COMMITTEE AMENDMENT