



**mecasa**  
MAINE COALITION AGAINST  
SEXUAL ASSAULT

# MECASA Legislative Report

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**130th Legislature**

**First Regular & Special Sessions**

# 2021 Legislative Session

If the 129<sup>th</sup> Second Session was the session that wasn't, the 130<sup>th</sup> First Legislative Session was the opposite. We settled into a "new normal" that included doing most of our policy work via Zoom. Despite the complications of a continued pandemic, we are very proud of what was accomplished last year to support the work of sexual assault support centers and to build more just systems for survivors.

After more than four years of work, we were finally able to move the first new dollars for local providers in over twenty years into the state budget. Many thanks for Rep. Holly Stover's relentless advocacy for making this happen – as well as to all the work put in by the directors and staff of Maine's sexual assault support centers. We were also deeply grateful for the bi-partisan support for this funding.

So many bills became law that will positively impact our work and the lives of survivors – we are particularly excited about new public laws that:

- Makes it so that victims of child sexual abuse can move forward with civil actions regardless of when the abuse occurred.
- Allow for school personnel, who are the mandated reporters who make the most reports of child sexual abuse, to report electronically to Child Protective Services.
- Add a definition of child sex trafficking and expands the scope of CPS to include the commercial sexual exploitation of children regardless of the relationship between the child and the person responsible for the exploitation.
- Amend the Maine Human Rights Act to provide protections against discrimination in employment and housing against a person who has sought and received an order of protection if the order of protection was issued after the opportunity for a hearing. All remedies currently available under the Maine Human Rights Act, including a private right of action and attorney's fees, are available for these persons.
- Amend the law on the crime of prostitution from an affirmative defense to a defense that a person engaged in prostitution because the person was compelled to do so and adding a new defense that a person engaged in prostitution to prevent bodily injury, serious economic hardship or another threat to the person or another person.
- Allow for the opportunity for a child 14 years of age or younger to provide direct testimony in certain sex crime cases outside the presence of the defendant through the use of audiovisual electronic means.

We are, as always, indebted to our allies across the state who continue to show up for survivors, for advocates, and for Maine's most vulnerable and marginalized. Many thanks to all of you!

# 2021 New Laws

## **Public Law Chapter 326**

### **LD 320, An Act To Provide the Right to Counsel for Juveniles and Improve Due Process for Juveniles Sponsored by Representative Morales**

The overarching goal of Public Law 2021, chapter 326 is to ensure that fewer children are in the juvenile justice system and that, if and when they do become involved in the system, there is a presumption against incarceration and a requirement for the regular review of any commitment imposed, in order to minimize the harm that incarceration can cause children.

Chapter 326 provides that, beginning October 1, 2021, a juvenile who has not attained 12 years of age may not be committed to a secure detention facility, which includes Long Creek Youth Development Center. It also provides that a juvenile who has not attained 12 years of age may not be detained in a secure detention facility for more than seven days except upon agreement of the parties. Chapter 326 clarifies that a juvenile who has not attained 21 years of age must be represented by counsel when the court is conducting a review under the Maine Revised Statutes, Title 15, section 3315 or Title 15, section 3317. It prevents courts from imposing dispositions against juveniles that involve commitment without exhausting all other less restrictive alternatives.

Chapter 326 adds two considerations that must be accorded weight against ordering placement in a secure facility: whether the juvenile was under 14 years of age at the time of the crime and whether the adjudication is for a juvenile crime that would be a Class D or E crime if it were an adult crime and was not reduced from a crime that was charged as Class A, B or C.

Chapter 326 allows courts to require the Department of Corrections, the Department of Health and Human Services, or both, to demonstrate the reasonableness of the current treatment or placement provided or offered if an appropriate treatment or an appropriate less restrictive alternative placement is not being provided. It also allows such judicial reviews for individuals who are 18 to 20 years of age. Chapter 326 allows a juvenile to request a hearing under Title 15, section 3317, but only once every 180 days absent extraordinary circumstances and clarifies that a juvenile who has not attained 21 years of age must be represented by counsel when the court is conducting a review.

