

MAINE STATE LEGISLATURE

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127th MAINE LEGISLATURE

SECOND REGULAR SESSION-2016

Legislative Document

No. 1526

S.P. 588

In Senate, January 6, 2016

**An Act To Permit Disclosure of Certain Intelligence and
Investigative Record Information by a Criminal Justice Agency to a
Nongovernmental Advocacy Program for Persons with Mental
Illness**

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

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

A handwritten signature in cursive script, reading "Heather J.R. Priest".

HEATHER J.R. PRIEST
Secretary of the Senate

Presented by Senator BURNS of Washington.
Cosponsored by Representative HOBBS of Saco and
Senators: ALFOND of Cumberland, DAVIS of Piscataquis, GRATWICK of Penobscot,
WHITEMORE of Somerset, Representatives: GATTINE of Westbrook, TIMBERLAKE of
Turner.

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

2 **Sec. 1. 16 MRSA §806, sub-§3**, as enacted by PL 2013, c. 267, Pt. A, §3, is
3 amended to read:

4 **3. A counselor or advocate.** A sexual assault counselor, as defined in section 53-A,
5 subsection 1, paragraph B, ~~or~~ an advocate, as defined in section 53-B, subsection 1,
6 paragraph A, or an employee of or volunteer for a nongovernmental advocacy program
7 for persons with mental illness, referred to in this subsection as "a mental health
8 advocate." with a specific agreement with a criminal justice agency. An agreement
9 between a criminal justice agency and a sexual assault counselor ~~or~~ an advocate or a
10 mental health advocate must, at a minimum, include provisions that:

11 A. Permit the sexual assault counselor ~~or~~ advocate or mental health advocate to use
12 a report or record that contains intelligence and investigative record information if the
13 intelligence and investigative record information is used in planning for the safety of
14 a victim named in the report or record;

15 B. Prohibit the sexual assault counselor ~~or~~ advocate or mental health advocate from
16 further disseminating a report or record that contains intelligence and investigative
17 record information;

18 C. Require the sexual assault counselor ~~or~~ advocate or mental health advocate to
19 ensure that a report or record that contains intelligence and investigative record
20 information ~~remain~~ remains secure and confidential;

21 D. Require the sexual assault counselor ~~or~~ advocate or mental health advocate to
22 destroy a report or record that contains intelligence and investigative record
23 information within 30 days after the sexual assault counselor's ~~or~~ advocate's or
24 mental health advocate's receiving the report or record;

25 E. Permit the criminal justice agency to perform reasonable and appropriate audits in
26 order to ensure that a report or record containing intelligence and investigative record
27 information that ~~are~~ is obtained by and that ~~are~~ is in the custody of the sexual assault
28 counselor ~~or~~ advocate ~~are~~ or mental health advocate is maintained in accordance
29 with the requirements of this subsection;

30 F. Require the sexual assault counselor ~~or~~ advocate or mental health advocate to
31 indemnify and hold harmless the criminal justice agency with respect to any litigation
32 that may result from the provision of reports or records that contain intelligence and
33 investigative record information;

34 G. Permit a criminal justice agency to immediately and unilaterally revoke an
35 agreement made under this subsection; and

36 H. Provide sanctions for any violations of this subsection.

37 The Commissioner of Public Safety may adopt a model agreement pursuant to this
38 subsection for use by criminal justice agencies, sexual assault counselors ~~and~~ advocates
39 and mental health advocates.

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SUMMARY

This bill allows a state criminal justice agency, subject to reasonable limitations, to disclose intelligence and investigative record information to an employee or volunteer of a nongovernmental advocacy program for persons with mental illness as long as the employee or volunteer has a specific agreement with the agency that complies with the Maine Revised Statutes, Title 16, section 806, subsection 3.