

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND NINETEENTH LEGISLATURE

FIRST REGULAR SESSION
December 2, 1998 to June 19, 1999

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FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
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PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

J.S. McCarthy Company
Augusta, Maine
1999

CHAPTER 369

H.P. 1174 - L.D. 1685

An Act Governing Privileged Communications between Victims of Crimes and Governmental Victim Witness Advocates

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

Sec. 1. 16 MRSA §53-C is enacted to read:

§53-C. Privileged communications to governmental victim witness advocates or coordinators

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Crime" means a criminal offense in which there is a victim, as defined in this section.

B. "Victim" means:

(1) A person against whom a crime has been committed;

(2) The immediate family of a victim of a crime if:

(a) The underlying crime is one of domestic violence or sexual assault or one in which the family suffered serious physical trauma or serious financial loss; or

(b) Due to death, age or physical or mental disease, disorder or defect, the victim is unable to participate as allowed under this chapter.

C. "Victim witness advocate" or "victim witness coordinator" means an employee of or volunteer for a district attorney, the Attorney General or the United States Attorney whose primary job function is to advise, counsel or assist victims or witnesses of crimes, to supervise other employees or volunteers who perform that function or to administer the program.

2. Privileged communications. Communications are privileged from disclosure as follows.

A. A victim may refuse to disclose and may deny permission to a victim witness advocate or coordinator to disclose confidential written or oral communications between the victim and the advocate or coordinator and written records,

notes, memoranda or reports concerning the victim.

B. Except as provided in subsection 3, a victim, advocate or coordinator or the victim advocate's or coordinator's employer may not be required, through oral or written testimony or through production of documents, to disclose to a court in criminal or civil proceedings or to any other agency or person confidential communications between the victim and the advocate or coordinator.

3. Exceptions. Privileged communications may be disclosed in the following cases:

A. Disclosure may be made to the district attorney, Attorney General or the United States Attorney or their assistants;

B. When disclosure is required under Title 22, chapter 1071 and that disclosure is in accordance with that chapter;

C. When a court in the exercise of its discretion determines the disclosure of information necessary to the proper administration of justice, an inspection of records may be held in camera by the judge to determine whether those records contain relevant information. This proceeding does not entitle an opposing party to examine the records unless those records are made available by the court;

D. When a victim dies or is incapable of giving consent and disclosure is required for an official law enforcement investigation or criminal proceeding regarding the cause of that victim's death or incapacitation; or

E. Evidence of an exculpatory nature must be disclosed to the criminal defendants pursuant to the Maine Rules of Criminal Procedure, Rule 16.

See title page for effective date.

CHAPTER 370

H.P. 1036 - L.D. 1458

An Act to Allow Cutting of Trees in the Shoreland Zone Under Certain Conditions

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

Sec. 1. 30-A MRSA §4452, sub-§3, ¶B-1 is enacted to read: