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Date: (Filing No. H-)

JUDICIARY

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
132ND LEGISLATURE
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT “ ” to H.P. 1452, L.D. 2163, “An Act to Improve the Response to Complaints by Victims of Crime and Enhance Victims' Rights”

Amend the bill by striking out the title and substituting the following:

'An Act to Enhance Crime Victims' Rights'

Amend the bill by striking out all of sections 1 and 2.

Amend the bill by striking out all of section 5 and inserting the following:

'Sec. 5. 17-A MRSA §2102, sub-§1, ¶H is enacted to read:

H. Any request for a subpoena for the victim's records as described in section 2110; the date and time of any criminal hearing or criminal court proceeding concerning the subpoena request; and that the victim must be given an opportunity to be heard at that hearing or proceeding; and'

Amend the bill by striking out all of sections 7 to 9 and inserting the following:

'Sec. 7. 17-A MRSA §2110 is enacted to read:

§2110. Subpoenas for victim's records

A victim has the right to timely notice pursuant to section 2102, subsection 1, paragraph H and must be given an opportunity to be heard at any criminal hearing or criminal court proceeding concerning a subpoena issued to a person other than the victim for any record that implicates a privilege or a confidentiality or privacy protection for the benefit of the victim as described in Rule 17A(f) of the Maine Rules of Unified Criminal Procedure, including, but not limited to, the victim's medical records, mental health counseling or treatment records, educational records, electronic device content information and electronic device location information. For purposes of this paragraph, "electronic device content information" has the same meaning as in Title 16, chapter 3, subchapter 10 and "electronic device location information" has the same meaning as in Title 16, chapter 3, subchapter 11.

Sec. 8. 17-A MRSA §2111 is enacted to read:

COMMITTEE AMENDMENT

1 **§2111. Presence of victim's attorney or advocate**

2 At any court proceeding in a criminal case in which a victim has a right to be heard,
3 the victim may retain an attorney who may be present and speak on the victim's behalf or
4 the victim may elect to have a victim witness advocate or victim witness coordinator speak
5 on the victim's behalf. Except as required to comply with Rule 4.2 of the Maine Rules of
6 Professional Conduct governing communications with persons represented by counsel,
7 treatment of the victim may not be affected or altered in any way due to the victim's
8 decision to exercise this right. For purposes of this section, "victim witness advocate" or
9 "victim witness coordinator" has the same meaning as in Title 16, section 53-C, subsection
10 1, paragraph C.'

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

13 **SUMMARY**

14 This amendment, which is the majority report of the committee, changes the title of the
15 bill. The amendment removes the provisions of the bill directing the Office of the Attorney
16 General to create a centralized complaint process and procedures for investigations of
17 violations of crime victim rights.

18 Under current law, a crime victim may file a motion to quash any subpoena served on
19 that victim. The bill provides that a victim has a right to receive timely notice and an
20 opportunity to be heard when a party to a court proceeding requests a subpoena granting
21 that party access to certain types of records about or concerning the victim. The amendment
22 clarifies that the attorney for the State has responsibility for making a good faith effort to
23 notify the victim of the existence of a subpoena request; the date and time of any proceeding
24 related to the subpoena; and that the victim must be given the opportunity to be heard at
25 that proceeding or hearing when a party to a criminal proceeding seeks a subpoena from
26 someone other than the victim for any record that implicates a privilege or a confidentiality
27 or privacy protection for the benefit of the victim as described in Rule 17A(f) of the Maine
28 Rules of Unified Criminal Procedure, including, but not limited to, the victim's medical
29 records, mental health counseling or treatment records, educational records, electronic
30 device content information and electronic device location information.

31 The amendment also clarifies that, in any court proceeding in a criminal case in which
32 a victim has a right to be heard, the victim may retain an attorney to speak on the victim's
33 behalf or may elect to have a victim witness advocate or victim witness coordinator speak
34 on the victim's behalf. Treatment of the victim may not be affected in any way based on
35 the victim's decision to retain an attorney, except as required to comply with the Maine
36 Rules of Professional Conduct governing attorney communications with persons who are
37 represented by counsel.