## **Public Law Chapter 299**

### **LD 536, An Act To Amend the Maine Criminal Code Sponsored by Senator Deschambault**

Public Law 2021, chapter 299 amends the Maine Criminal Code. The law was proposed by the Criminal Law Advisory Commission pursuant to the Maine Revised Statutes, Title 17-A, section 1354, subsection 2. Sections from the bill pertaining to sexual violence include the following:

The law amends Title 17-A, section 2016 to make it consistent with existing law in Title 17- A, section 2009 with respect to disposition of funds by correctional facilities when they hold funds for the purposes of restitution and the victim cannot be located. Current Title 17-A, section 2016 requires the facility to notify the court and the court to determine distribution of the funds. The law requires the facility to forward the funds to the Treasurer of State to be handled as unclaimed property, consistent with current Title 17-A, section 2009.

The law separates two variants of kidnapping which are included in the same subparagraph in Title 17-A, section 301, subsection 1, paragraph A, subparagraph (3) into separate subparagraphs for: A. Restraining a person with intent to commit bodily injury; and B. Restraining a person with intent to commit a sexual assault. The law amends the Sex Offender Registration and Notification Act of 2013 to clarify that, beginning January 1, 2022, kidnapping with intent to commit sexual assault, and not kidnapping with intent to commit bodily injury, qualifies as a Tier III offense under that Act. The law also clarifies that, beginning January 1, 2022, kidnapping with intent to commit sexual assault, and not kidnapping with intent to commit bodily injury, renders a person ineligible for interment in the Maine Veterans' Memorial Cemetery System.

The law repeals a section of law in Title 17-A, chapter 11 on factors aiding in predicting high-risk sex offenders for sentencing purposes, leaving individual risk assessment at sentencing to the judgment of the court.

## **Resolve Chapter 121**

### **LD 563, Resolve, To Create the Criminal Records Review Committee**

**Sponsored by Representative Talbot Ross**

Resolve 2021, chapter 121 establishes the Criminal Records Review Committee to review options for expunging and sealing criminal records. The review committee is directed to submit a report to the Joint Standing Committee on Judiciary by December 3, 2021 with findings and recommendations. MECASA will serve on this commission on behalf of the sexual violence victim service providers.

## **Public Law Chapter 301**

### **LD 589, An Act To Provide Access to Justice for Victims of Child Sexual Abuse**

**Sponsored by Representative Gramlich**

Public Law 2021, chapter 301 allows civil actions based upon sexual acts toward minors regardless of the date of the sexual act and revives actions that may previously have been barred by a statute of limitations in force prior to the effective date of Public Law 1999, chapter 639.

## **Public Law Chapter 110**

### **LD 606, An Act Regarding the Child Protection System**

**Sponsored by Representative Hymanson**

Public Law 2021, chapter 110 provides that the Department of Health and Human Services may cooperate and coordinate with service providers throughout the period of time the department is involved with a family and child. It requires the department to establish and maintain a policy that

requires caseworkers to receive information throughout the period of time the department is involved with a family and child directly from the providers in order to coordinate resources and inform the risk and safety assessment of the child. It requires the Department of Health and Human Services, Office of Child and Family Services to report to the Joint Standing Committee on Health and Human Services by March 1, 2022 on the policy and authorizes the committee to report out legislation related to the Child and Family Services and Child Protection Act to the Second Regular Session of the 130th Legislature.

### **Resolve Chapter 21**

#### **LD 625, Resolve, Directing a Review of Crucial Needs and Lapses in Responding to and Preventing Sexual Trauma in the Maine National Guard**

**Sponsored by Representative Rielly**

This resolve directs the Adjutant General to conduct a review of the implementation of the recommendations made to the Joint Standing Committee on Veterans and Legal Affairs in the report submitted pursuant to [Resolve 2013, chapter 66](#) and identify any crucial needs and lapses in responding to and preventing military sexual trauma in the Maine National Guard and determine if additional action is necessary. The Adjutant General is required to submit a report on the review by March 1, 2022 to the Joint Standing Committee on Veterans and Legal Affairs, which may submit legislation related to the report to the Second Regular Session of the 130th Legislature.

### **Public Law Chapter 304**

#### **LD 683, An Act To Allow Maine Nonprofit Corporations To Hold Meetings Electronically**

**Sponsored by Senator Stewart**

Public Law 2021, chapter 304 allows the board of directors of a nonprofit corporation to adopt guidelines and procedures for entirely or partially remote meetings or to allow members to participate remotely. Current law allows members of nonprofit corporations to vote by electronic transmission; chapter 304 expands that to include voting by means of remote communication. Chapter 304 also clarifies that remote votes must be counted for quorum purposes.

