

MAINE STATE LEGISLATURE

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M
R. G. S.

L.D. 2027

DATE: March 2, 1998

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CRIMINAL JUSTICE

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**STATE OF MAINE
SENATE
118TH LEGISLATURE
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT " A " to S.P. 749, L.D. 2027, Bill, "An Act to Ensure Collection of Essential Data by the Department of Public Safety"

Amend the bill by striking out everything after the title and before the summary and inserting in its place the following:

'Mandate preamble. This measure requires one or more local units of government to expand or modify activities so as to necessitate additional expenditures from local revenues but does not provide funding for at least 90% of those expenditures. Pursuant to the Constitution of Maine, Article IX, Section 21, two thirds of all of the members elected to each House have determined it necessary to enact this measure.

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, it is essential that the law be clear regarding who may draw blood samples and whose blood samples must be drawn for purposes of DNA analysis; and

Whereas, since the DNA Data Base and Data Bank Act was enacted new crimes have been defined and other crimes need to be clarified for the purpose of identifying what offenses require a blood sample be drawn for the purpose of DNA analysis; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

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Sec. 1. 25 MRSA §1573, sub-§1, as enacted by PL 1995, c. 457, §1, is amended to read:

1. **Responsibility for system.** The Chief of the State Police is responsible for DNA analysis and establishing, managing and administering the state DNA data base and the state DNA data bank to support law enforcement and for liaison with the FBI regarding the State's participation in CODIS. The state DNA data base and must be physically located at the crime lab or at State Police Headquarters in Augusta. The state DNA data bank must be physically located at the crime lab.

Sec. 2. 25 MRSA §1574, sub-§1, as enacted by PL 1995, c. 457, §1, is repealed and the following enacted in its place:

1. Conviction subsequent to effective date. A person convicted, on or after January 1, 1996, of a crime listed in subsection 4 shall submit to having a DNA sample drawn and at the time of sentencing the court shall enter an order directing that the DNA sample be drawn. If the convicted person's sentence includes a straight term of imprisonment or a split term of imprisonment, the DNA sample may be drawn at any time following the commencement of the straight term or initial unsuspended portion of the term of imprisonment. If the convicted person's sentence includes a period of probation but no immediate imprisonment, the DNA sample may be drawn at any time following commencement of the probation period as directed by the probation officer. If the convicted person's sentence includes a period of probation, the court may attach the duty to submit to having a DNA sample drawn as a condition of probation.

Sec. 3. 25 MRSA §1574, sub-§4, as enacted by PL 1995, c. 457, §1, is amended to read:

4. **Applicable offenses.** This section applies to a person convicted of one or more of the following offenses or an attempt of one or more of the following offenses:

- A. Murder or criminal homicide in the first or 2nd degree;
- B. Felony murder;
- C. Manslaughter;
- D. Aggravated assault;
- D-1. Elevated aggravated assault;

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- 2 E. Gross sexual assault, including that formerly
3 denominated as gross sexual misconduct;
- 4 E-1. Rape;
- 6 F. Sexual abuse of a minor;
- 8 G. Unlawful sexual contact;
- 10 G-1. Visual sexual aggression against a child;
- 12 G-2. Sexual misconduct with a child under 14 years of age;
- 14 H. Kidnapping;
- 16 I. Criminal restraint;
- 18 J. Burglary;
- 20 K. Robbery;
- 22 L. Arson;
- 24 M. Aggravated criminal mischief; or
- 26 N. Any lesser included offense of any crime identified in
- 28 paragraphs A to M if the greater offense is initially
- charged. "Lesser included offense" has the same meaning as
- in Title 17-A, section 13-A.

30 **Sec. 4. 25 MRSA §1575, sub-§2**, as enacted by PL 1995, c. 457,
32 §1, is amended to read:

34 **2. Person to draw sample.** Only a duly licensed physician,
36 physician assistant, registered nurse ~~or~~ a licensed practical
nurse, person certified by the Department of Human Services or
38 person whose occupational license or training allows that person
to draw blood samples may draw a blood DNA sample ~~for the purpose~~
~~of~~ DNA-analysis.

40 **Sec. 5. 25 MRSA §2154, sub-§1, ¶C**, as enacted by PL 1993, c.
42 425, §2, is amended to read:

44 C. ~~Transmit~~ Enter or cause the report to be entered for
46 inclusion in the State Police and National Crime Information
Center computer files on missing children; and

48 **Sec. 6. 25 MRSA §2154, sub-§4** is enacted to read:

A.S.

2 4. Medical and dental records. Within 60 days after a law
enforcement agency enters the report of a missing child into the
4 State Police and National Crime Information Center computers,
that law enforcement agency shall verify and update the record
6 with any additional information, including, when available,
medical and dental records.

8 **Emergency clause.** In view of the emergency cited in the
preamble, this Act takes effect when approved.'

10 Further amend the bill by inserting at the end before the
12 summary the following:

14 **FISCAL NOTE**

16 This bill requires local law enforcement agencies to verify
18 and update missing child reports. The additional costs of this
state mandate are expected to be minor. Pursuant to the Mandate
20 Preamble, the two-thirds vote of all members elected to each
House exempts the State from the constitutional requirement to
22 fund 90% of the additional local costs.'

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26 **SUMMARY**

28 This amendment replaces the bill. The amendment does the
following.

30 1. It adds a mandate preamble, an emergency preamble and an
32 emergency clause.

34 2. It specifies that the DNA data base must be located at
the Maine State Police Crime Laboratory or at State Police
36 headquarters in Augusta.

38 3. It clarifies who is required to submit to having a blood
sample drawn for the purpose of DNA analysis.

40 4. It clarifies 2 existing crimes and adds 4 new crimes to
42 the list of offenses for which blood samples must be drawn for
DNA analysis.

44 5. It adds to the list of persons who may draw blood
46 samples for DNA analysis licensed practical nurses and others
whose occupational training or license allows drawing blood.

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2 6. It retains language from the bill relating to missing
child reports, clarifying that medical and dental records must be
4 entered after 60 days.

6 7. It adds a fiscal note.