

MAINE STATE LEGISLATURE

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L.D. 2163

Date: 3/27/20

MINORITY

(Filing No. H-911)

JUDICIARY

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
132ND LEGISLATURE
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT "B" to H.P. 1452, L.D. 2163, "An Act to Improve the Response to Complaints by Victims of Crime and Enhance Victims' Rights"

Amend the bill by striking out the title and substituting the following:

'An Act to Enhance Crime Victims' Rights'

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

'Sec. 1. 5 MRSA §200-E, sub-§2, ¶B is enacted to read:

B. At least 15 days before sending a written request for medical records under this subsection, the Attorney General, the Attorney General's designee, the district attorney or the district attorney's designee shall provide the victim with a written notice of intent to send a written request for medical records under this subsection and of the victim's right to object under this paragraph. If the victim objects in writing within 15 days, the Attorney General, the Attorney General's designee, the district attorney or the district attorney's designee may not submit a written request under this subsection but may file a motion pursuant to Rule 17A(f) of the Maine Rules of Unified Criminal Procedure for access to the medical records.

Sec. 2. 17-A MRSA §2102, sub-§1, ¶F-2, as enacted by PL 2021, c. 330, §6 and reallocated by RR 2021, c. 1, Pt. A, §14, is amended to read:

F-2. The final disposition of the charges against the defendant, including the amount of deductions to time served that a defendant has accumulated as of the date of sentencing. On or before the date of sentencing, the attorney for the State shall obtain information about the deductions to time served from each correctional facility at which a defendant was detained prior to sentencing on the relevant charges; ~~and~~

Sec. 3. 17-A MRSA §2102, sub-§1, ¶G, as enacted by PL 2019, c. 113, Pt. A, §2, is amended to read:

COMMITTEE AMENDMENT

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1 G. The right to comment on the proposed early termination of probation, early
2 termination of administrative release or conversion of probation to administrative
3 release, pursuant to section 2105-;

4 **Sec. 4. 17-A MRSA §2102, sub-§1, ¶H** is enacted to read:

5 H. Any written request submitted under Title 5, section 200-E, subsection 2 or any
6 request made for a subpoena for the victim's records within the meaning of section
7 2110; the date and time of any criminal hearing or criminal court proceeding
8 concerning the request and that the victim must be given an opportunity to be heard at
9 that hearing or proceeding; and

10 **Sec. 5. 17-A MRSA §2102, sub-§1, ¶I** is enacted to read:

11 I. The filing, scheduling and outcome of an appeal of a decision of the court by a
12 defendant or the State involving a crime against the victim.

13 **Sec. 6. 17-A MRSA §2110** is enacted to read:

14 **§2110. Requests for victim's records**

15 A victim has the right to timely notice pursuant to section 2102, subsection 1, paragraph
16 H and must be given an opportunity to be heard at any criminal hearing or criminal court
17 proceeding concerning a written request submitted under Title 5, section 200-E, subsection
18 2 or a subpoena issued to a person other than the victim for any record that implicates a
19 privilege or a confidentiality or privacy protection for the benefit of the victim as described
20 in Rule 17A(f) of the Maine Rules of Unified Criminal Procedure, including, but not limited
21 to, the victim's medical records, mental health counseling or treatment records, educational
22 records, electronic device content information and electronic device location information.
23 For purposes of this paragraph, "electronic device content information" has the same
24 meaning as in Title 16, chapter 3, subchapter 10 and "electronic device location
25 information" has the same meaning as in Title 16, chapter 3, subchapter 11.

26 **Sec. 7. 17-A MRSA §2111** is enacted to read:

27 **§2111. Presence of victim's attorney or advocate**

28 At any court proceeding in a criminal case in which a victim has a right to be heard,
29 the victim may retain an attorney who may be present and speak on the victim's behalf or
30 the victim may elect to have a victim witness advocate or victim witness coordinator speak
31 on the victim's behalf. Except as required to comply with Rule 4.2 of the Maine Rules of
32 Professional Conduct governing communications with persons represented by counsel,
33 treatment of the victim may not be affected or altered in any way due to the victim's
34 decision to exercise this right. For purposes of this section, "victim witness advocate" or
35 "victim witness coordinator" has the same meaning as in Title 16, section 53-C, subsection
36 1, paragraph C.

