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The Maine Coalition
to End Domestic Violence

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Testimony of Andrea Mancuso, on behalf of the Maine Coalition to End Domestic Violence
In Support of LD 2163:
"An Act to Improve the Response to Complaints by Victims of Crime and Enhance Victim Rights"
Thursday, January 29, 2026

Senator Carney, Representative Kuhn, and distinguished members of the Judiciary Committee, on behalf of the Maine Coalition to End Domestic Violence (MCEDV),[1] I write to urge your support of LD 2163, "An Act to Improve the Response to Complaints by Victims of Crime and Enhance Victim Rights."

Maine Needs a Victim Rights Compliance Process

Maine law codifies several broad types of victim rights. These include notice, opportunity to be heard, a degree of confidentiality in their communications, the right to seek restitution, and an ability to access victim compensation. These rights exist in Maine and across the country because we know that these things are ways in which the criminal legal system can contribute to a crime victim's healing and sense of justice and safety after a crime has been committed against them. When the criminal legal system promises those rights but fails to follow through on them, the outcome is precisely the opposite of what we intended. Instead of contributing to healing, the system itself retraumatizes the victim.

It's taught in law schools across this country every year, that there is no real right without a remedy. Yet, crime victim rights have been on the books for decades with no articulated remedy for violation. Over the last 20 years, many states have taken steps to change that, and it is time for Maine to join them. States who have implemented remedies for victim rights violations have largely done so in one of a few different ways: (1) codifying a right to sue; (2) instituting procedural remedies, such as the ability to walk back the proceeding in which the victim rights were violated; (3) creating commissions of appointed individuals who function similar to the Board of Bar Overseers and licensing boards; and (4) creating compliance and enforcement programs.[2] The goal of that last approach, which is

[1] MCEDV's membership includes the eight regional domestic violence resource centers (DVRCs) across Maine and two culturally specific service providers. In FY2025, **more than 14,000 people** sought and received assistance from Maine's DVRC's, which provide 24-hour crisis intervention, emergency sheltering, housing assistance, legal advocacy, child protective advocacy, and other practical assistance to help survivors overcome barriers to achieving safety for themselves and their children as well as consultation for those concerned about them.

[2] In the last 20 years, several states (including California, Florida, Illinois, North Dakota, Ohio, South Dakota) have also taken steps to elevate several of the crime victim rights in Maine statutes to constitutional protections through amendments commonly referred to as "Marsy's Law Amendments." More than 30 state constitutions currently have some form of crime victim rights amendment.

the proposal that is before you in LD 2163, is to support meaningful progress towards upholding victim rights without diverting already limited court time and system resources. This approach focuses on providing support to the agencies in our state who are responsible for carrying out victim rights,[3] providing a clear place for victims to be heard when they are retraumatized by the system itself, and ensuring policymakers have quality information on whether and how enacted victim rights laws are implemented and followed. To be clear, there is nothing in LD 2163 that creates a right for victims to unwind criminal court processes that have already happened; this structure would create a process for better understanding where practice changes are needed and provide a level of oversight and support for those changes occurring.

Though victim rights violations have always been a reality in Maine's criminal courts, some of the responses implemented in response to the dysfunction and backlog in recent years have greatly exacerbated this problem. MCEDV and Maine's regional domestic violence resource centers have increasingly worked with victims in the last two years where it was clear that victim rights were egregiously violated, and the response from leaders within our criminal legal system disciplines sadly reflected a greater level of apathy on this issue than we would have hoped.

Earlier this year, two domestic violence cases involving high risk offenders, each with two separate criminal case files, had dispositions entered by the court without either victim being notified of the court date, without being given an opportunity to be heard by the court, and without having the court ask (as the court is statutorily required to) whether either of the victims was seeking restitution. Both cases had been transferred from one district to another, with one of the victims not even knowing about that transfer, and without the initial prosecutorial district even knowing about that transfer. Dispositions entered were then *sua sponte* changed by the court at a later court date. Neither victim was provided notice of that court date or given an opportunity to be heard on the change in the case disposition. That's at least ten victim rights violations across two cases in just one prosecutorial district. These victims had no real recourse but to complain to the elected District Attorney and the victim witness advocates that they were working with, who were also trying to understand how this happened. In both cases, no meaningful action was undertaken to understand why these victims' rights were violated and what needed to be done to change practices to ensure similar rights violations would not happen in the future until a statewide victim services agency got involved on their behalf. As we hold a public hearing on LD 2163 today, MCEDV could not tell you, despite having offered concrete

[3] The criminal legal system is not structured to be highly supportive of the needs of crime victims. What many crime victims may see as an inappropriate action or a violation of their rights is simply criminal due process for the person charged and/or constitutional limitations on that system. Lessons learned from other states with compliance systems like the one proposed is that a fair number of the interactions the office has with victims is actually to explain to crime victims those limitations and why what happened in the criminal case was actually required or appropriate. This will be supportive to local prosecutorial offices who are responding regularly to these types of complaints from victims.

feedback and recommendations, what, if anything, has been changed in response to these two cases in order to prevent these rights violations going forward.

As caseloads continue to be high and court resources continue to be stagnant, victim rights are often given low priority in the criminal legal system across our state in the face of the need to move cases. A prosecutor in one district has openly said that the victim rights laws that require the State to make "a good faith effort" to provide notice to crime victims really means that they need to notify victims only when it is not going to otherwise inconvenience the process. Pressure on the system from insufficient resources, high caseloads, and other real challenges do not negate statutory obligations to victim rights.

Thankfully, Maine does not need to reinvent the wheel to determine what a reasonable next step should be to help the State do better when it comes to upholding victim rights. A similar victim rights compliance program to what is proposed in LD 2163 has existed in Arizona for a long time. It checks all the right boxes: it's collaborative; it's transparent; and it supports the agencies who are responsible for victims' rights. Additionally, because it is focused on avoiding future violations, it is all of these things without unwinding the criminal proceeding in which the victim's rights were violated.

Victims Must Be Notified of Appeals

There are at least two examples in 2025, in two separate prosecutorial districts, that highlight the need to have clarity in Maine's victim rights laws that crime victims must be notified by the State when a defendant appeals their conviction or sentence.

- In September, an assault victim did not know that the defendant who had been convicted for assaulting them had appealed that conviction until a reporter called to ask them if they wanted to comment on the fact that the Law Court had just overturned the conviction.

- In a high-risk domestic violence case involving strangulation, a defendant appealed his sentence. The victim had been very involved pre-trial, meeting several times with prosecutors. The victim did not find out about the appeal until a community-based victim advocate reached out to the victim to check in on them. This was months after the appeal was filed.

Existing crime victim rights laws concerning criminal court dispositions recognize the importance of a criminal case disposition to a victim's sense of justice and safety. Dispositions can involve years-long orders to a defendant that prohibit contact with that crime victim. A crime victim is provided notice of the proposed disposition, provided notice of when the disposition will be considered by the judge, and given a right to have the court hear from them before a decision is finalized. A crime victim should also be provided with notice if a process is happening that would vacate or modify that disposition. That a victim

has a right to such notice is wholly consistent with the express victim rights laws that already exist in our state. The above cases make it clear that it needs to be a right that is expressly codified.

A Crime Victim's Right to Speak Through an Attorney or Victim Witness Advocate Needs to Be Clarified

Crime is traumatizing, particularly violent crime or patterns of abuse by someone who was supposed to love you. It is an incredible ask for crime victims, particularly surviving family members of a homicide victim, to appear in court, in the same room as the person who caused their trauma, to speak publicly about their experience and the impact on them. Additionally, though many crime victims want to know details about each court date that happens between bail and sentencing, it is often not feasible or a good use of their time and mental and emotional energy to attend. Our criminal legal system provides special professionals in District Attorney Offices, Victim Witness Advocates (VWAs), to account for this reality. These Victim Witness Advocates help support crime victim notice, understanding of what transpires at court dates, and, ultimately, having their voice heard, and are recognized in state statute (Title 16, section 53-C). Despite this, Victim Witness Advocates have increasingly encountered procedural barriers to doing their jobs.

- In one recent case, survivor members of a homicide victim asked the Victim Witness Advocate to attend a motion hearing and let them know what happened. Remote appearances for this motion hearing were being allowed by the Court. The Court required the State to file a motion to ask permission for the VWA to attend the proceeding remotely. The Court then denied that motion.

- In another recent case, a crime victim had prepared a victim impact statement but she did not want to be present herself. She asked that the VWA read it on her behalf. The Court prohibited the Victim Witness Advocate, who is an employee in the District Attorney's Office, from reading the statement. Instead, the Court required the Assistant District Attorney to read it.

Maine's victim rights statutes note the right for a victim to be heard through an attorney in some provisions, but not all. Section 9 of LD 2163 would make it clear that a victim who has retained an attorney or who is working with a Victim Witness Advocate has a right to have that attorney or VWA be present at any court event that they would have a right to be present at and to speak on their behalf.

Crime Victims Should Have a Right to Notice & Opportunity to Be Heard When Their Private Records are Subpoenaed

LD 2163 supports the privacy rights of crime victims in two important ways. Section 5 requires the attorney for the State to make a good faith effort to inform each victim that

they have a right to receive timely notice of any criminal hearing or criminal court proceeding that concerns a subpoena that has been issued for any record about or concerning the victim and a right to be heard at that hearing or proceeding. Section 8 requires the courts to recognize the right of a crime victim to be heard at that hearing or proceeding.

Increasingly in some areas of the state, defense attorneys have sought to issue subpoenas to third parties for privileged medical and mental health records of crime victims. There is not a clear mandate that crime victims, as non-parties, be notified when this happens. Though there is consistency across the courts in requiring the State to be silent during the hearing that is required to be held on these requests, there has not been similar consistency in whether or how courts permit crime victims, or counsel retained on behalf of crime victims, to be heard. Medical and mental health providers typically do not appear in response to these requests for permission to issue subpoenas for these privileged records. Instead of showing up to protect the privacy of their patients, providers are choosing to just send a standard letter of objection. In one case, a request was made by the defense to issue a subpoena to a crime victim's long-term therapist for years' work of narrative records in order to see whether this victim had ever previously disclosed that a sexual assault was committed by an entirely unrelated previous partner of the victim. The provider objected only through a form letter. In many cases, victims are not being informed about the hearings that are being held on defense motions for their private records until after a judge has already issued an order allowing the subpoena to go forward. A clear process for a victim to ask for a more limited scope or an appropriate protective order to ensure their records do not end up in the hands of the person who has harmed them is non-existent.

