

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from electronic originals
(may include minor formatting differences from printed original)



131st MAINE LEGISLATURE

FIRST REGULAR SESSION-2023

Legislative Document

No. 1436

H.P. 932

House of Representatives, March 30, 2023

An Act to Provide Remedies for Survivors of Commercial Sexual Exploitation

Reference to the Committee on Judiciary suggested and ordered printed.


ROBERT B. HUNT
Clerk

Presented by Representative RECKITT of South Portland.
Cosponsored by Senator BAILEY of York and
Representatives: COLLINGS of Portland, DODGE of Belfast, GRAMLICH of Old Orchard
Beach, SARGENT of York, SAYRE of Kennebunk, STOVER of Boothbay, SUPICA of
Bangor, WILLIAMS of Bar Harbor.

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

2 **Sec. 1. 15 MRSA §2262-A** is enacted to read:

3 **§2262-A. Special statutory prerequisites for sealing criminal history record**
4 **information related to engaging in prostitution**

5 Criminal history record information relating to a criminal conviction for engaging in
6 prostitution under Title 17-A, former section 853-A must be sealed under this chapter if:

7 **1. Eligible criminal conviction.** The criminal conviction is an eligible criminal
8 conviction;

9 **2. Time since sentence fully satisfied.** At least one year has passed since the person
10 has fully satisfied each of the sentencing alternatives imposed under Title 17-A, section
11 1502, subsection 2 for the eligible criminal conviction; and

12 **3. Other convictions.** The person has not been convicted of a violation of Title 17-A,
13 section 852, 853, 853-B or 855.

14 **Sec. 2. 15 MRSA §2263**, as enacted by PL 2021, c. 674, §1, is amended to read:

15 **§2263. Motion; persons who may file**

16 A person may file a written motion seeking a court order sealing the person's criminal
17 history record information relating to a specific criminal conviction in the underlying
18 criminal proceeding based on a court determination that the person satisfies the statutory
19 prerequisites specified in section 2262 or 2262-A. The written motion must briefly address
20 each of the statutory prerequisites.

21 **Sec. 3. 15 MRSA §2264, sub-§5**, as enacted by PL 2021, c. 674, §1, is amended to
22 read:

23 **5. Hearing; order; written findings.** The court shall hold a hearing on a motion filed
24 under this section. At the conclusion of the hearing, if the court determines that the person
25 who filed the motion has established by a preponderance of the evidence each of the
26 statutory prerequisites specified in section 2262 or 2262-A, the court shall grant the motion
27 and shall issue a written order sealing the criminal history record information of the eligible
28 criminal conviction that was the subject of the motion. If, at the conclusion of the hearing,
29 the court determines that the person has not established one or more of the statutory
30 prerequisites specified in section 2262 or 2262-A, the court shall issue a written order
31 denying the motion. The order must contain written findings of fact supporting the court's
32 determination. A copy of the court's written order must be provided to the person and the
33 prosecutorial office that represented the State pursuant to subsection 3.

34 **Sec. 4. 17-A MRSA §853, sub-§1, ¶B**, as amended by PL 2015, c. 360, §1, is
35 further amended to read:

36 B. The person violates paragraph A and has 2 or more prior convictions in this State
37 for any combination of the Maine offenses listed in this paragraph or for engaging in
38 substantially similar conduct to that of the Maine offenses listed in this paragraph in
39 another jurisdiction. The Maine offenses are any violation of this section or section
40 852, ~~853-A~~, 853-B or 855 or attempts to commit any of these crimes. Section 9-A
41 governs the use of prior convictions when determining a sentence. Violation of this
42 paragraph is a Class C crime.

1 **Sec. 5. 17-A MRSA §853-A**, as amended by PL 2021, c. 315, §§1 and 2, is repealed.

2 **Sec. 6. 17-A MRSA §1604, sub-§5, ¶B**, as enacted by PL 2019, c. 113, Pt. A, §2,
3 is amended to read:

4 B. If the State pleads and proves that, at the time any crime, excluding murder, under
5 chapter 9, 11, 12, 13, 27 or 35, excluding ~~section 853-A~~; section 402-A, subsection 1,
6 paragraph A; or section 752-A or 752-C was committed, or an attempt of any such
7 crime was committed, the individual had 2 or more prior convictions under chapter 9,
8 11, 12, 13, 27 or 35, excluding ~~section 853-A~~; section 402-A, subsection 1, paragraph
9 A; or section 752-A or 752-C, or for an attempt of any such crime, or for engaging in
10 substantially similar conduct in another jurisdiction, the sentencing class for the crime
11 is one class higher than it would otherwise be.

12 (1) In the case of a Class A crime, the sentencing class is not elevated, but the prior
13 record must be assigned special weight by the court when imposing a sentence.

14 (2) Section 9-A governs the use of prior convictions when determining a sentence,
15 except that, for the purposes of this paragraph, for violations under chapter 11, the
16 dates of prior convictions may have occurred at any time.

17 This paragraph does not apply to section 210-A if the prior convictions have already
18 served to elevate the sentencing class under section 210-A, subsection 1, paragraph C
19 or E or any other offense in which prior convictions have already served to elevate the
20 sentencing class.

21 **Sec. 7. 17-A MRSA §1902, sub-§6**, as corrected by RR 2019, c. 2, Pt. A, §21, is
22 repealed.

23 **Sec. 8. Commercial sexual exploitation survivor and human trafficking**
24 **victim assistance stakeholder group.** The Commissioner of Health and Human
25 Services shall convene a stakeholder group that includes representatives of public and
26 private agencies and organizations that provide direct support and services to survivors of
27 commercial sexual exploitation and victims of human trafficking in the State. The
28 stakeholder group shall identify funds that may be available to provide services to persons
29 who have engaged in prostitution, as defined in the Maine Revised Statutes, Title 17-A,
30 section 851, subsection 1, in order to address harm caused by violence associated with
31 commercial sexual exploitation. The stakeholder group shall consider the availability of
32 funds from public and private sources, including but not limited to funds available under
33 the federal Victims of Trafficking and Violence Protection Act of 2000 and from the
34 Victims' Compensation Fund under Title 5, chapter 316-A. The stakeholder group shall
35 consider and make recommendations for improving services for survivors of commercial
36 sexual exploitation within the State.

37 **Sec. 9. Report of stakeholder group.** By December 6, 2023, the Department of
38 Health and Human Services shall report to the Joint Standing Committee on Criminal
39 Justice and Public Safety on the funds identified in section 8 that may be available to
40 provide services to address harm caused by violence associated with commercial sexual
41 exploitation, along with information about the scope of services that could be provided to
42 persons who have engaged in prostitution. The joint standing committee may report out
43 legislation based upon the report to the Second Regular Session of the 131st Legislature.

