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**JUDICIARY**

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**STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
131ST LEGISLATURE  
FIRST SPECIAL SESSION**

COMMITTEE AMENDMENT “ ” to H.P. 876, L.D. 1362, “An Act to Ensure the Rights of Survivors of Sexual Assault”

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

**'Sec. 1. 15 MRSA c. 521** is enacted to read:

**CHAPTER 521**

**RIGHTS OF SEXUAL ASSAULT SURVIVORS**

**§6201. Definitions**

For the purposes of this chapter, the following terms have the following meanings.

**1. Law enforcement officer.** "Law enforcement officer" has the same meaning as in Title 25, section 2801-A, subsection 5.

**2. Person responsible for the minor.** "Person responsible for the minor" has the same meaning as "person responsible for the child" as defined in Title 22, section 4002, subsection 9.

**3. Reported sexual assault.** "Reported sexual assault" means, with respect to a sexual assault survivor who is an adult, a crime described in subsection 5, paragraph A or, with respect to a sexual assault survivor who is a child, a crime described in subsection 5, paragraph B.

**4. Sexual assault counselor.** "Sexual assault counselor" has the same meaning as in Title 16, section 53-A, subsection 1, paragraph B.

**5. Sexual assault survivor.** "Sexual assault survivor" or "survivor" means:

**A. An adult who reports that the adult is a victim of a crime defined in:**

**(1) Title 17-A, chapter 11;**

**COMMITTEE AMENDMENT**

- 1                   (2) Title 17-A, section 511-A; or
- 2                   (3) Title 17-A, section 852 or 853; or
- 3           B. A minor who is reported by the minor or by a person responsible for the minor to
- 4           be a victim of a crime defined in:
- 5                   (1) Title 17-A, chapter 11;
- 6                   (2) Title 17-A, section 511-A;
- 7                   (3) Title 17-A, section 852 or 853; or
- 8                   (4) Title 17-A, section 282 or 283.

9           **§6202. Right to a sexual assault counselor**

10           A survivor has the right to consult with a sexual assault counselor during a sexual  
11           assault forensic examination and has the right to have a sexual assault counselor present  
12           during any interview by a law enforcement officer, prosecutor, defense attorney or  
13           professional investigator about the reported sexual assault. A survivor retains this right  
14           even if the survivor has waived the right in a previous examination or interview.

15           **§6203. Prohibition on use of evidence gathered during sexual assault forensic**  
16           examination

17           **1. Use of evidence prohibited.** Evidence gathered during a sexual assault forensic  
18           examination may not be used:

- 19                   A. To prosecute a survivor for any Class D or Class E crime under Title 17-A, chapter  
20                   45;
- 21                   B. To prosecute a survivor for any crime of criminal OUI under Title 29-A, section  
22                   2411;
- 23                   C. To prosecute a survivor for any crime of failure to appear, failure to report or  
24                   violation of condition of release under sections 1091, 1091-A and 1092, respectively;
- 25                   D. As the basis of a motion to revoke any conditional release of the survivor under  
26                   Title 17-A, chapter 67;
- 27                   E. To prosecute a survivor for any civil violation or crime under Title 28-A;
- 28                   F. To prosecute a survivor for engaging in prostitution under Title 17-A, section 853-A;  
29                   or
- 30                   G. To prosecute a survivor for any juvenile crime based on a violation of the laws set  
31                   forth in paragraphs A to F.

32           **2. Use of evidence to justify search prohibited.** Evidence gathered during a sexual  
33           assault forensic examination may not be used as a basis to search for evidence to be used  
34           against the survivor for any of the following:

- 35                   A. A Class D or Class E crime under Title 17-A, chapter 45;
- 36                   B. Any crime of criminal OUI under Title 29-A, section 2411;
- 37                   C. Any crime of failure to appear, failure to report or violation of condition of release  
38                   under sections 1091, 1091-A or 1092, respectively;

1 D. A motion to revoke any conditional release of the survivor under Title 17-A, chapter  
2 67;

3 E. Any civil violation or crime under Title 28-A;

4 F. Engaging in prostitution under Title 17-A, section 853-A; and

5 G. Any juvenile crime based on a violation of the laws set forth in paragraphs A to F.'

6 Amend the bill by relettering or renumbering any nonconsecutive Part letter or section  
7 number to read consecutively.

8 **SUMMARY**

9 The bill provides that a sexual assault survivor has the right to consult with a sexual  
10 assault counselor during any physical examination and the right to have a sexual assault  
11 counselor or support person of the survivor's choosing present during any interview by a  
12 law enforcement officer, prosecutor or defense attorney. This amendment, which is the  
13 majority report of the committee, clarifies that a sexual assault survivor has the right to  
14 consult with a sexual assault counselor during a sexual assault forensic examination and to  
15 have a sexual assault counselor present during any interview by a law enforcement officer,  
16 prosecutor, defense attorney or professional investigator.

17 The amendment also provides that evidence gathered during a sexual assault forensic  
18 examination may not be used to prosecute the sexual assault survivor for a Class D or Class  
19 E drug offense, any crime of operating under the influence, any crime of violating a  
20 condition of release, any crime of engaging in prostitution, any violation of the State's  
21 liquor laws or any juvenile crime based on a violation of the foregoing laws. The evidence  
22 gathered during a sexual assault forensic examination also may not be used as the basis of  
23 a motion to revoke any conditional release of the survivor or as a basis to search for further  
24 evidence that a sexual assault survivor committed any of these crimes or offenses.