The criminal legal system response is already intensively invasive, particularly for crimes involving domestic violence and sexual assault. Defense practices to seek years' worth of counseling records be turned over to the defense adds another layer of trauma and there should be clear practices in place to ensure, as laid out in court rule, that such records are only turned over in cases where the moving party cannot properly prepare for trial without these documents and when there is a likelihood the documents will be admissible at trial. Particularly when prosecutors are prohibited from speaking to these issues, crime victims must be given a meaningful opportunity to do so.

In summary, crime victims are core stakeholders in the criminal legal system response. Maine's laws suggest a belief that public safety requires a functioning legal system. However, a functioning criminal legal system is not possible without crime victim witness participation. We know that people who experience victimization are more likely to be revictimized in the future. If we want people to believe in our system and cooperate with it, the least we can do is make sure that basic, fundamental rights are afforded to victims and that those rights are upheld. Right now, as a state, all we have are anecdotes to tell us how well we are doing around this. And those anecdotes give examples of fairly egregious circumstances where victim rights were not well tended.

Thank you for the opportunity to be heard on this important issue.

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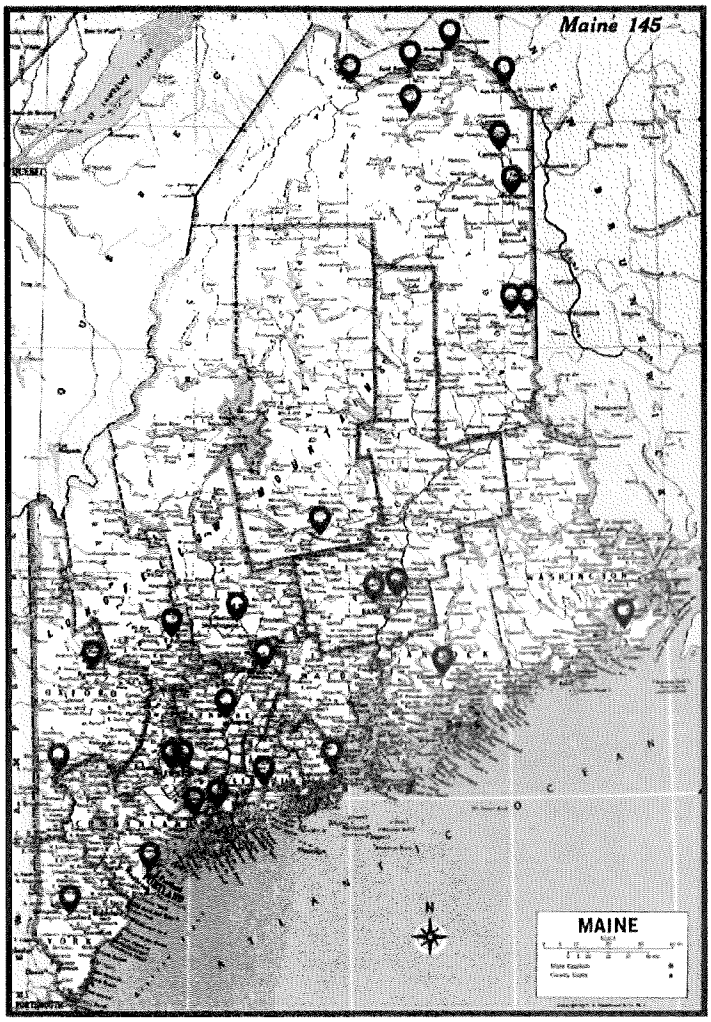
Domestic Violence Resource Centers & Outreach Locations



In addition to their resource centers and other outreach locations, DVRCs all have in-person presences at courts and CPS offices in their districts.

We are the Maine Coalition to End Domestic Violence.

MCEDV.

ANDROSCOGGIN, FRANKLIN & OXFORD
Safe Voices
- Lewiston
- Farmington
- Rumford

Culturally Specific Services:
Immigrant Resource Center of Maine & Her Safety Net
- Lewiston

AROOSTOOK
Hope & Justice Project
- St. Francis
- Eagle Lake
- Fort Kent
- Madawaska
- Van Buren
- Caribou
- Presque Isle
- Houlton

CUMBERLAND
Through These Doors
- Portland
- Bridgton
- Brunswick

HANCOCK & WASHINGTON
Next Step Domestic Violence Project
- Ellsworth
- Machias

KENNEBEC & SOMERSET
Family Violence Project
- Skowhegan
- Waterville
- Augusta

KNOX, LINCOLN, SAGADAHOC & WALDO
New Hope Midcoast
- Rockland
- Damariscotta
- Bath

PENOBSCOT & PISCATAQUIS
Partners for Peace
- Bangor
- Orono
- Dover-Foxcroft

YORK
Caring Unlimited
- Sanford

Sponsor's Proposed Amendment to LD 2163
For public hearing 1/29/26

An Act to Improve the Response to Complaints by Victims of Crime and Enhance Victims' Rights

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

Sec. 1. 5 MRSA Pt. 9, headnote is amended to read:

PART 9

~~CRIMINAL JUSTICE PLANNING AND ASSISTANCE~~ CRIME VICTIM RESPONSE

Sec. 2. 5 MRSA c. 316-E is enacted to read:

CHAPTER 316-E

CRIME VICTIM COMPLAINT PROCESS

§3360-Y. Complaint process for violation of crime victims' rights

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Authority" means a governmental entity that has a victim rights obligation under this Title or Title 15, 16, 17-A or 30-A.