### **Public Law Chapter 116**

#### **LD 778, An Act To Enable Electronic Reporting of Suspected Child Abuse and Neglect for Certain Mandated Reporters**

**Sponsored by Representative Madigan**

This new law expands the types of mandated reporters who may report electronically to include school personnel.

## **Public Law Chapter 118**

### **LD 783, An Act Regarding the Membership of the Sexual Assault Forensic Examiner Advisory Board**

**Sponsored by Representative O'Neil**

Public Law 2021, chapter 118 adds to the membership of the Sexual Assault Forensic Examiner Advisory Board an additional sexual assault nurse examiner and one representative of law enforcement. It also clarifies that one member is a representative from a sexual assault support center and changes the member representing the State Board of Nursing to a member representing a school of nursing.

## **Public Law Chapter 432**

### **LD 803, An Act Regarding Violation of a Protective Order**

**Sponsored by Senator Deschambault**

Under current law a person who violates a protective order issued by a Maine court through conduct that is reckless and that creates a substantial risk of death or serious bodily injury to the person named in the protective order or who assaults that person commits a Class C crime. Public Law 2021, chapter 432 extends the prohibited conduct to a violation of an order that is similar to a protective order and that is issued by a court of the United States or of another state, territory, commonwealth or tribe. It also adds a cross-reference to the 3rd exception to violation of a protection from abuse order being a Class D crime.

## **Public Law Chapter 469**

### **LD 813, An Act To Create the Crime of Aggravated Sex Trafficking of a Person 14 Years of Age or Younger**

**Sponsored by Senator Diamond**

Public Law 2021, chapter 469 creates the Class A crime of aggravated sex trafficking of a person 14 years of age or younger.

## **Public Law Chapter 307**

### **LD 834, An Act to Ensure the Appropriate Allocation of Victim Restitution**

**Sponsored by Representative Stover**

Public Law 2021, chapter 307 prohibits a deceased victim's restitution from being paid to an offender if the offender is an heir, beneficiary or recipient of funds from the victim's estate. If an offender is an heir, beneficiary or recipient of a victim's estate, the restitution must be distributed to any other heir, beneficiary or recipient of the estate as if the distribution of the estate did not include the offender. If a victim's estate has only the offender as an heir, beneficiary or recipient, the restitution must be paid to the Victims' Compensation Fund or the Victims' Property Compensation Fund, determined by whether the restitution is for underlying injury or property damage.

## **Public Law Chapter 176**

### **LD 837, An Act To Amend the Child and Family Services and Child Protection Act**

**Sponsored by Representative Meyer**

Public Law 2021, chapter 176 combines the provisions in LD 837 with those in two other Department of Health and Human Services bills regarding the child protection system, LDs 760 and 762. The law: 1. Amends the definition of "abuse or neglect" and enacts a definition for "child sex trafficking" within the Child and Family Services and Child Protection Act to ensure the State is in compliance with the federal Child Abuse Prevention and Treatment Act. The new law opens the door for Child Protective Services to intervene with children who are victims of commercial sexual exploitation regardless of the relationship to the child of the person engaged in the exploitation.

## **Public Law Chapter 263**

### **LD 1044, An Act To Protect the Rights of Certain Incarcerated Individuals**

**Sponsored by Representative Warren**

Public Law 2021, chapter 263 requires county and regional jails and correctional facilities and detention facilities to respect and acknowledge a person's consistently held gender identity subject to exceptions for significant management or security problems or threats to the person's health or safety.

## **Public Law Chapter 265**

### **LD 1115, An Act To Improve Access to HIV Prevention Medications**

**Sponsored by Senator Sanborn**

Public Law 2021, chapter 265 makes the following changes to improve access to HIV prevention drugs.

The law requires that any drug formulary used in the MaineCare program must ensure that HIV prevention drugs are available to members covered by MaineCare.

The law requires health insurance carriers to provide coverage for an enrollee for HIV prevention drugs that have been determined to be medically necessary by a health care provider. Health insurance carriers are not required to cover all of the drugs approved by the federal Food and Drug Administration for HIV prevention as long as the carrier covers at least one approved drug for each method of administration with no out-of-pocket cost to the enrollee. Carriers are also required to provide coverage with no out-of-pocket cost for laboratory testing related to the ongoing monitoring of an enrollee taking an HIV prevention drug. The law prohibits a carrier from imposing prior authorization or step therapy requirements on any HIV prevention drug, except that, if the federal Food and Drug Administration has approved one or more methods of administering HIV prevention drugs, a carrier is not required to cover all of the approved drugs without step therapy or prior authorization requirements as long as the carrier covers at least one approved drug for each

method of administration without prior authorization or step therapy requirements. If step therapy or prior authorization requirements are met with regard to a particular HIV prevention drug, the carrier is required to cover that drug with no out-of-pocket cost to the enrollee. The requirements with regard to health insurance carriers apply to health plans issued or renewed on or after January 1, 2022.

