

STATE OF MAINE

—
IN THE YEAR OF OUR LORD
TWO THOUSAND TWENTY-THREE

—
H.P. 876 - L.D. 1362

An Act to Ensure the Rights of Survivors of Sexual Assault

Be it enacted by the People of the State of Maine as follows:

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;
- (2) Title 17-A, section 511-A; or
- (3) Title 17-A, section 852 or 853; or

B. A minor who is reported by the minor or by a person responsible for the minor to be a victim of a crime defined in:

- (1) Title 17-A, chapter 11;
- (2) Title 17-A, section 511-A;
- (3) Title 17-A, section 852 or 853; or
- (4) Title 17-A, section 282 or 283.

§6202. Right to a sexual assault counselor

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

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

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

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

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

- A. A Class D or Class E crime under Title 17-A, chapter 45;
- B. Any crime of criminal OUI under Title 29-A, section 2411;
- C. Any crime of failure to appear, failure to report or violation of condition of release under sections 1091, 1091-A or 1092, respectively;
- D. A motion to revoke any conditional release of the survivor under Title 17-A, chapter 67;
- E. Any civil violation or crime under Title 28-A;

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

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