B. "Office" means the Office of the Attorney General.

C. "Rights" means statutory rights of a victim under this Title or Title 15, 16, 17-A or 30-A.

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

2. Crime victim complaints. The office shall provide a centralized process for a victim to allege a violation of one or more rights by a state, county or municipal authority. The process must further uniformity, efficiency and compliance by state, county and local authorities responsible for ensuring victims' access to justice. *This process does not intend to alter any provisions of Title 34-A, section 1214 or apply to complaints that fall under that section.*

3. Crime victim complaint inquiry. The office shall develop a process for making inquiry into complaints made by victims. That process must include, but not be limited to, the following.

A. The office shall prescribe the methods by which complaints are made, received and acted upon. The office shall inform an individual that the filing of a complaint with the office does not guarantee a specific outcome for the individual making the complaint. The office may determine which complaints to pursue based on factors such as the severity of any alleged violation or the potential for repetition.

B. The office may make inquiry with any state, county or local authority that may have information relevant to any complaint. The office may determine the scope and manner of any inquiry made.

C. The office may request and must be given access to information the office considers necessary to support the inquiry.

4. Recommendations after inquiry. On finding a complaint valid after duly considering the complaint and any material the office considers relevant, the office may recommend *modification or implementation of*

policies and practices ~~action~~ to the appropriate authority. If the office makes *such recommendations* ~~a recommendation to an appropriate authority for action~~, that authority, within a reasonable time period not to exceed 30 days, shall inform the office of *any policy or practice changes made in response* ~~the action taken~~ or the reasons for not taking any action responsive to the recommendation.

5. Other victim rights. This chapter does not prohibit a victim from exercising any other lawful action in response to the victim's complaint under subsection 2.

6. *Confidentiality.* *Except as otherwise noted in this section, any complaints made to the office and any office records concerning such complaints are confidential and may be only be disclosed to: a person or entity deemed necessary by the office to carrying out the office's responsibilities under this section; to a state agency if necessary to carry out the statutory functions of that agency; a criminal justice agency if necessary to carry out the administration of criminal justice as defined in Title 16, section 703, subsection 1 or the administration of juvenile justice; or to a community based victim services provider.*

6-A. **Office may not be compelled to testify or produce evidence.** The office may not be compelled to testify or produce evidence in any judicial or administrative proceeding with respect to matters involving the exercise of the duties described in this section.

7. Rules. The office may adopt rules to implement the provisions of this chapter. Rules adopted pursuant to this section are routine technical rules as defined in chapter 375, subchapter 2-A.

8. Report. Beginning January 15, 2029, and biennially thereafter, the office shall provide to the Governor, the President of the Senate, the Speaker of the House and the Chief Justice of the Supreme Judicial Court a report that summarizes, at a minimum:

A. The nature of the complaints received under this section since the last report, the measures taken to address those complaints and the outcome of those complaints;

B. Aggregate data concerning the complaints received under this section since the last report, including, but not limited to, the number of complaints and to which public agencies and officials they were directed; and

C. Recommendations by the office and public agencies and officials for improving the process under this section.

Sec. 3. 17-A MRSA §2102, sub-§1, ¶F-2, as enacted by PL 2021, c. 330, §6 and reallocated by RR 2021, c. 1, Pt. A, §14, is amended to read:

F-2. The final disposition of the charges against the defendant, including the amount of deductions to time served that a defendant has accumulated as of the date of sentencing. On or before the date of sentencing, the attorney for the State shall obtain information about the deductions to time served from each correctional facility at which a defendant was detained prior to sentencing on the relevant charges; ~~and~~

Sec. 4. 17-A MRSA §2102, sub-§1, ¶G, as enacted by PL 2019, c. 113, Pt. A, §2, is amended to read:

G. The right to comment on the proposed early termination of probation, early termination of administrative release or conversion of probation to administrative release, pursuant to section 2105~~.~~;

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

H. The right to receive timely notice of and have an opportunity to be heard at any *criminal* hearing or *criminal* court proceeding concerning a subpoena issued for any record about or concerning the victim; and

Sec. 6. 17-A MRSA §2102, sub-§1, ¶I is enacted to read:

I. The filing, scheduling and outcome of an appeal of a decision of the court by a defendant or the State involving a crime against the victim.

