

MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION
2

3 ONE HUNDRED AND ELEVENTH LEGISLATURE
4

5 Legislative Document

No. 1551

7 S.P. 528

In Senate, May 3, 1983

8 Referred to the Committee on Judiciary. Sent down for concurrence and
9 ordered printed.

10 JOY J. O'BRIEN, Secretary of the Senate

Presented by Senator Shute of Waldo.

Cosponsors: Representative Drinkwater of Belfast and Senator Perkins of
Hancock.

12 STATE OF MAINE
13

14 IN THE YEAR OF OUR LORD
15 NINETEEN HUNDRED AND EIGHTY-THREE
16

17 AN ACT to Create a Bill of Rights
18 for Victims and Witnesses.
19

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

22 Sec. 1. 5 MRSA §199, as amended by PL 1973, c.
23 711, §6, is further amended to read:

24 §199. Consultation with, and advice to, district
25 attorneys

26 The Attorney General shall consult with and
27 advise the district attorneys in matters relating to
28 their duties. If in his judgment the public interest
29 so requires, he shall assist them by attending the
30 grand jury in the examination of a case in which the
31 accused is charged with treason or murder, and if in
32 his judgment the public interest so requires, he
33 shall appear for the State in the trial of indict-
34 ments for treason or murder. He may institute and

1 conduct prosecutions for all offenses against Title
2 21, and for that purpose attend and present evidence
3 to grand juries and assist them in the examination of
4 witnesses and drawing indictments. He shall review
5 and approve the implementation and operations of the
6 program plans and the annual reports concerning
7 rights of and services to victims and witnesses pur-
8 suant to Title 15, chapter 207 and Title 30, section
9 509. He may, in his discretion, act in place of or
10 with the district attorneys, or any of them, in
11 instituting and conducting prosecutions for crime,
12 and is invested, for that purpose, with all the
13 rights, powers and privileges of each and all of
14 them. Any or all of the powers and duties enumerated
15 in this chapter may, at the discretion of the Attor-
16 ney General, be delegated to and performed by, any
17 deputy attorney general, assistant attorney general
18 or staff attorney. The authority given under this
19 section shall not be construed to deny or limit the
20 duty and authority of the Attorney General as hereto-
21 fore authorized, either by statute or under the com-
22 mon law.

23 Sec. 2. 15 MRSA c. 207 is enacted to read:

24 CHAPTER 207

25 RIGHTS OF VICTIMS AND WITNESSES

26 OF CRIME

27 §1511. Legislative intent

28 In recognition of the civic and moral duty of
29 victims and witnesses of crime to fully and voluntar-
30 ily cooperate with law enforcement and prosecutorial
31 agencies, and in further recognition of the contin-
32 ing importance of this citizen cooperation to state
33 and local law enforcement efforts and the general
34 effectiveness and well-being of the criminal justice
35 system of this State, the Legislature declares its
36 intent, in this chapter, to ensure that all victims
37 and witnesses of crime are treated with dignity,
38 respect, courtesy and sensitivity; and that the
39 rights extended in this chapter to victims and wit-
40 nesses of crime are honored and protected by law
41 enforcement agencies, prosecutors and judges in a

1 manner no less vigorous than the protections afforded
2 criminal defendants.

3 §1512. Definitions

4 As used in this chapter, unless the context
5 otherwise indicates, the following terms have the
6 following meanings.

7 1. Family member. "Family member" means spouse,
8 child, sibling, parent or legal guardian.

9 2. Victim. "Victim" means a person against whom
10 a crime has been committed.

11 3. Witness. "Witness" means any person who has
12 been or is expected to be summoned to testify for the
13 prosecution, or who by reason of having relevant
14 information is subject to call or likely to be called
15 as a witness for the prosecution, whether or not any
16 action or proceeding has yet been commenced.

17 §1513. Eligibility of victims

18 A victim has the rights and is eligible for the
19 services under this chapter only if the victim
20 reported the crime to law enforcement authorities
21 within 5 days of its occurrence or discovery, unless
22 he had a reasonable excuse not to do so.

23 §1514. Basic bill of rights for victims and wit-
24 nesses

25 Victims and witnesses of crimes have the follow-
26 ing rights:

27 1. Notification of final disposition. To be
28 informed by local law enforcement agencies and the
29 district attorney of the final disposition of the
30 case. If the crime charged is a Class A, B or C
31 crime, the victim shall be notified whenever the
32 defendant or offender is released from custody;

33 2. Notification that proceedings will not go on.
34 To be notified that a court proceeding to which they
35 have been subpoenaed will not go on as scheduled in
36 order to save the person an unnecessary trip to
37 court;

1 3. Protection from harm and threats. To receive
2 protection from harm and threats of harm arising out
3 of their cooperation with law enforcement and prose-
4 cution efforts, and to be provided with information
5 as to the level of protection available;

6 4. Financial assistance; other social ser-
7 vices. To be informed of financial assistance and
8 other social services available as a result of being
9 a witness or a victim of a crime, including informa-
10 tion on how to apply for the assistance and services;

11 5. Witness fee; procedure. To be informed of
12 the procedure to be followed in order to apply for
13 and receive any witness fee to which they are enti-
14 tled;

15 6. Secure waiting area. To be provided, when-
16 ever possible, a secure waiting area during court
17 proceedings that does not require them to be in close
18 proximity to defendants and families and friends of
19 defendants;

