

MAINE STATE LEGISLATURE

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118th MAINE LEGISLATURE

FIRST REGULAR SESSION-1997

Legislative Document

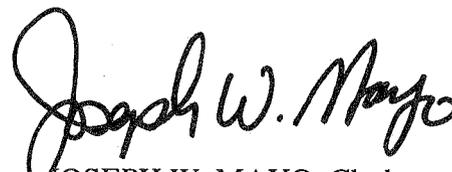
No. 1409

H.P. 1017

House of Representatives, March 11, 1997

An Act to Require Mandatory Testing of Persons Who Assault Police Officers.

Reference to the Committee on Judiciary suggested and ordered printed.


JOSEPH W. MAYO, Clerk

Presented by Representative LEMKE of Westbrook.

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

4 **Sec. 1. 5 MRSA §19203, sub-§9,** as repealed and replaced by PL 1987, c. 811, §3, is amended to read:

6 **9. Medical records.** As part of a medical record when
8 release or disclosure of that record is authorized pursuant to
section 19203-D; or

10 **Sec. 2. 5 MRSA §19203, sub-§10, ¶B,** as amended by PL 1995, c.
12 319, §1, is further amended to read:

14 B. A victim-witness advocate authorized by section 19203-F
16 to receive the test results of a person convicted of a
sexual crime as defined in section 19203-F, subsection 1,
18 paragraph C, who ~~shall disclose~~ discloses to a victim under
section 19203-F, subsection 4, ~~or~~

20 **Sec. 3. 5 MRSA §19203, sub-§11** is enacted to read:

22 **11. Law enforcement officer.** To a law enforcement officer
assaulted in the course of duty by a person required to undergo
testing pursuant to Title 25, chapter 404.

24 **Sec. 4. 25 MRSA c. 404** is enacted to read:

26 **CHAPTER 404**

28 **LAW ENFORCEMENT OFFICERS POTENTIALLY**
30 **EXPOSED TO COMMUNICABLE DISEASES**

32 **§3801. Documentation**

34 When a person assaults a law enforcement officer while the
law enforcement officer is carrying out official duties and
comingles that person's and the law enforcement officer's blood
or body fluids, the law enforcement officer shall document the
incident. The documentation must be filed with the agency
employing the law enforcement officer and include, at a minimum,
the date, time and location of the incident and the means by
which the blood or body fluids were commingled.

42 **§3802. Mandatory testing**

44 Notwithstanding any other provision of law, when an incident
is documented under section 3801, the person who assaulted the
law enforcement officer must be tested for communicable diseases,
as defined in Title 22, section 801, subsection 2, including
hepatitis and HIV.

2 **§3803. Results of test**

4 **1. Required disclosure.** The person tested and the law
enforcement officer who was assaulted must be informed of all
6 test results.

8 **2. Prohibited disclosure.** No other disclosure of the test
results may be made without written authorization from both the
10 person tested and the law enforcement officer. A person is
guilty of unlawful disclosure of information if the person
12 discloses any portion of the test results without written
authorization. Unlawful disclosure of information is a Class D
14 crime.

16 **§3804. Costs**

18 The agency employing the law enforcement officer is
responsible for the costs of the tests.

20 **§3805. HIV tests**

22 The provisions of Title 5, sections 19203, 19203-D, 19204-A,
24 19204-B, 19204-C and 19205 apply to HIV tests conducted under
this chapter.

26 **SUMMARY**

28 This bill requires a person who assaults a law enforcement
30 officer while the officer is acting in the course of duty and
32 commingles that person's and the law enforcement officer's blood
34 or body fluids to be tested for communicable diseases, including
36 hepatitis and HIV. The test results must be revealed to the
person tested and the law enforcement officer, but further
disclosure without the written authorization of both the person
tested and the law enforcement officer is a Class D crime.