Sec. 7. 17-A MRSA §2102, sub-§2, as enacted by PL 2019, c. 113, Pt. A, §2, is amended to read:

2. Pamphlets. When providing notice under subsection 1, the attorney for the State shall offer to provide the victim with a pamphlet containing this chapter~~,~~; Title 5, chapter 316-A; Title 5, chapter 316-E; and Title 15, sections 812 and 6101. In addition, the attorney for the State, as part of any victim and witness support program that attorney administers under Title 30-A, section 460, shall provide the victim with a pamphlet outlining in everyday language the provisions set out in this chapter~~,~~; Title 5, chapter 316-A; Title 5, chapter 316-E; and Title 15, sections 812 and 6101. The attorney for the State may use the pamphlet printed and distributed by the Department of Corrections or another pamphlet that meets the criteria in this section.

Sec. 8. 17-A MRSA §2110 is enacted to read:

§2110. Subpoenas for victim's records

A victim has the right to timely notice and must be given an opportunity to be heard at any *criminal* hearing or *criminal* court proceeding concerning a subpoena issued for any record about or concerning that victim, including, but not limited to, medical or mental health counseling or treatment records, educational records or cellular telephone records.

Sec. 9. 17-A MRSA §2111 is enacted to read:

§2111. Presence of victim's attorney or advocate

At any point in a criminal proceeding, a victim has the right to retain a victim's attorney, who may be present and speak on behalf of the victim during all stages of any interview, investigation or other interaction with representatives of the criminal justice system. Treatment of the victim may not be affected or altered in any way because of the victim's decision to exercise this right. A victim witness advocate or victim witness coordinator, as defined in Title 16, section 53-C, subsection 1, paragraph C, may also be present and speak on behalf of the victim during any court proceeding.

SUMMARY

This bill strengthens compliance by state, county and local authorities with laws regarding crime victim rights and provides a complaint process for victims whose rights have been violated. Specifically, the bill does the following.

1. It directs the Office of the Attorney General to create a centralized complaint process and procedures for investigations of violations of crime victim rights, including a victim complaint notice process and an inquiry and investigative process that requires that the office be given access to necessary information to conduct investigations. If, after the filing of a complaint and investigation into that complaint, the office determines it appropriate to do so, the office must recommend that a state, county or municipal authority *modify or implement certain policies or practices* ~~take action~~ and that authority must report to the office within 30 days regarding the action taken or the reasons for not taking any action responsive to the recommendation.

2. It specifies that a victim who participates in the victim complaint process may also exercise any other legal rights and remedies available to the victim.

3. It clarifies that the office may not be compelled to testify or produce evidence in any judicial or administrative proceeding with respect to matters involving the exercise of the duties established in the bill.

4. It specifies that a victim has the right to receive timely notice of and have an opportunity to be heard at any *criminal* hearing or *criminal* court proceeding concerning a subpoena issued for any record about or concerning the victim, including, but not limited to, medical or mental health counseling or treatment records, educational records or cellular telephone records.

5. It specifies that a victim has a right to be notified of the filing, scheduling and outcome of an appeal of a decision of a court about a crime against that victim.

6. It specifies that at any point in a criminal proceeding, a victim has the right to retain a victim's attorney, who may be present and speak on behalf of the victim during all stages of any interview, investigation or other interaction with representatives of the criminal justice system. Treatment of the victim may not be affected or altered in any way because of the victim's decision to exercise this right. A victim witness advocate or victim witness coordinator may also be present and speak on behalf of the victim during any court proceeding.

LD 2163

CURRENT LAW

Title 17-A: MAINE CRIMINAL CODE
CHAPTER 75: VICTIMS' RIGHTS

§2101. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 2019, c. 113, Pt. A, §2 (NEW).]

1. Crime. "Crime" means a criminal offense in which, as defined, there is a victim. [PL 2019, c. 113, Pt. A, §2 (NEW).]

2. Victim. "Victim" means:

A. A person who is the victim of a crime; and [PL 2019, c. 113, Pt. A, §2 (NEW).]

B. The immediate family of a victim of a crime if:

(1) The underlying crime is one of domestic violence or sexual assault or one in which the family suffered serious physical trauma or serious financial loss; or

(2) Due to death, age, physical or mental disease, disorder or defect, the victim is unable to participate as allowed under this chapter.

As used in this paragraph, "immediate family" means the spouse, domestic partner, parent, child, sibling, stepchild or stepparent of the victim. [PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

§2102. Victims to be notified

1. Information provided to victim. The attorney for the State shall make a good faith effort to inform each victim of the following:

A. The details of a plea agreement, including a deferred disposition, before it is submitted to the court; [PL 2019, c. 113, Pt. A, §2 (NEW).]

B. The right to comment on a plea agreement, including a deferred disposition, pursuant to section 2103; [PL 2019, c. 113, Pt. A, §2 (NEW).]

C. The proposed dismissal or filing of an indictment, information or complaint pursuant to the Maine Rules of Unified Criminal Procedure, Rule 48, before that action is taken; [PL 2019, c. 113, Pt. A, §2 (NEW).]

D. The time and place of the trial; [PL 2019, c. 113, Pt. A, §2 (NEW).]

E. The time and place of sentencing; [PL 2019, c. 113, Pt. A, §2 (NEW).]

F. The right to participate at sentencing pursuant to section 2104; [PL 2021, c. 174, §6 (AMD); PL 2021, c. 330, §5 (AMD).]

F-1. The termination of probation pursuant to section 1804, subsection 6; [RR 2021, c. 1, Pt. A, §13 (COR).]

