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CRIMINAL JUSTICE AND PUBLIC SAFETY

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
132ND LEGISLATURE
FIRST SPECIAL SESSION**

COMMITTEE AMENDMENT “ ” to H.P. 353, L.D. 534, “An Act to Clarify the Rights of Crime Victims and Witnesses Regarding Professional Investigator Communications”

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

Sec. 1. 17-A MRSA §2110 is enacted to read:

§2110. Victim and witness rights when contacted by professional investigator

The duties of a professional investigator, as defined in Title 32, section 8103, subsection 5, when contacting a victim or witness of a crime, are set out in rules adopted by the Chief of the State Police pursuant to Title 32, section 8116, subsection 3, including the disclosure of the right of a victim or witness to refuse communication.

Sec. 2. 32 MRSA §8103, sub-§1-D is enacted to read:

1-D. Crime. "Crime" has the same meaning as in Title 17-A, section 2101, subsection 1.

Sec. 3. 32 MRSA §8103, sub-§6 is enacted to read:

6. Victim. "Victim" has the same meaning as in Title 17-A, section 2101, subsection 2.

Sec. 4. 32 MRSA §8103, sub-§7 is enacted to read:

7. Witness. "Witness" has the same meaning as in Title 15, section 1412, subsection 3.

Sec. 5. 32 MRSA §8104, sub-§2, ¶A, as amended by PL 2011, c. 366, §18, is further amended to read:

A. A person employed by or on behalf of the Federal Government, any state or any political subdivision or public instrumentality or a Canadian province, while in the

COMMITTEE AMENDMENT

1 performance of the person's official duties, except for a person employed by the Maine
2 Commission on Public Defense Services under Title 4, section 1801;

3 **Sec. 6. 32 MRSA §8116, sub-§3**, as amended by PL 2011, c. 366, §49, is repealed
4 and the following enacted in its place:

5 **3. Rules.** The following provisions govern the adoption of rules necessary to
6 administer this chapter.

7 A. The chief, with the advice of the board, shall adopt rules to ensure transparency for
8 crime victims and witnesses when communicating with professional investigators. The
9 rules must include, but are not limited to, the following requirements.

10 (1) Prior to communicating about a crime with a victim or witness who is a minor,
11 a professional investigator shall obtain consent to communicate with the minor
12 from the minor's parent or guardian who is not the defendant in the criminal case.

13 (2) Prior to a professional investigator seeking information from a victim or
14 witness substantially related to a crime to which that person is a victim or witness,
15 the professional investigator shall disclose to the victim or witness, or to the parent
16 or guardian of a minor victim or witness who is not the defendant in the criminal
17 case:

18 (a) The purpose of the investigation;

19 (b) The name of the person who hired the professional investigator;

20 (c) That the victim or witness is not required to communicate with the
21 professional investigator; and

22 (d) If the professional investigator is employed by, compensated by or
23 otherwise contracted to provide services for the Maine Commission on Public
24 Defense Services under Title 4, section 1801, or employed by any criminal
25 defense attorney for the purpose of investigating a crime or is otherwise
26 working at the direction of or for the benefit of a defendant for purposes of
27 investigating a crime for which the defendant is charged, that the professional
28 investigator is a professional investigator working for the benefit of the
29 defendant.

30 (3) At any time, a victim or witness or parent or guardian of a minor victim or
31 witness who is not the defendant in the criminal case may request, orally or in
32 writing, that the professional investigator ceases contact with the victim or witness,
33 and the professional investigator may not attempt further communication unless
34 expressly authorized by the victim or witness or parent or guardian of the minor
35 victim or witness who is not the defendant in the criminal case.

36 B. The chief, with the advice of the board, may adopt any other rules necessary to
37 administer this chapter, including, but not limited to, rules regarding standards of
38 acceptable professional conduct and training requirements for and sponsorship of
39 investigative assistants.

40 Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5,
41 chapter 375, subchapter 2-A.

