

MAINE STATE LEGISLATURE

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123rd MAINE LEGISLATURE

FIRST REGULAR SESSION-2007

Legislative Document

No. 418

H.P. 334

House of Representatives, January 29, 2007

An Act To Make Maine Safer by Collecting DNA from Those Convicted of Felonies

Reference to the Committee on Criminal Justice and Public Safety suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative MARLEY of Portland.
Cosponsored by Representatives: CLARK of Millinocket, MILLETT of Waterford, Senator
NUTTING of Androscoggin.

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

2 **Sec. 1. 25 MRSA §1574, sub-§1**, as amended by PL 2003, c. 393, §3, is further
3 amended to read:

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

16 **Sec. 2. 25 MRSA §1574, sub-§2**, as amended by PL 2003, c. 393, §3, is further
17 amended to read:

18 **2. Conviction prior to effective date.** A person convicted and incarcerated prior to
19 January 1, 1996, as a result of a conviction for a crime listed in subsection ~~4~~, 5 must have
20 a DNA sample taken before release from the corrections system.

21 **Sec. 3. 25 MRSA §1574, sub-§4**, as corrected by RR 2003, c. 1, §23, is repealed.

22 **Sec. 4. 25 MRSA §1574, sub-§5**, as corrected by RR 2003, c. 1, §23, is amended
23 to read:

24 **5. Applicable offenses.** This section applies to a person convicted ~~on or after~~
25 ~~October 1, 2001~~ of one or more of the following offenses or an attempt of one or more of
26 the following offenses:

- 27 A. Murder;
- 28 B. A Class A, B or C crime;
- 29 C. Sexual abuse of a minor;
- 30 D. Unlawful sexual contact;
- 31 E. Visual sexual aggression against a child;
- 32 F. Sexual contact with a child under 14 years of age;
- 33 G. Solicitation of a child by a computer to commit a prohibited act; or
- 34 H. Any lesser included offense of any crime identified in paragraphs A to G if the
35 greater offense is initially charged. "Lesser included offense" has the same meaning
36 as in Title 17-A, section 13-A.

1 **Sec. 5. Report.** The Chief of the Maine State Police shall determine the most
2 appropriate method for ensuring that all those persons who have been convicted of a
3 crime listed in the Maine Revised Statutes, Title 25, section 1574, subsection 5 and who
4 still reside in this State submit a biological sample for DNA analysis as required by Title
5 25, section 1574, subsection 1. The chief shall report back to the Joint Standing
6 Committee on Criminal Justice and Public Safety with any necessary implementing
7 legislation no later than December 1, 2007. The Joint Standing Committee on Criminal
8 Justice and Public Safety shall submit a bill, which may include the recommendations of
9 the Chief of the State Police, to the Second Regular Session of the 123rd Legislature by
10 February 15, 2008 that implements the intent of this Act.

11 **Sec. 6. Effective date.** Those sections of this Act that amend the Maine Revised
12 Statutes, Title 25, section 1574 take effect July 1, 2008.

13
SUMMARY

14 Current law requires persons convicted of certain crimes after January 1, 1996 to
15 submit a biological sample for DNA testing and inclusion in Maine's DNA databank
16 maintained by the Chief of the State Police or in the Federal Bureau of Investigation's
17 national DNA identification index system, which allows for storage and exchange of
18 DNA records submitted by state and local forensic DNA laboratories and is derived from
19 the Combined DNA Index System.

20 This bill requires all persons who have been convicted of murder, a Class A, B or C
21 crime, commonly known as felonies, or specified other crimes to submit a sample for
22 DNA testing and storage. The requirement is delayed until July 1, 2008 to allow the
23 Chief of the State Police to develop a plan to obtain and store the DNA of all those
24 persons who are subject to this requirement. The chief is required to submit that plan to
25 the Joint Standing Committee on Criminal Justice and Public Safety, which is required to
26 submit a bill to the Second Regular Session of the 123rd Legislature implementing the
27 plan.