REVISOR'S NOTE: (Paragraph F-1 as enacted by PL 2021, c. 330, §6 is REALLOCATED TO TITLE 17-A, SECTION 2102, SUBSECTION 1, PARAGRAPH F-2)

F-2. **(REALLOCATED FROM T. 17-A, §2102, sub-§1, ¶F-1)** The final disposition of the charges against the defendant, including the amount of deductions to time served that a defendant has accumulated as of the date of sentencing. On or before the date of sentencing, the attorney for the State shall obtain information about the deductions to time served from each correctional facility at which a defendant was detained prior to sentencing on the relevant charges; and [PL 2021, c. 330, §6 (NEW); RR 2021, c. 1, Pt. A, §14 (RAL).]

G. The right to comment on the proposed early termination of probation, early termination of administrative release or conversion of probation to administrative release, pursuant to section 2105. [PL 2019, c. 113, Pt. A, §2 (NEW).]

2. Pamphlets. When providing notice under subsection 1, the attorney for the State shall offer to provide the victim with a pamphlet containing this chapter, Title 5, chapter 316-A and Title 15, sections 812 and 6101. In addition, the attorney for the State, as part of any victim and witness support program that attorney administers under Title 30-A, section 460, shall provide the victim with a pamphlet outlining in everyday language the provisions set out in this chapter, Title 5, chapter 316-A and Title 15, sections 812 and 6101. The attorney for the State may use the pamphlet printed and distributed by the Department of Corrections or another pamphlet that meets the criteria in this section. [PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW). PL 2021, c. 174, §6 (AMD). PL 2021, c. 330, §§5, 6 (AMD). RR 2021, c. 1, Pt. A, §§13, 14 (COR).

§2103. Plea agreement procedure

When a plea agreement is submitted to the court pursuant to the Maine Rules of Unified Criminal Procedure, Rule 11A(b), the attorney for the State shall disclose to the court any and all attempts made to notify each victim of the plea agreement and any objection to the plea agreement by a victim. A victim who is present in court at the submission of the plea may address the court at that time. [PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

§2104. Sentencing procedure

1. Participation by victim. The victim must be provided the opportunity to participate at sentencing by:

A. Making an oral statement in open court; or [PL 2019, c. 113, Pt. A, §2 (NEW).]

B. Submitting a written statement to the court either directly or through the attorney for the State. A written statement must be made part of the record. [PL 2019, c. 113, Pt. A, §2 (NEW).]

An attorney for the victim may submit a written statement or make an oral statement on the victim's behalf. [PL 2019, c. 113, Pt. A, §2 (NEW).]

2. Consideration of victim's statements. The court shall consider any statement made under subsection 1, along with all other appropriate factors, in determining the sentence. [PL 2019, c. 113, Pt. A, §2 (NEW).]

3. Participation by interested person. An interested person, including, but not limited to, a member of the victim's family who is not immediate family of the victim, a close friend of the victim, a community member and other interested person, does not have a right to participate at sentencing. Participation by such interested persons is a matter for the court's discretion in determining what information to consider when sentencing. [PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

§2105. Termination or conversion procedure

When the attorney for the State receives notice of a motion seeking early termination of probation or early termination of administrative release or seeking to convert probation to administrative release, the attorney for the State shall disclose to the court any attempts made to notify each victim of the motion to terminate or convert and any objection to the motion by a victim. If a hearing is held on the motion by the court and the victim is present in court, the victim may address the court at that time. [PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

§2106. Notification of defendant's release or escape

Upon complying with subsection 1, a victim of a crime of murder or of a Class A, Class B or Class C crime or of a Class D crime under chapters 9, 11 and 12 for which the defendant is committed to the Department of Corrections or to a county jail or is committed to the custody of the Commissioner of Health and Human Services either under Title 15, section 103 after having been found not criminally responsible by reason of insanity or under Title 15, section 101-D after having been found incompetent to stand trial must receive notification of the defendant's unconditional release and discharge from institutional confinement upon the expiration of the sentence or upon release from commitment under Title 15, section 101-D or upon discharge under Title 15, section 104-A; must receive notification of any conditional release of the defendant from institutional confinement, including probation, supervised release for sex offenders, parole, furlough, work release, funeral or deathbed visit, supervised community confinement, home release monitoring or similar program, administrative release or release under Title 15, section 104-A; and must receive notification of the defendant's escape from the Department of Corrections, the custody of the Commissioner of Health and Human Services or the county jail to which the defendant is committed. For purposes of this section, "victim" also includes a person who has obtained under Title 19-A, former section 4007 or Title 19-A, section 4110 an active protection order or approved consent agreement against the defendant. [PL 2021, c. 647, Pt. B, §41 (AMD); PL 2021, c. 647, Pt. B, §65 (AFF).]

1. Request for notification. A victim who wishes to receive notification must file a written request for that notification of the defendant's release or escape under this section with the office of the attorney for the State. The attorney for the State shall forward this request form to the Department of Corrections or to the state mental health institute or to the county jail to which that defendant is committed. Notwithstanding this subsection, a victim who wishes to receive notification regarding a defendant who is committed to the Department of Corrections may file a request for notification of the defendant's release directly with the Department of Corrections. [PL 2019, c. 113, Pt. A, §2 (NEW).]

