

# **128th MAINE LEGISLATURE**

# **SECOND REGULAR SESSION-2018**

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H.P. 1185

House of Representatives, December 22, 2017

## An Act To Strengthen Crime Victims' Rights

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

Received by the Clerk of the House on December 19, 2017. Referred to the Committee on Criminal Justice and Public Safety pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

R(+ B. Hunt

ROBERT B. HUNT Clerk

Presented by Representative HERBIG of Belfast. (BY REQUEST) Cosponsored by Senator VOLK of Cumberland and Representatives: GOLDEN of Lewiston, McCREA of Fort Fairfield, NADEAU of Winslow, PERRY of Calais, ZEIGLER of Montville, Senators: JACKSON of Aroostook, ROSEN of Hancock, President THIBODEAU of Waldo.

- 1 Be it enacted by the People of the State of Maine as follows:
- 2 Sec. 1. 17-A MRSA §1173-A is enacted to read:

### 3 §1173-A. Public trial proceedings

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A victim may be present at all trial proceedings that are public unless the court determines that the fair administration of justice requires that the victim be excluded pursuant to the Maine Rules of Evidence, Rule 615.

Sec. 2. 17-A MRSA §1175, as amended by PL 2017, c. 128, §§1 to 3, is further
 amended to read:

#### 9 §1175. Notification of defendant's release or escape

10 Upon complying with subsection 1, a victim of a crime of murder or of a Class A, 11 Class B or Class C crime or of a Class D crime under chapters 9, 11 and 12 for which the defendant is committed to the Department of Corrections or to a county jail or is 12 13 committed to the custody of the Commissioner of Health and Human Services either 14 under Title 15, section 103 after having been found not criminally responsible by reason 15 of insanity or under Title 15, section 101-D after having been found incompetent to stand trial must receive notice of the defendant's unconditional release and discharge from 16 institutional confinement upon the expiration of the sentence or upon release from 17 18 commitment under Title 15, section 101-D or upon discharge under Title 15, section 104-A and; must receive notice of any conditional release of the defendant from 19 institutional confinement, including probation, supervised release for sex offenders, 20 parole, furlough, work release, funeral or deathbed visit, supervised community 21 22 confinement, home release monitoring or similar program, administrative release or release under Title 15, section 104-A; and must receive notice of the defendant's escape 23 from the Department of Corrections, the state mental health institute or the county jail to 24 25 which the defendant is committed. For purposes of this section, "victim" also includes a person who has obtained under Title 19-A, section 4007 an active protective protection 26 27 order or approved consent agreement against the defendant.

28 1. A victim who wishes to receive notification must file a request for notification of 29 the defendant's release or escape with the office of the attorney for the State. The 30 attorney for the State shall forward this request form to the Department of Corrections, to 31 the state mental health institute or to the county jail to which that defendant is committed. 32 Notwithstanding this subsection, a victim who wishes to receive notification regarding a 33 defendant who is committed to the Department of Corrections may file a request for 34 notification of the defendant's release or escape directly with the Department of 35 Corrections.

36 2. The Department of Corrections, the state mental health institute or the county jail 37 to which the defendant is committed shall keep the victim's written request in the file of 38 the defendant and shall notify the victim by mail of any impending release as soon as the 39 release date is set <u>or, if the defendant has escaped, by the quickest means reasonably</u> 40 <u>practicable</u>. This notice must be mailed to the address provided in the request or any 41 subsequent address provided by the victim.

- 1 **3.** The If the defendant is being released, the notice required by this section must contain:
- 3 A. The name of the defendant;

B. The nature of the release authorized, whether it is a conditional release, including probation, supervised release for sex offenders, parole, furlough, work release, funeral or deathbed visit, supervised community confinement, home release monitoring or a similar program, administrative release or release under Title 15, section 104-A, or an unconditional release and discharge upon release from commitment under Title 15, section 101-D or upon the expiration of a sentence or upon discharge under Title 15, section 104-A;

- 11 C. The anticipated date of the defendant's release from institutional confinement 12 and any date on which the defendant must return to institutional confinement, if 13 applicable;
- 14 D. The geographic area to which the defendant's release is limited, if any;
- 15 E. The address at which the defendant will reside; and
- 16 F. The address at which the defendant will work, if applicable.

**3-A.** If the defendant has escaped, the notice required by this section must contain
 the name of the defendant, the manner of the escape, the place from which the defendant
 escaped and the date of the escape.

- 20 **4.** The notice requirement under this section ends when:
- A. Notice has been provided of an unconditional release or discharge upon the expiration of the sentence or upon release under Title 15, section 101-D or upon discharge under Title 15, section 104-A; or
- B. The victim has filed a written request with the Department of Corrections, the
  state mental health institute or the county jail to which the defendant is committed
  asking that no further notice be given.

5. Neither the failure to perform the requirements of this chapter nor compliance with this chapter subjects the attorney for the State, the Commissioner of Corrections, the Department of Corrections, the Commissioner of Health and Human Services, the state mental health institute or the county jail or the employees or officers of the attorney for the State, the Commissioner of Corrections, the Department of Corrections, the Commissioner of Health and Human Services, the state mental health institute or the county jail to liability in a civil action.

SUMMARY

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35 This bill strengthens the rights of a victim of a crime by:

Authorizing the victim to be present at all trial proceedings that are public unless
 the court determines that the fair administration of justice requires the exclusion of the
 victim; and

1 2. Requiring that a victim who so wishes receive notification of the defendant's 2 escape from the jail or institute to which the defendant is committed.