

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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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

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communication is to offer the defendant an opportunity to participate in an established precharge diversion program, the successful completion of which results in the prosecutor not prosecuting the charge or charges against the defendant.

LD 1687 An Act To Improve the Provision of Indigent Legal Services

ENACTED LAW SUMMARY

Public Law 2021, chapter 481 authorizes the Maine Commission on Indigent Legal Services to directly employ attorneys to provide legal services to indigent clients. It also requires the commission to establish an audit system and allow the recoupment of payments when appropriate and directs the executive director to carry out the audits and seek recoupment. Chapter 481 also grants the commission subpoena power, enforceable in the Superior Court, to conduct the audits and authorizes the executive director to exercise the subpoena power on behalf of the commission.

Public law 2021, chapter 481 was enacted as an emergency measure effective July 15, 2021.

LD 1688 An Act To Improve Consistency in Terminology and within the Maine Human Rights Act

ENACTED LAW SUMMARY

Public Law 2021, chapter 366 addresses inconsistencies in the protections provided in different areas of jurisdiction under the Maine Human Rights Act. Chapter 366 provides more inclusive protection by:

1. Including adult family members dependent for care in the definition of "familial status";
2. Including familial status as a protected class in employment;
3. Including age as a protected class in public accommodations; and
4. Clarifying the scope of the Maine Human Rights Act application in education.

Chapter 366 also clarifies that the sexual orientation provisions in the Maine Human Rights Act extend to gender identity, and updates statutory sections to be consistent with changes in law that were enacted in the First Regular Session of the 129th Legislature concerning gender identity.