2. Notification of victim. The Department of Corrections or the state mental health institute or the county jail to which the defendant is committed shall keep the victim's written request for a notification under subsection 1 in the file of the defendant and shall notify the victim by mail of any impending release as soon as the release date is set or, if the defendant has escaped, by the quickest means reasonably practicable. This notification must be mailed to the address provided in the request or any subsequent address provided by the victim. [PL 2019, c. 113, Pt. A, §2 (NEW).]

3. Contents of notification upon release. If the defendant is being released, the notification required by this section must contain:

A. The name of the defendant; [PL 2019, c. 113, Pt. A, §2 (NEW).]

B. The nature of the release authorized, whether it is a conditional release, including probation, supervised release for sex offenders, parole, furlough, work release, funeral or deathbed visit, supervised community confinement, home release monitoring or a similar program, administrative release or release under Title 15, section 104-A, or an unconditional release and discharge upon release from commitment under Title 15, section 101-D or upon the expiration of a sentence or upon discharge under Title 15, section 104-A; [PL 2019, c. 113, Pt. A, §2 (NEW).]

C. The anticipated date of the defendant's release from institutional confinement and any date on which the defendant must return to institutional confinement, if applicable; [PL 2019, c. 113, Pt. A, §2 (NEW).]

D. The geographic area to which the defendant's release is limited, if any; [PL 2019, c. 113, Pt. A, §2 (NEW).]

E. The address at which the defendant will reside; and [PL 2019, c. 113, Pt. A, §2 (NEW).]

F. The address at which the defendant will work, if applicable. [PL 2019, c. 113, Pt. A, §2 (NEW).]

4. Contents of notification upon escape. If the defendant has escaped, the notice required by this section must contain the name of the defendant, the manner of escape, the place from which the defendant escaped and the date of the escape. [PL 2019, c. 113, Pt. A, §2 (NEW).]

5. Termination of notification requirement. The notification requirement under this section ends when:

A. Notification has been provided of an unconditional release or discharge upon the expiration of the sentence or upon release under Title 15, section 101-D or upon discharge under Title 15, section 104-A; or [PL 2019, c. 113, Pt. A, §2 (NEW).]

B. The victim has filed a written request for a notification under subsection 1 with the Department of Corrections or the state mental health institute or the county jail to which the defendant is committed asking that no further notification be given. [PL 2019, c. 113, Pt. A, §2 (NEW).]

6. Liability. Neither the failure to perform the requirements of this chapter nor compliance with this chapter subjects the attorney for the State, the Commissioner of Corrections, the Department of Corrections, the Commissioner of Health and Human Services, the institution for the care and treatment for persons with mental illness to which the defendant is committed by the Commissioner of Health and Human Services or the residential program that provides care and treatment for persons who have intellectual disabilities or autism to which the defendant is committed by the Commissioner of Health and Human Services or the county jail or the employees or officers of the attorney for the State, the Commissioner of Corrections, the Department of Corrections, the Commissioner of Health and Human Services, the state mental health institution for the care and treatment for persons with mental illness to which the defendant is committed by the Commissioner of Health and Human Services or the residential program that provides care and treatment for persons who have intellectual disabilities or autism to which the defendant is committed by the Commissioner of Health and Human Services or the county jail to liability in a civil action. [PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW). PL 2021, c. 647, Pt. B, §41 (AMD). PL 2021, c. 647, Pt. B, §65 (AFF).

§2107. Notification of defendant's release on preconviction bail

1. Contact information for victim of certain crimes. In the case of an alleged crime involving domestic violence, sexual assault under chapter 11 or stalking, the arresting law enforcement officer shall obtain the victim's contact information and provide that information to the jail to which the defendant is delivered. [PL 2019, c. 113, Pt. A, §2 (NEW).]

2. Notification of victim of certain crimes by jail or law enforcement agency. In a case of an alleged crime involving domestic violence, sexual assault under chapter 11 or stalking, the jail to which the defendant is delivered shall notify the victim of the defendant's release on preconviction bail under Title 15, chapter 105-A as soon as possible but no later than one hour after the defendant's release. If the defendant is released on preconviction bail before being delivered to a jail, the arresting law enforcement agency shall notify the victim as provided in this section. [PL 2019, c. 113, Pt. A, §2 (NEW).]

3. Method of notification. Notification under subsection 2 must be made by a telephone call either directly to the victim or as provided in subsection 5. In the event that the jail has not succeeded in contacting the victim after the jail has exercised due diligence in attempting to contact the victim, notification of the defendant's release must be made to the law enforcement agency that investigated the report of domestic violence, sexual assault under chapter 11 or stalking. That law enforcement agency shall make a reasonable attempt to notify the victim of the defendant's release on preconviction bail. [PL 2019, c. 113, Pt. A, §2 (NEW).]

4. Request by victim to not be notified. Notwithstanding subsection 2, a victim of an alleged crime described in subsection 1 may request in writing that the jail or arresting law enforcement agency not notify the victim of the defendant's release on preconviction bail. [PL 2019, c. 113, Pt. A, §2 (NEW).]

