

# MAINE STATE LEGISLATURE

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STATE OF MAINE

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HOUSE OF REPRESENTATIVES

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131ST LEGISLATURE

8

FIRST SPECIAL SESSION

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

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

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

14

CHAPTER 521

15

RIGHTS OF SEXUAL ASSAULT SURVIVORS

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§6201. Definitions

17

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

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

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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

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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

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

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

30

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

31

(1) Title 17-A, chapter 11,

**COMMITTEE AMENDMENT**

- 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 failure to appear, failure to report or
- 22                  violation of condition of release under sections 1091, 1091-A and 1092, respectively,
- 23                  C As the basis of a motion to revoke any conditional release of the survivor under Title
- 24                  17-A, chapter 67,
- 25                  D To prosecute a survivor for any civil violation or crime under Title 28-A,
- 26                  E To prosecute a survivor for engaging in prostitution under Title 17-A, section 853-A,
- 27                  or
- 28                  F To prosecute a survivor for any juvenile crime based on a violation of the laws set
- 29                  forth in paragraphs A to E.
- 30                  **2. Use of evidence to justify search prohibited.** Evidence gathered during a sexual
- 31                  assault forensic examination may not be used as a basis to search for evidence to be used
- 32                  against the survivor for any of the following.
- 33                  A A Class D or Class E crime under Title 17-A, chapter 45,
- 34                  B Any crime of failure to appear, failure to report or violation of condition of release
- 35                  under sections 1091, 1091-A or 1092, respectively,
- 36                  C A motion to revoke any conditional release of the survivor under Title 17-A, chapter
- 37                  67,
- 38                  D Any civil violation or crime under Title 28-A,
- 39                  E Engaging in prostitution under Title 17-A, section 853-A, and

1           F Any juvenile crime based on a violation of the laws set forth in paragraphs A to E'  
 2           Amend the bill by relettering or renumbering any nonconsecutive Part letter or section  
 3           number to read consecutively

**SUMMARY**

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

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