20 7. Return of property. To have any stolen or
21 other personal property expeditiously returned by law
22 enforcement agencies when no longer needed as evi-
23 dence. If feasible, all property, except weapons,
24 currency, contraband, property subject to evidentiary
25 analysis and property the ownership of which is dis-
26 puted shall be returned to the person within 10 days
27 of being taken;

28 8. Employer intercession services. To be pro-
29 vided with appropriate employer intercession services
30 to ensure that employers of victims and witnesses
31 shall cooperate with the criminal justice process in
32 order to minimize an employee's loss of pay and other
33 benefits resulting from court appearances;

34 9. Speedy disposition of case. To be entitled
35 to a speedy disposition of the case in which they are
36 involved as a victim or witness in order to minimize
37 the length of time they shall endure the stress of
38 their responsibilities in connection with the matter;
39 and

1 10. Family members of homicide victims. To have
2 the family members of all homicide victims afforded
3 all of the rights under subsections 1 to 4 and sub-
4 sections 6 to 9, and analogous services under section
5 1515, whether or not they are witnesses in any crimi-
6 nal proceedings.

7 §1515. Services for victims and witnesses

8 District attorneys are encouraged to provide vic-
9 tims and witnesses the following services:

10 1. Court appearance; notification. Court
11 appearance notification services, including cancella-
12 tion of appearances;

13 2. Social services; witness fees. Social ser-
14 vices' referrals and information concerning witness
15 fee collection;

16 3. Escort; transportation services. Escort and
17 other transportation services related to the investi-
18 gation or prosecution of the case, if necessary or
19 advisable;

20 4. Case progress notification. Case progress
21 notification services which may be combined with ser-
22 vices under subsection 1;

23 5. Employer intercession services. Employer
24 intercession services;

25 6. Return of property. Expedited return of
26 property services;

27 7. Protection services. Protection services;

28 8. Family support services. Family support ser-
29 vices, including child and other dependent care ser-
30 vices; and

31 9. Waiting facilities. Waiting facilities.

32 §1516. Intergovernmental cooperation

33 The district attorney, local law enforcement
34 agencies, local social service agencies and courts

1 shall all cooperate with each other to ensure that
2 victims and witnesses of crimes receive the rights
3 and services to which they are entitled under this
4 chapter. Local law enforcement agencies and the
5 courts shall make available to the district attorney
6 all reports or files, except reports or files which
7 are required by statute to be kept confidential,
8 which are required by the district attorney to carry
9 out program responsibilities.

10 §1517. Rights of and services to victims and wit-
11 nesses; program plan

12 1. Enforcement of rights. In each prosecutorial
13 district, the district attorney shall be responsible
14 for the enforcement of rights under section 1514 and
15 for the provision of services under section 1515.
16 The district attorney may discontinue enforcing these
17 rights and providing these services. The only pen-
18 alty shall be the loss of funding under this section.

19 2. Program plans. Any district attorney enforc-
20 ing rights or providing services under this chapter
21 shall submit a program plan to the Attorney General
22 for approval not later than October 15, 1983, and,
23 for each succeeding biennium, September 1st of each
24 even-numbered year. The program plan shall describe
25 the level of services to victims and witnesses that
26 the district attorney intends to provide; the person-
27 nel or agencies responsible for related administra-
28 tive programs and individual services; proposed
29 staffing for the program; proposed education, train-
30 ing and experience requirements for program staff and
31 the staff of agencies providing related administra-
32 tive programs and individual services; an estimated
33 budget for implementing the program; and other infor-
34 mation the Attorney General determines to be neces-
35 sary for its review. The plan shall provide that
36 local law enforcement agencies and the courts shall
37 make available to the district attorney all reports
38 or files, except reports or files which are required
39 by statute to be kept confidential, if the reports or
40 files are required by the district attorney to carry
41 out program responsibilities.

42 3. Review of program plan. The Attorney General
43 shall review the program plan of each district attor-

1 ney participating in the program and shall submit an
2 estimated budget, representing the costs which he
3 finds appropriate to carry out the plan, to the
4 Legislature for inclusion in the budget.

5 4. Report to Attorney General. In August of
6 each year, the district attorney shall submit a
7 report to the Attorney General on the operation of
8 the plan.

9 Sec. 3. 30 MRSA §509 is enacted to read:

10 §509. Rights of and services to victims and wit-
11 nesses

12 The district attorney shall be responsible for
13 enforcing victims' rights and witnesses' rights and
14 for the provision of services to victims and wit-
15 nesses under Title 15, chapter 207. The level of
16 enforcement and services provided shall be determined
17 by the district attorney, subject to approval of the
18 program plan by the Attorney General.

19 STATEMENT OF FACT

20 This bill establishes a list of 10 rights for
21 victims of serious crimes and witnesses to serious
22 crimes. These rights will make it easier for victims
23 and witnesses to participate in the criminal justice
24 process. In Wisconsin where a similar program has
25 been in operation since 1980, the program has reduced
26 the amount of time the police spend in court as wit-
27 nesses and halved the number of cases dismissed
28 because witnesses didn't show up.

29 This bill requires district attorneys interested
30 in implementing the program to submit estimated bud-
31 gets to the Attorney General for his approval and
32 submission to the Legislature. The earliest request
33 for funding would be at the Second Regular Session of
34 the 111th Legislature.

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