37 **Sec. 8. Appropriations and allocations.** The following appropriations and
38 allocations are made.

39 **ATTORNEY GENERAL, DEPARTMENT OF THE**

40 **District Attorneys Salaries 0409**

41 Initiative: Provides funding for one Assistant Attorney General position to send
42 notifications regarding medical records.

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1	GENERAL FUND	2025-26	2026-27
2	POSITIONS - LEGISLATIVE COUNT	0.000	1.000
3	Personal Services	\$0	\$190,492
4			
5	GENERAL FUND TOTAL	\$0	\$190,492

6

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

9

SUMMARY

10 This amendment, which is the minority report of the committee, replaces the bill and
11 changes the title. The amendment removes the provisions of the bill directing the Office
12 of the Attorney General to create a centralized complaint process and procedures for
13 investigations of violations of crime victim rights.

14 Under current law, a crime victim may file a motion to quash any subpoena served on
15 the victim. The bill provides that a victim has a right to receive timely notice and an
16 opportunity to be heard when a party to a court proceeding requests a subpoena granting
17 that party access to certain types of records about or concerning the victim. The amendment
18 clarifies that the attorney for the State has responsibility for making a good faith effort to
19 notify the victim of the existence of a subpoena request; the date and time any proceeding
20 or hearing related to the subpoena; and that the victim must be given the opportunity to be
21 heard at that proceeding or hearing when a party to a criminal proceeding seeks a subpoena
22 from someone other than the victim for any record that implicates a privilege or a
23 confidentiality or privacy protection for the benefit of the victim as described in Rule
24 17A(f) of the Maine Rules of Unified Criminal Procedure, including, but not limited to, the
25 victim's medical records, mental health counseling or treatment records, educational
26 records, electronic device content information and electronic device location information.
27 Under the amendment, the attorney for the State also has the same responsibility with
28 respect to a written request for the victim's medical records pursuant to the Maine Revised
29 Statutes, Title 5, section 200-E, subsection 2.

30 The amendment also provides that, before the Attorney General, the Attorney General's
31 designee, the district attorney or the district attorney's designee sends a written request for
32 copies of medical records related to the examination or treatment of the victim related to
33 an alleged criminal act as permitted in current law, the relevant official must notify the
34 victim of the official's intent to send the written request and of the victim's right to object.
35 If the victim objects in writing within 15 days, the official may not obtain the medical
36 records through a written request but may file a motion for access to the relevant records
37 pursuant to Rule 17A(f) of the Maine Rules of Unified Criminal Procedure.

38 The amendment also clarifies that, in any court proceeding in a criminal case in which
39 a victim has a right to be heard, the victim may retain an attorney to speak on the victim's
40 behalf or may elect to have a victim witness advocate or victim witness coordinator speak
41 on the victim's behalf. Treatment of the victim may not be affected in any way based on
42 the victim's decision to retain an attorney, except as required to comply with the Maine

COMMITTEE AMENDMENT

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COMMITTEE AMENDMENT "B" to H.P. 1452, L.D. 2163

1 Rules of Professional Conduct governing attorney communications with persons who are
2 represented by counsel.

3

FISCAL NOTE REQUIRED

4

(See attached)



132nd MAINE LEGISLATURE

LD 2163

LR 2691(03)

An Act to Improve the Response to Complaints by Victims of Crime and Enhance Victims' Rights

Fiscal Note for Bill as Amended by Committee Amendment "B"(H-911)

Committee: Judiciary

Fiscal Note Required: Yes

Fiscal Note

	FY 2025-26	FY 2026-27	Projections FY 2027-28	Projections FY 2028-29
Net Cost (Savings)				
General Fund	\$0	\$190,492	\$198,423	\$225,519
Appropriations/Allocations				
General Fund	\$0	\$190,492	\$198,423	\$225,519

Fiscal Detail and Notes

The bill includes a General Fund appropriation to the Office of the Attorney General of \$190,492 in fiscal year 2026-27 for one Assistant Attorney General position to send and process notifications regarding medical records statewide.