5. Notification based on age of victim. Notification under this section to an adult victim must be made to the victim. Notification to a minor victim must be made to an adult who is the victim's parent or legal guardian or, if a parent or legal guardian is not available, to another immediate family member of the victim unless the jail or arresting law enforcement agency reasonably believes that it is in the best interest of the minor victim to be notified directly. [PL 2019, c. 113, Pt. A, §2 (NEW).]

6. Liability. Neither the failure to perform the requirements of this section nor compliance with this section subjects the State, the arresting law enforcement agency, the jail to which the defendant was delivered, the Department of Corrections or officers or employees of the law enforcement agency, jail or Department of Corrections to liability in a civil action. [PL 2019, c. 113, Pt. A, §2 (NEW).]

For purposes of this section, "crime involving domestic violence" has the same meaning as in Title 15, section 1003, subsection 3-A and includes those crimes under section 152, subsection 1, paragraph A, section 208 and section 208-B when the victim is a family or household member as defined in Title 19-A, section 4102, subsection 6, paragraphs A to E or a dating partner as defined in Title 19-A, section 4102, subsection 4. [PL 2023, c. 465, §18 (AMD).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW). PL 2021, c. 647, Pt. B, §42 (AMD). PL 2021, c. 647, Pt. B, §65 (AFF). PL 2023, c. 465, §18 (AMD).

§2108. Confidentiality of victim records

1. General rule of confidentiality. Records that pertain to a victim's current address or location or that contain information from which a victim's current address or location could be determined must be kept confidential, subject to disclosure only as authorized in this section. [PL 2019, c. 113, Pt. A, §2 (NEW).]

2. Disclosure to law enforcement or victims' service agency. Records that pertain to a victim's current address or location or that contain information from which a victim's current address or location could be determined may be disclosed only to:

A. A state agency if necessary to carry out the statutory duties of that agency; [PL 2019, c. 113, Pt. A, §2 (NEW).]

B. A criminal justice agency if necessary to carry out the administration of criminal justice or the administration of juvenile justice; [PL 2019, c. 113, Pt. A, §2 (NEW).]

C. A victims' service agency with a written agreement with a criminal justice agency to provide services as a victim advocate; [PL 2021, c. 174, §7 (AMD).]

D. A person or agency upon request of the victim; [PL 2021, c. 174, §7 (AMD).]

E. A certified domestic violence intervention program in which the defendant in a criminal proceeding involving the victim has enrolled or will enroll; or [PL 2021, c. 174, §7 (NEW).]

F. The domestic violence center serving the same county as the certified domestic violence intervention program in which the defendant in a criminal proceeding involving the victim has enrolled or will enroll. [PL 2021, c. 174, §7 (NEW).]

3. Limited disclosure as part of bail condition or court order. A bail commissioner, judge, justice, court clerk, law enforcement officer or attorney for the State may disclose a victim's current address or location to the defendant or accused person, or the attorney or authorized agent of the defendant or accused person, as part of a bail condition or court order restricting contact with the victim only when it is clear that the defendant already knows the victim's current address or location or when the victim requests that such bail condition or court order be issued and the victim requests that the current address or location be specified. [PL 2019, c. 113, Pt. A, §2 (NEW).]

4. Limited disclosure pursuant to discovery. An attorney for the State may withhold the current address or location of a victim from the defendant, or the attorney or authorized agent of the defendant, if

the attorney for the State has a good faith belief that such disclosure may compromise the safety of the victim. [PL 2019, c. 113, Pt. A, §2 (NEW).]

5. Disclosure of victim's request for notice prohibited. In no case may a victim's request for notification of the defendant's release under section 2106 be disclosed except to those employees of the agency to which the defendant is committed and the office of the attorney for the State with which the request was filed in order for those persons to perform their official duties under this chapter. [PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW). PL 2021, c. 174, §7 (AMD).

§2109. Certain communications by victims confidential

The following communications are privileged from disclosure. [PL 2019, c. 113, Pt. A, §2 (NEW).]

1. To sexual assault counselor. Communications by a victim, as described in Title 16, section 53-A, subsection 2, to a sexual assault counselor, as defined in Title 16, section 53-A, subsection 1, paragraph B, are privileged from disclosure as provided in Title 16, section 53-A, subsection 2. [PL 2019, c. 113, Pt. A, §2 (NEW).]

2. To domestic violence advocate. Communications by a victim, as defined in Title 16, section 53-B, subsection 1, paragraph B, to a domestic violence advocate, as defined in Title 16, section 53-B, subsection 1, paragraph A-4, are privileged from disclosure as provided in Title 16, section 53-B, subsection 2, subject to exceptions in Title 16, section 53-B, subsection 3. [PL 2025, c. 139, §7 (AMD).]

3. To victim witness advocate or victim witness coordinator. Communications by a victim, as defined in Title 16, section 53-C, subsection 1, paragraph B, to a victim witness advocate or a victim witness coordinator, as defined in Title 16, section 53-C, subsection 1, paragraph C, are privileged from disclosure as provided in Title 16, section 53-C, subsection 2, subject to exceptions in Title 16, section 53-C, subsection 3. [PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW). PL 2025, c. 139, §7 (AMD).