



Administrative Office of the Courts

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Judicial Branch testimony neither for nor against LD 1499, An Act to Revoke the Tax-exempt Status of an Organization That Fails to Report Sexual Assaults Committed by Employees, Board Members, Volunteers or Affiliates:

Senator Grohoski, Representative Cloutier, members of the Joint Standing Committee on Taxation, my name is Barbara Cardone and I represent the Judicial Branch. I am providing testimony neither for nor against LD 1499.

The Judicial Branch takes no position on most of this bill as it pertains to public policy, but we are concerned about new 36 MRS § 7353(1): "Each instance of failure to report must involve a distinct allegation of sexual assault and must be substantiated by a court of law or administrative proceeding. The court or fact finder shall report its findings to the bureau."

This subsection is problematic in two ways, both in terms of what is reported and who reports it. The phrase "a distinct allegation of sexual assault... substantiated by a court of law" is confusing. If what is intended is a conviction of a crime that is listed in the definition of sexual assault in section 7351(2), the language should be amended to say so. If the language is not referring to a conviction, then there is no judicial process that results in substantiation in the courts, and the phrasing should be adjusted to remove the courts from the substantiation process.

Subsection 7353(1) also states that "the court... shall report its findings to the bureau." As a practical matter, the court will not know whether a particular defendant is an employee, board member, volunteer or affiliate of a tax-exempt organization. Maine courts usually do not initiate the provision of information. The Judicial Branch case management system is not set up to collect and disseminate information to the public or to other agencies of government. We collect information that is necessary to the adjudication of cases. The Judicial Branch is not equipped to provide reliable and timely reports to the Bureau of Revenue Services on this topic.

Upon request, court records can be provided with respect to a particular person, and requests for criminal history can be made to the State Bureau of Identification (SBI). More information on both of these methods can be found on the Judicial Branch website: <https://www.courts.maine.gov/help/records.html>. We respectfully request that any inquiry

seeking court records or criminal history records be initiated by the tax-exempt organization and be conducted according to existing procedures for a records request.

Thank you for your consideration. I would be happy to answer your questions.