

# MAINE STATE LEGISLATURE

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L.D. 380

DATE: 5-9-03

(Filing No. H-313)

MAJORITY  
CRIMINAL JUSTICE AND PUBLIC SAFETY

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STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
121ST LEGISLATURE  
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 300, L.D. 380, Bill, "An Act To Protect Public Safety Using DNA Data of Juvenile Violent Offenders"

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

Sec. 1. 25 MRSA §1572, sub-§6, as enacted by PL 1995, c. 457, §1, is amended to read:

6. DNA sample. "DNA sample" means a bleed biological sample provided by a person convicted or a juvenile adjudicated of one of the offenses listed in this chapter or submitted to the crime lab for analysis pursuant to a criminal investigation.

Sec. 2. 25 MRSA §1572, sub-§7-A is enacted to read:

7-A. Juvenile. "Juvenile" means any person who has not attained 18 years of age.

Sec. 3. 25 MRSA §1574, as amended by PL 2001, c. 325, §§1 to 5, is further amended to read:

§1574. Biological sample required for DNA analysis upon conviction or adjudication

2           **1. Conviction subsequent to effective date.** A person  
3 convicted, on or after January 1, 1996 and before October 1,  
4 2001, of a crime listed in subsection 4 or a person convicted on  
5 or after October 1, 2001, of a crime listed in subsection 5 shall  
6 submit to having a DNA sample ~~drawn~~ taken and at the time of  
7 sentencing the court shall enter an order directing that the DNA  
8 sample be ~~drawn~~ taken. If the convicted person's sentence  
9 includes a straight term of imprisonment or a split term of  
10 imprisonment, the DNA sample may be ~~drawn~~ taken at any time  
11 following the commencement of the straight term or initial  
12 unsuspended portion of the term of imprisonment. If the  
13 convicted person's sentence includes a period of probation but no  
14 immediate imprisonment, the DNA sample may be ~~drawn~~ taken at any  
15 time following commencement of the probation period as directed  
16 by the probation officer. If the convicted person's sentence  
17 includes a period of probation, the court may attach the duty to  
18 submit to having a DNA sample ~~drawn~~ taken as a condition of  
19 probation.

20           **2. Conviction prior to effective date.** A person convicted  
21 and incarcerated prior to January 1, 1996, as a result of a  
22 conviction for a crime listed in subsection 4, must have a DNA  
23 sample ~~drawn~~ taken before release from the corrections system.

24           **3-A. Juveniles.** A juvenile adjudicated on or after October  
25 1, 2003 of a juvenile crime that, if committed by an adult, would  
26 constitute an offense listed in subsection 6 is subject to the  
27 requirements of this section.

28           **4. Applicable offenses for persons convicted after January**  
29 **1, 1996 and before October 1, 2001.** This ~~section~~ subsection  
30 applies to a person convicted after January 1, 1996 and before  
31 October 1, 2001 of one or more of the following offenses or an  
32 attempt of one or more of the following offenses:

- 33           A. Murder or criminal homicide in the first or 2nd degree;  
34           B. Felony murder;  
35           C. Manslaughter;  
36           D. Aggravated assault;  
37           D-1. Elevated aggravated assault;  
38           E. Gross sexual assault, including that formerly  
39           denominated as gross sexual misconduct;  
40           E-1. Rape;

2 F. Sexual abuse of a minor;

4 G. Unlawful sexual contact;

6 G-1. Visual sexual aggression against a child;

8 G-2. Sexual misconduct with a child under 14 years of age;

10 H. Kidnapping;

12 I. Criminal restraint;

14 J. Burglary;

16 K. Robbery;

18 L. Arson;

20 M. Aggravated criminal mischief; or

22 N. Any lesser included offense of any crime identified in  
24 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.

26 **5. Applicable offenses for persons convicted on or after**  
28 **October 1, 2001. This section subsection applies to a person**  
30 **convicted on or after October 1, 2001 of one or more of the**  
following offenses or an attempt of one or more of the following  
offenses:

32 A. Murder;

34 B. A Class A, B or C crime;

36 C. Sexual abuse of a minor;

38 D. Unlawful sexual contact;

40 E. Visual sexual aggression against a child;

42 F. Sexual contact with a child under 14 years of age;

44 G. Solicitation of a child by a computer to commit a  
46 prohibited act; or

48 H. Any lesser included offense of any crime identified in  
50 paragraphs A to G if the greater offense is initially  
charged. "Lesser included offense" has the same meaning as  
in Title 17-A, section 13-A.

