

MAINE STATE LEGISLATURE

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Majority

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JUDICIARY

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
131ST LEGISLATURE
FIRST SPECIAL SESSION

COMMITTEE AMENDMENT "A" to H P 876, L D 1362, "An Act to Ensure the Rights of Survivors of Sexual Assault"

Amend the bill by striking out everything after the enacting clause and inserting the following

'Sec. 1. 15 MRSA c. 521 is enacted to read

CHAPTER 521

RIGHTS OF SEXUAL ASSAULT SURVIVORS

§6201. Definitions

For the purposes of this chapter, the following terms have the following meanings

1. Law enforcement officer. "Law enforcement officer" has the same meaning as in Title 25, section 2801-A, subsection 5

2. Person responsible for the minor. "Person responsible for the minor" has the same meaning as "person responsible for the child" as defined in Title 22, section 4002, subsection 9

3. Reported sexual assault. "Reported sexual assault" means, with respect to a sexual assault survivor who is an adult, a crime described in subsection 5, paragraph A or, with respect to a sexual assault survivor who is a child, a crime described in subsection 5, paragraph B

4. Sexual assault counselor. "Sexual assault counselor" has the same meaning as in Title 16, section 53-A, subsection 1, paragraph B

5. Sexual assault survivor. "Sexual assault survivor" or "survivor" means

A An adult who reports that the adult is a victim of a crime defined in

(1) Title 17-A, chapter 11,

- 1 (2) Title 17-A, section 511-A, or
- 2 (3) Title 17-A, section 852 or 853, or
- 3 B A minor who is reported by the minor or by a person responsible for the minor to
- 4 be a victim of a crime defined in.
- 5 (1) Title 17-A, chapter 11,
- 6 (2) Title 17-A, section 511-A,
- 7 (3) Title 17-A, section 852 or 853, or
- 8 (4) Title 17-A, section 282 or 283

9 **§6202. Right to a sexual assault counselor**

10 A survivor has the right to consult with a sexual assault counselor during a sexual
 11 assault forensic examination and has the right to have a sexual assault counselor present
 12 during any interview by a law enforcement officer, prosecutor, defense attorney or
 13 professional investigator about the reported sexual assault. A survivor retains this right
 14 even if the survivor has waived the right in a previous examination or interview.

15 **§6203. Prohibition on use of evidence gathered during sexual assault forensic**
 16 examination

17 **1. Use of evidence prohibited. Evidence gathered during a sexual assault forensic**
 18 examination may not be used.

- 19 A To prosecute a survivor for any Class D or Class E crime under Title 17-A, chapter
 20 45;
- 21 B To prosecute a survivor for any crime of criminal OUI under Title 29-A, section
 22 2411,
- 23 C To prosecute a survivor for any crime of failure to appear, failure to report or
 24 violation of condition of release under sections 1091, 1091-A and 1092, respectively,
- 25 D As the basis of a motion to revoke any conditional release of the survivor under
 26 Title 17-A, chapter 67,
- 27 E To prosecute a survivor for any civil violation or crime under Title 28-A,
- 28 F To prosecute a survivor for engaging in prostitution under Title 17-A, section 853-A,
 29 or
- 30 G To prosecute a survivor for any juvenile crime based on a violation of the laws set
 31 forth in paragraphs A to F.

32 **2. Use of evidence to justify search prohibited. Evidence gathered during a sexual**
 33 assault forensic examination may not be used as a basis to search for evidence to be used
 34 against the survivor for any of the following:

- 35 A A Class D or Class E crime under Title 17-A, chapter 45,
- 36 B Any crime of criminal OUI under Title 29-A, section 2411,
- 37 C Any crime of failure to appear, failure to report or violation of condition of release
 38 under sections 1091, 1091-A or 1092, respectively,

1 D A motion to revoke any conditional release of the survivor under Title 17-A, chapter
2 67,

3 E Any civil violation or crime under Title 28-A,

4 F Engaging in prostitution under Title 17-A, section 853-A, and

5 G Any juvenile crime based on a violation of the laws set forth in paragraphs A to F'

6 Amend the bill by relettering or renumbering any nonconsecutive Part letter or section
7 number to read consecutively

8 **SUMMARY**

9 The bill provides that a sexual assault survivor has the right to consult with a sexual
10 assault counselor during any physical examination and the right to have a sexual assault
11 counselor or support person of the survivor's choosing present during any interview by a
12 law enforcement officer, prosecutor or defense attorney This amendment, which is the
13 majority report of the committee, clarifies that a sexual assault survivor has the right to
14 consult with a sexual assault counselor during a sexual assault forensic examination and to
15 have a sexual assault counselor present during any interview by a law enforcement officer,
16 prosecutor, defense attorney or professional investigator

17 The amendment also provides that evidence gathered during a sexual assault forensic
18 examination may not be used to prosecute the sexual assault survivor for a Class D or Class
19 E drug offense, any crime of operating under the influence, any crime of violating a
20 condition of release, any crime of engaging in prostitution, any violation of the State's
21 liquor laws or any juvenile crime based on a violation of the foregoing laws The evidence
22 gathered during a sexual assault forensic examination also may not be used as the basis of
23 a motion to revoke any conditional release of the survivor or as a basis to search for further
24 evidence that a sexual assault survivor committed any of these crimes or offenses