

MAINE STATE LEGISLATURE

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STATE OF MAINE
130TH LEGISLATURE
FIRST REGULAR AND FIRST SPECIAL SESSIONS



Disposition of bills and summaries of all laws enacted or finally passed

JOINT STANDING COMMITTEE ON JUDICIARY

December 2021

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JOINT STANDING COMMITTEE ON JUDICIARY

LD 1617 An Act To Amend the Victim Services Laws To Define "Restorative Justice"

ENACTED LAW SUMMARY

Public Law 2021, chapter 355 borrows from the definition of "restorative justice program" in the Maine Juvenile Code to define "restorative justice" as used by the Office of Victim Services within the Department of Corrections. The Office of Victim Services is currently responsible for assisting victims with obtaining victim compensation, restitution and other benefits of restorative justice.

LD 1676 An Act To Limit Access to Juvenile Case Records and Protect the Confidentiality of Juvenile History Record Information

ENACTED LAW SUMMARY

Public Law 2021, chapter 365 defines "confidential juvenile history record information" and "public juvenile history record information" and creates statutory authority governing the dissemination of juvenile history record information by a Maine criminal justice agency to create consistency between which juvenile case records may be open to public inspection at the courts and information that may be shared publicly by a criminal justice agency. It provides a definition of "administration of juvenile justice" for all of the Maine Juvenile Code and amends several provisions to make consistent the use of the term "administration of juvenile justice" and deletes the term "administration of juvenile criminal justice."

Chapter 365 modifies the Maine Juvenile Code to limit access to juvenile case records maintained by Juvenile Courts and reorganizes existing provisions based on whether they allow disclosure of a juvenile's identity, allow inspection of juvenile case records, allow dissemination of juvenile case records or allow the general public access to Juvenile Court proceedings. It provides that a victim or an agent of the victim may inspect the juvenile petition and order of adjudication regardless of whether the general public may do so.

Chapter 365 allows automatic public inspection of a juvenile petition only if the petition alleges murder, felony murder or manslaughter and the juvenile has attained 13 years of age at the time of the offense. A juvenile petition that alleges a Class A crime by a juvenile who has attained 13 years of age at the time of the offense, is open to public inspection unless the court orders the petition confidential. A juvenile petition alleging that a juvenile under 13 years of age committed murder or a Class A crime and a petition alleging a juvenile of any age committed a Class B or Class C crime are confidential unless the Juvenile Court authorizes public inspection.

Chapter 365 provides that competency orders may be inspected by the victim of the juvenile crime in all cases. The public may inspect competency orders only when the proceeding to which the order relates is publicly accessible.

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Chapter 365 provides that only orders of adjudication for juvenile crimes that would constitute murder or Class A, B or C crimes if the juvenile were an adult are open to public inspection and dissemination by a court or criminal justice agency.

Chapter 365 clarifies that the general public may not be excluded from any Juvenile Court proceeding when a juvenile petition is open to public inspection pursuant to statute or court order. A victim or an agent of the victim may be present at all court proceedings regardless of whether the proceedings are open to the general public.

Chapter 365 provides for the automatic sealing of juvenile case records for crimes that, if the juvenile were an adult, would constitute Class D crimes, other than operating under the influence, or Class E crimes upon the completion of the disposition ordered by the Juvenile Court. The sealing procedure remains unchanged for Class A, Class B and Class C crimes and murder.

Chapter 365 makes all juvenile case records and all Juvenile Court proceedings confidential when Juvenile Court proceedings are suspended due to an assertion by the juvenile, the State or the court that the juvenile may not be competent to proceed in the Juvenile Court. Juvenile case records and Juvenile Court proceedings remain confidential unless the Juvenile Court proceedings resume after the juvenile is found competent.

Chapter 365 creates a new civil cause of action for a person about whom confidential records or information has been disclosed in knowing or intentional violation of the Maine Revised Statutes, Title 15, section 3010, subsection 6 or section 3308-A, subsection 4. A person who brings and prevails in such a civil action is entitled to injunctive relief, reimbursement of court costs and reasonable attorney's fees, an award of actual damages of up to \$5,000 and award of punitive damages. It also creates a new civil violation for which any person who intentionally or knowingly disseminates confidential juvenile history may be fined up to \$1,000.

Public Law 2021, chapter 365 includes an effective date of January 1, 2022.

LD 1685 An Act To Protect the Constitutional Rights of Indigent Defendants

ENACTED LAW SUMMARY

Public Law 2021, chapter 480 prohibits prosecutors from communicating with an unrepresented defendant unless the defendant has been informed of the defendant's right to appointed counsel, the court has provided the required statement of rights as specified in Maine Rules of Criminal Procedure, Rule 5(b) and the defendant has executed a written waiver of the right to counsel in each prosecution. A defendant's waiver of the right to counsel must be knowing, voluntary and intelligent. The Sixth Amendment Center recommended this requirement based on *Faretta v. California*, 422 US 806 (1975).

Chapter 480 provides that a prosecutor may communicate with a defendant who is not represented by an attorney and who has not executed a written waiver of the right to counsel if the