# MAINE STATE LEGISLATURE

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# 126th MAINE LEGISLATURE

## **SECOND REGULAR SESSION-2014**

**Legislative Document** 

No. 1656

S.P. 649

In Senate, December 23, 2013

### An Act To Increase Safety for Victims of Domestic Violence

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

Received by the Secretary of the Senate on December 23, 2013. Referred to the Committee on Criminal Justice and Public Safety pursuant to Joint Rule 308.2 and ordered printed.

DAREK M. GRANT Secretary of the Senate

Presented by Senator CAIN of Penobscot.

Cosponsored by Representative HERBIG of Belfast and

Senators: President ALFOND of Cumberland, CRAVEN of Androscoggin, FLOOD of Kennebec, GERZOFSKY of Cumberland, JACKSON of Aroostook, MILLETT of Cumberland, VALENTINO of York, Representative: FREDETTE of Newport.

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

- **Sec. 1. 5 MRSA §90-B, sub-§§4 to 6,** as enacted by PL 2001, c. 539, §1, are amended to read:
  - **4. Use of designated address.** Upon demonstration of a program participant's certification in the program, state and local agencies and the courts shall accept <u>and use only</u> the designated address as a program participant's address <del>when creating a new public record</del> unless the secretary has determined that:
    - A. The agency has a bona fide statutory or administrative requirement for the use of the program participant's address or mailing address, such that it is unable to fulfill its statutory duties and obligations without the residential address; and
    - B. The program participant's address or mailing address will be used only for those statutory and administrative purposes.
  - **5. Disclosure to law enforcement and state agencies.** If the secretary determines appropriate, the secretary may make a program participant's address or mailing address available for inspection or copying, use under the following circumstances:
    - A. If requested of the secretary by a law enforcement agency in the manner provided for by rule; or
    - B. Upon request to the secretary by a commissioner of a state agency or the commissioner's designee in the manner provided for by rule and upon a showing of a bona fide statutory or administrative requirement for the use of the program participant's address or mailing address, such that the commissioner or the commissioner's designee is unable to fulfill statutory duties and obligations without the address or mailing address.
  - **6. Disclosure pursuant to court order or canceled certification.** If the secretary determines appropriate, the secretary shall make allow a program participant's address and mailing address to be made available for inspection or copying use under the following circumstances:
    - A. To a person identified in a court order, upon the secretary's receipt of that court order that specifically orders the disclosure of a particular program participant's address and mailing address and the reasons stated for the disclosure; or
    - B. If the certification has been canceled because the applicant or program participant violated subsection 2, paragraph E, subparagraph (1).
      - Sec. 2. 15 MRSA §1094-B is enacted to read:

#### §1094-B. Improper contact prior to the setting of bail

A person is guilty of improper contact prior to the setting of bail if, while being detained as a result of the person's arrest for an offense specified in section 1023, subsection 4, paragraph B-1 and prior to the setting of preconviction bail by a justice or judge, the person intentionally or knowingly makes direct or indirect contact with the victim of the alleged crime. Violation of this section is a Class D crime.

- Sec. 3. 16 MRSA §53-B, sub-§1, ¶A, as enacted by PL 1995, c. 128, §1, is amended to read:
  - A. "Advocate" means an employee of or volunteer for a nongovernmental <u>or Maine</u> <u>tribal</u> program for victims of domestic or family violence who:
    - (1) Has undergone at least 30 hours of training; and
    - (2) As a primary function with the program gives advice to, counsels or assists victims, supervises employees or volunteers who perform that function or administers the program.
  - **Sec. 4. 16 MRSA §53-B, sub-§1, ¶A-2** is enacted to read:
- 10 <u>A-2. "Confidential criminal history record information" has the same meaning as in section 703, subsection 2.</u>
- **Sec. 5. 16 MRSA §53-B, sub-§1, ¶A-3** is enacted to read:
- A-3. "Criminal justice agency" has the same meaning as in section 703, subsection 4.
- **Sec. 6. 16 MRSA §53-B, sub-§1-A** is enacted to read:

1-A. Confidential criminal history record information. A Maine criminal justice agency, whether directly or through any intermediary, may disseminate confidential criminal history record information to an advocate for the purpose of planning for the safety of a victim of domestic violence. An advocate who receives confidential criminal history record information pursuant to this subsection shall use it solely for the purpose authorized by this subsection and may not further disseminate the information.

21 SUMMARY

Current law limits the ability of bail commissioners to set preconviction bail in cases involving domestic violence; as a result, the period of time between the arrest and the setting of bail by a judge or justice for alleged perpetrators of domestic violence may be greater than it is with other crimes. In order to increase the safety of victims of domestic violence during the period between arrest and the setting of bail, this bill provides that a person is guilty of improper contact prior to the establishment of bail if, while being detained as a result of the person's arrest for specified domestic violence offenses and prior to the establishment of preconviction bail, the person intentionally or knowingly makes direct or indirect contact with the victim of the alleged crime.

Current law also requires that law enforcement officers use and be trained in how to administer an evidence-based domestic violence risk assessment. In order to increase the ability of Maine criminal justice agencies to use information gathered in the course of the risk assessment to keep victims and families safe, this bill permits those agencies to share confidential criminal history record information with advocates for the purpose of planning for the safety of a victim of domestic violence. This bill also expands the definition of "advocate" to include an employee or volunteer of a Maine tribal program. Under this bill, an advocate who receives confidential criminal history record information

must use the information solely for the purpose of planning for the safety of a victim of domestic violence and is prohibited from further disseminating the information.

This bill also clarifies that once a person is certified as a participant in the Address Confidentiality Program that person's actual residential street, school or work address or United States Postal Service address may not be used or disclosed by any state or local agency or the courts unless such use or disclosure is approved by the Secretary of State under the circumstances set forth in the program.