

MAINE STATE LEGISLATURE

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SMC
R. 3/3

L.D. 1760

Date: 4/2/12

Majority

(Filing No. H-884)

CRIMINAL JUSTICE AND PUBLIC SAFETY

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
125TH LEGISLATURE
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT "A" to H.P. 1295, L.D. 1760, Bill, "An Act To Ensure Notification to Victims of Domestic Violence, Sexual Assault and Stalking When Defendants Are Released on Bail"

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

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

Sec. 1. 17-A MRSA §1175-A is enacted to read:

§1175-A. Notification of defendant's release on bail

1. In the case of an alleged crime involving domestic violence, sexual assault under chapter 11 or stalking, the arresting law enforcement officer shall obtain the victim's contact information and provide that information to the jail to which the defendant is delivered.

2. In a case of an alleged crime involving domestic violence, sexual assault under chapter 11 or stalking, a jail shall notify a victim of a defendant's release on preconviction bail as soon as possible but no later than one hour after the defendant's release. If the defendant is released on bail before being delivered to a jail, the arresting law enforcement agency shall notify the victim as provided in this section.

3. Notification under subsection 2 must be made by a telephone call either directly to the victim or as provided in subsection 5. In the event that the jail has not succeeded in contacting the victim after the jail has exercised due diligence in attempting to contact the victim, notification of the defendant's release must be made to the law enforcement agency that investigated the report of domestic violence, sexual assault or stalking. That law enforcement agency shall make a reasonable attempt to notify the victim of the defendant's release on preconviction bail.

4. Notwithstanding subsection 2, a victim of an alleged crime described in subsection 1 may request in writing that the jail or arresting law enforcement agency not notify the victim of the defendant's release on preconviction bail.

COMMITTEE AMENDMENT

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5. Notification under this section to an adult victim must be made to the victim. Notification to a minor victim must be made to an adult who is the victim's parent or legal guardian or, if a parent or legal guardian is not available, to another immediate family member of the victim unless the jail or arresting law enforcement agency reasonably believes that it is in the best interest of the minor victim to be notified directly.

6. Neither the failure to perform the requirements of this section nor compliance with this section subjects the State, the arresting law enforcement agency, the jail where the defendant was delivered, the Department of Corrections or officers or employees of the law enforcement agency, jail or Department of Corrections to liability in a civil action.

For purposes of this section, "crime involving domestic violence" has the same meaning as in Title 15, section 1003, subsection 3-A and includes those crimes under section 152, subsection 1, paragraph A, section 208 and section 208-B when the victim is a family or household member as defined in Title 19-A, section 4002, subsection 4.'

SUMMARY

This amendment replaces the bill, which requires a victim of domestic violence, sexual assault or stalking to request notification of the defendant's release on bail in order to receive it. The amendment provides that in a case of domestic violence, sexual assault or stalking the arresting law enforcement officer must obtain the victim's contact information and provide it to the jail where the defendant is delivered. It requires the jail to notify the victim when the defendant is released on preconviction bail or, if the victim cannot be reached, to notify the arresting law enforcement agency, which must make a reasonable effort to contact the victim. If the defendant is released on bail before being delivered to a jail, the arresting law enforcement agency must notify the victim.

This amendment also requires that notification of a defendant's release on preconviction bail be made directly to an adult victim and to a parent or legal guardian or other immediate family member in the case of a minor victim unless the jail or law enforcement agency reasonably believes that it is in the best interest of the minor victim to be notified directly.

Finally, it provides the State, the arresting law enforcement agency, the jail where the defendant was delivered and the Department of Corrections immunity from liability in a civil action for compliance or noncompliance with the new provisions.