

MAINE STATE LEGISLATURE

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MINORITY
CRIMINAL JUSTICE

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
119TH LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 249, L.D. 353, Bill, "An Act Regarding the Administration of Polygraph Tests to Prospective Law Enforcement Personnel"

Amend the bill by inserting after the enacting clause and before section 1 the following:

'Sec. 1. 32 MRSA §7154, as amended by PL 1979, c. 541, Pt. B, §§41 and 42, is further amended to read:

§7154. Prohibitions

~~It shall be unlawful for any~~ A person ~~to~~ may not administer polygraph examinations or ~~to attempt to hold himself out as~~ profess to be a polygraph examiner or ~~to refer to himself by~~ assume any other title ~~which that~~ would indicate or ~~which that~~ is intended to indicate or calculated to mislead members of the public into believing that ~~he~~ the person is a polygraph examiner without first securing a polygraph examiner's license as ~~provided~~. This prohibition does not apply to any an employee of the Federal Government who administers polygraph examinations in the course of ~~his~~ that employee's employment or who ~~holds himself out as~~ professes to be a ~~polygrapher~~ polygraph examiner in connection with ~~his~~ that employee's employment. The nonlicensing provisions of this chapter shall apply to that person as if he ~~that person~~ were subject to licensing requirements.

~~It shall be unlawful for any~~ A polygraph examiner conducting a polygraph examination ~~to~~ may not ask any questions pertaining to sexual behavior of any type or questions that could be construed as being sexually oriented, unless the examination is conducted in the course of either a criminal investigation by law enforcement officials or in the course of civil litigation in

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which sexual behavior is at issue. This prohibition does not apply to polygraph examinations for employees or applicants for positions--in--law--enforcement--agencies employment with a law enforcement agency authorized under section 7166, subsection 3, paragraph A.

~~It shall be unlawful for any~~ A polygraph examiner ~~to~~ may not probe the political or religious beliefs of any an individual during any a polygraph examination, except when the examination is conducted in the course of a criminal investigation conducted by law enforcement officials and the ~~political~~ political or religious beliefs of the individual may be relevant to that investigation.

~~It shall be unlawful for any~~ A polygraph examiner ~~to~~ may not subject a person to a polygraph examination without that person's full knowledge and consent.'

Further amend the bill in section 1 in subsection 3 by striking out all of paragraph A (page 1, lines 28 to 30 in L.D.) and inserting in its place the following:

'A. This section shall does not apply to ~~employees-of-or-applicants~~ an employee of or an applicant for employment with a law enforcement agencies agency who is or will be employed as a law enforcement officer as defined in Title 17-A, section 2, subsection 17 or who is or will be employed as a police communications operator, transport officer, motor carrier inspector, criminal intelligence analyst, court officer or forensic laboratory employee;'

Further amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

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

'FISCAL NOTE

This bill may increase prosecutions for Class D crimes. If a jail sentence is imposed, the additional costs to the counties are estimated to be \$83.36 per day per prisoner. The number of prosecutions that may result in a jail sentence and the resulting costs to the county jail system are expected to be insignificant.

The additional workload, administrative costs and indigent defense costs associated with the minimal number of new cases

R. G. S.

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filed in the court system can be absorbed within the budgeted resources of the Judicial Department. The collection of additional fines may also increase General Fund revenue by minor amounts.'

SUMMARY

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This amendment is the minority report of the Joint Standing Committee on Criminal Justice. The amendment specifies that only the following employees or applicants for employment with a law enforcement agency may be polygraphed: a law enforcement officer, police communications operator, transport officer, motor carrier inspector, criminal intelligence analyst, court officer or forensic laboratory employee. The amendment also adds a fiscal note to the bill.