The law also authorizes a pharmacist to prescribe, dispense and administer HIV prevention drugs pursuant to a standing order or collaborative practice agreement or when there is no prescription drug order from a health care provider, subject to rules and protocols adopted by the board.

### **Resolve Chapter 101**

#### **LD 1226, Resolve, Directing the Permanent Commission on the Status of Racial Indigenous and Maine Tribal Populations To Examine Restorative Justice**

**Sponsored by Representative Talbot Ross**

Resolve 2021, chapter 101 directs the Permanent Commission on the Status of Racial, Indigenous and Maine Tribal Populations to conduct a review of proposed and passed national restorative justice legislation and make recommendations in the areas of education, juvenile justice, adult diversion and correctional settings for advancing restorative justice legislation in this State. The commission is authorized to submit legislation based on its recommendations to the Second Regular Session of the 130th Legislature and must provide a copy of its recommendations to the Joint Standing Committee on Judiciary.

### **Public Law Chapter 476**

#### **LD 1294, An Act to Prevent Discrimination against Domestic Violence Victims**

**Sponsored by Senator Bailey**

Public Law 2021, chapter 476 amends the Maine Human Rights Act to provide protections against discrimination in employment and housing against a person who has sought and received an order of protection under the Maine Revised Statutes, Title 19-A, chapter 101, but only if the order of protection was issued after the opportunity for a hearing. All remedies currently available under the Maine Human Rights Act, including a private right of action and attorney's fees, are available for these persons.

### **Public Law Chapter 315**

#### **LD 1455, An Act To Support Survivors of Sex Trafficking and Exploitation**

**Sponsored by Representative Talbot Ross**

Public Law 2021, chapter 315 amends the law on the crime of prostitution by changing from an affirmative defense to a defense that a person engaged in prostitution because the person was compelled to do so and adding a new defense that a person engaged in prostitution to prevent bodily injury, serious economic hardship or another threat to the person or another person.



### **Public Law Chapter 447**

#### **LD 1486, An Act to Improve Investigations of Child Sexual Abuse**

**Sponsored by Representative McDonald**

Public Law 2021, chapter 447 amends the Maine Criminal Code by providing that a person who poses as a minor is deemed a minor for the purposes of a sex crime that has as an element or aggravating factor of the crime that the victim or person other than the actor is a minor. The law also adds as conduct punishable under the crime of patronizing prostitution of a minor a new Class C crime when the person committing the crime believes that the person whose prostitution is sought is a minor. The law raises the class of the existing crime of patronizing prostitution of a person who has not in fact attained 18 years of age from a Class D crime to a Class C crime.

### **Public Law Chapter 376**

#### **LD 1593, An Act To Provide Pathways to Rehabilitation, Reentry and Reintegration**

**Sponsored by Representative Talbot Ross**

Public Law 2021, chapter 376 amends the supervised community confinement program. The law requires the Commissioner of Corrections to adopt rules for the program and to establish criteria and a process for determining eligibility for the program. The law provides streamlined eligibility for a prisoner who has a terminal or severely incapacitating medical condition if care outside a correctional facility is medically appropriate. The law adds to the supervised community confinement program requirements for providing program information to prisoners. The law requires the Department of Corrections to track data for all prisoners who apply for the program.

### **Public Law Chapter 395**

#### **LD 1612, An Act To Facilitate Children's Testimony in Certain Sex Crime Cases**

**Sponsored by Representative McDonald**

Public Law 2021, chapter 395 allows the court, upon motion by the State, to allow a child 14 years of age or younger to provide direct testimony in certain sex crime cases outside the presence of the defendant from a children's advocacy center through the use of audiovisual electronic means. It clarifies that the defendant's attorney must be provided an opportunity in real time to cross-examine the child after the child's direct testimony. It requires that the defendant be able to observe the child's testimony while it is happening and be able to communicate with the defendant's attorney during the testimony.