2 6. Applicable offenses for juveniles adjudicated on or  
4 after October 1, 2003. This subsection applies to a juvenile  
6 adjudicated on or after October 1, 2003 of committing a juvenile  
8 crime that, if committed by an adult, would constitute one or  
10 more of the following offenses or an attempt of one or more of  
12 the following offenses:

8 A. Murder;

10 B. Felony murder;

12 C. Manslaughter;

14 D. Aggravated assault;

16 E. Elevated aggravated assault;

18 F. Gross sexual assault;

20 G. Unlawful sexual contact;

22 H. Kidnapping;

24 I. Criminal restraint;

26 J. Burglary;

28 K. Robbery;

30 L. Arson;

32 M. Aggravated criminal mischief; or

34 N. Causing a catastrophe.

36 **Sec. 4. 25 MRSA §1575**, as amended by PL 1997, c. 608, §4, is  
38 further amended to read:

40 **§1575. Procedure for collection of biological sample**  
42 **for DNA analysis**

42 **1. Collection equipment.** The crime lab shall provide  
44 collection equipment or a kit for the collection of a bleed  
46 biological sample required by section 1574 to persons authorized  
to draw-bleed collect samples.

48 **2. Person to draw blood sample.** Only a duly licensed  
50 physician, physician assistant, registered nurse, licensed  
practical nurse, person certified by the Department of Human  
Services or person whose occupational license or training allows

2 that person to draw blood samples may draw a blood sample for DNA  
3 sample analysis.

4 2-A. Person to collect biological sample. A person  
5 described in subsection 2, a corrections officer, a probation  
6 officer or a juvenile community corrections officer may collect a  
7 biological sample that is not a blood sample.

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9  
10 3. Liability. A person authorized under this section to  
11 draw blood or collect other biological samples is not liable for  
12 damages or liable for the act of drawing -a- blood or collecting  
13 another biological sample for DNA analysis when that person  
14 exercises due care in drawing blood or collecting the blood  
15 biological sample.

16 4. Crime lab. All blood biological samples collected  
17 pursuant to this Act must be forwarded to the crime lab for DNA  
18 analysis.

19 **Sec. 5. 25 MRSA §1576,** as enacted by PL 1995, c. 457, §1, is  
20 amended to read:

21 **§1576. Procedure for collection; conducting DNA analysis**

22  
23 The Chief of the State Police may adopt rules governing the  
24 procedures to be used in the collection, submission,  
25 identification, analysis and storage of DNA samples and the  
26 results of the typing of blood biological samples submitted  
27 pursuant to this Act. The DNA biological sample must be securely  
28 stored in the state DNA data bank. The results of the typing of  
29 the blood biological samples must be securely stored in the state  
30 DNA data base.  
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33 **Sec. 6. 25 MRSA §1577, sub-§2, ¶D,** as enacted by PL 1995, c.  
34 457, §1, is amended to read:

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36 D. A person who has been identified and charged with a  
37 criminal offense or a juvenile crime as a result of a search  
38 of DNA records stored in the state DNA data base. A person  
39 who has been identified and charged with a criminal offense  
40 or a juvenile crime has access only to that person's records  
41 and any other records that person is entitled to under the  
42 Maine Rules of Evidence.  
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45 **Sec. 7. 25 MRSA §1577, sub-§4,** as enacted by PL 1995, c. 457,  
46 §1, is amended to read:

47  
48 4. Expungement. A person whose DNA record has been stored  
49 in the state DNA data base may petition the Superior Court for  
50 expungement on the ground that the conviction or adjudication

2 justifying the inclusion of the DNA record in the state DNA data  
base has been reversed or dismissed. Upon receipt of an  
4 expungement order and a certified copy of the order reversing and  
dismissing the conviction or adjudication, the Chief of the State  
6 Police shall purge from the state DNA data base the DNA record  
and all identifiable information resulting exclusively from the  
reversed conviction or adjudication.'

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### SUMMARY

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This amendment replaces the bill and is the majority report  
of the Joint Standing Committee on Criminal Justice and Public  
14 Safety. The amendment narrows the scope of the bill by  
subjecting a juvenile to DNA testing if the juvenile is  
16 adjudicated of committing a specific juvenile crime that, if  
committed by an adult, would constitute an offense listed in the  
18 Maine Revised Statutes, Title 25, section 1574, subsection 6.  
This change would subject juveniles to DNA testing for only the  
20 most violent crimes, the list of which is more limited than the  
list of crimes for which adults must submit to DNA testing.

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This amendment also allows for the collection of biological  
samples, instead of only blood draws, for DNA testing. The  
26 process for collection of biological samples other than blood  
draws is less complicated, less expensive and less invasive.  
This change would apply to both juvenile and adult offenders  
28 subject to DNA testing requirements.

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FISCAL NOTE REQUIRED  
(See attached)

Approved: 04/29/03 *MAC*

**121st Maine Legislature  
Office of Fiscal and Program Review**



**LD 380**

**An Act To Protect Public Safety Using DNA Data of Juvenile Violent Offenders**

**LR 0265(02)**

**Fiscal Note for Bill as Amended by Committee Amendment " "**

**Committee: Criminal Justice and Public Safety**

**Fiscal Note Required: Yes**

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**Fiscal Note**

Minor cost increase - General Fund