### **Public Law Chapter 355**

#### **LD 1617, An Act To Amend the Victim Services Laws To Define "Restorative Justice"**

**Sponsored by Representative Talbot Ross**

Public Law 2021, chapter 355 borrows from the definition of "restorative justice program" in the Maine Juvenile Code to define "restorative justice" as used by the Office of Victim Services

within the Department of Corrections. The Office of Victim Services is currently responsible for assisting victims with obtaining victim compensation, restitution and other benefits of restorative justice.

### **Public Law Chapter 365**

#### **LD 1676, An Act To Limit Access to Juvenile Case Records and Protect the Confidentiality of Juvenile History Record Information**

#### **Sponsored by Representative Talbot Ross**

Public Law 2021, chapter 365 defines "confidential juvenile history record information" and "public juvenile history record information" and creates statutory authority governing the dissemination of juvenile history record information by a Maine criminal justice agency to create consistency between which juvenile case records may be open to public inspection at the courts and information that may be shared publicly by a criminal justice agency. It provides a definition of "administration of juvenile justice" for all of the Maine Juvenile Code and amends several provisions to make consistent the use of the term "administration of juvenile justice" and deletes the term "administration of juvenile criminal justice."

Chapter 365 modifies the Maine Juvenile Code to limit access to juvenile case records maintained by Juvenile Courts and reorganizes existing provisions based on whether they allow disclosure of a juvenile's identity, allow inspection of juvenile case records, allow dissemination of juvenile case records or allow the general public access to Juvenile Court proceedings. It provides that a victim or an agent of the victim may inspect the juvenile petition and order of adjudication regardless of whether the general public may do so.

Chapter 365 allows automatic public inspection of a juvenile petition only if the petition alleges murder, felony murder or manslaughter and the juvenile has attained 13 years of age at the time of the offense. A juvenile petition that alleges a Class A crime by a juvenile who has attained 13 years of age at the time of the offense, is open to public inspection unless the court orders the petition confidential. A juvenile petition alleging that a juvenile under 13 years of age committed murder or a Class A crime and a petition alleging a juvenile of any age committed a Class B or Class C crime are confidential unless the Juvenile Court authorizes public inspection.

Chapter 365 provides that competency orders may be inspected by the victim of the juvenile crime in all cases. The public may inspect competency orders only when the proceeding to which the order relates is publicly accessible. Chapter 365 provides that only orders of adjudication for juvenile crimes that would constitute murder or Class A, B or C crimes if the juvenile were an adult are open to public inspection and dissemination by a court or criminal justice agency.

Chapter 365 clarifies that the general public may not be excluded from any Juvenile Court proceeding when a juvenile petition is open to public inspection pursuant to statute or court

order. A victim or an agent of the victim may be present at all court proceedings regardless of whether the proceedings are open to the general public.

Chapter 365 provides for the automatic sealing of juvenile case records for crimes that, if the juvenile were an adult, would constitute Class D crimes, other than operating under the influence, or Class E crimes upon the completion of the disposition ordered by the Juvenile Court. The sealing procedure remains unchanged for Class A, Class B and Class C crimes and murder.

Chapter 365 makes all juvenile case records and all Juvenile Court proceedings confidential when Juvenile Court proceedings are suspended due to an assertion by the juvenile, the State or the court that the juvenile may not be competent to proceed in the Juvenile Court. Juvenile case records and Juvenile Court proceedings remain confidential unless the Juvenile Court proceedings resume after the juvenile is found competent.

Chapter 365 creates a new civil cause of action for a person about whom confidential records or information has been disclosed in knowing or intentional violation of the Maine Revised Statutes, Title 15, section 3010, subsection 6 or section 3308-A, subsection 4. A person who brings and prevails in such a civil action is entitled to injunctive relief, reimbursement of court costs and reasonable attorney's fees, an award of actual damages of up to \$5,000 and award of punitive damages. It also creates a new civil violation for which any person who intentionally or knowingly disseminates confidential juvenile history may be fined up to \$1,000.

Public Law 2021, chapter 365 includes an effective date of January 1, 2022.

### **Public Law Chapter 397**

#### **LD 1703, An Act To Amend the Bail Code**

#### **Sponsored by Representative Talbot Ross**

Public Law 2021, chapter 397 provides that a defendant who is otherwise eligible to be released on personal recognizance or upon the execution of an unsecured appearance bond, whether or not accompanied by one or more conditions of bail, must be released if the defendant cannot afford to pay the bail commissioner fee. It clarifies that the bail commissioner fee is not a financial condition of release for the purposes of the prohibition on financial conditions of release for certain Class E crimes.

Chapter 397 prohibits a judicial officer from imposing a financial condition of release on a defendant whose most serious crime charged is a Class E crime. However, the prohibition on financial conditions of release does not apply when the Class E crime is any of the following: 1. A violation of the Maine Criminal Code, chapter 11, which covers sexual assault crimes; 2. A crime committed against a family or household member or a dating partner; 3. A violation of a condition of release when the underlying crime for which the defendant has been released on bail is a violation of the Maine Criminal Code, chapter 11 or a crime against a family or household member or a dating partner; 4. A violation of a condition of release that is premised

on an allegation of new criminal conduct; 5. When a defendant fails to appear in court on a Class E crime; or 6. When agreed to by the defendant and the State. The parties may not agree to a bail amount under this provision that is more than \$5.

Chapter 397 revises the list of factors a judicial officer considers when setting preconviction bail; although the judicial officer is still required to consider the defendant's past conduct, chapter 397 eliminates the consideration of any history of substance use disorder. It also adds three new factors to be considered by the judicial officer: 1. Whether the defendant is the person primarily responsible for the care of another person; 2. Whether the defendant has a specific health care need, including a mental health care need, that is being met or would be better met outside of custody; and 3. Whether being placed or remaining in custody would prevent the defendant from maintaining employment.

Chapter 397 also requires a judicial officer to state the reason for the amount of any financial condition the judicial officer imposes.

### **Public Law Chapter 360**

#### **LD 1715, An Act To Amend the Laws Prohibiting Teachers, Employees and Other Officials from Engaging in Sexual Activity with Students**

**Sponsored by Senator Stewart**

Public Law 2021, chapter 360 prohibits sexual acts, sexual contact and sexual touching between a student and a substitute teacher who had instructional, supervisory or disciplinary authority over the student at any time during the 12 months prior to the sexual act, sexual contact or sexual touching. The law amends the statute on parental rights and responsibilities to require the court to consider, in establishing the conditions of awards of parent-child contact and residence, a sexual offense by a substitute teacher.

*Note: The bill summaries above have been written using language from the Maine Office of Policy and Legal Analysis. MECASA cannot guarantee the accuracy of the information contained therein, and this document is not intended as legal advice.*

# 2021 Bills “Carried Over”

A number of other bills were not completed in this first year of the two-year legislative session, but have been approved to be considered during the next year of the two-year legislative session which begins in January 2022.

## **LD 545**

### **An Act to Combat the Sexual Exploitation of Minors in Maine**

**Sponsored by Representative Andrews**

LD 545 increases the criminal penalty for engaging in prostitution or attempting to engage in prostitution with a person less than 18 years of age or a person believed by the actor to be less than 18 years of age. In the Child and Family Services and Child Protection Act, the bill adds to the definition of "abuse or neglect" sexual exploitation of a minor, aggravated sex trafficking, sex trafficking and patronizing prostitution of a minor and to the definition of "aggravating factor" promotion of prostitution, patronizing prostitution of a minor, sexual exploitation of a minor, sex trafficking and aggravated sex trafficking, regardless of whether the actor has a familial relationship to the child. The bill adds to the duties of the Department of Health and Human Services coordinating and providing care and services specialized to the needs of child victims of sexual exploitation and requires programs that provide services to have policies that screen for and respond to child sex trafficking. The bill requires the Department of Health and Human Services to ensure that investigation and provision of care and services in cases related to child sex trafficking are specialized to the needs of child victims. The bill adds to the duties of child advocacy centers, requiring a center to act as coordinator and provider of specialized services for child victims of sex trafficking.

## **LD 965**

### **An Act Concerning Nondisclosure Agreements in Employment**

**Sponsored by Representative Harnett**

This bill prohibits an employer from requiring an employee, intern or applicant for employment to enter into a contract or agreement that waives or limits any right to report or discuss discrimination, retaliation or harassment occurring in the workplace or at work related events. It also prohibits an employer from requiring an employee, intern or applicant for employment to enter into a settlement, separation or severance agreement that limits an individual's right to report, testify or provide evidence to a federal or state agency that enforces employment or discrimination laws, prevents an individual from testifying or providing evidence in federal and

state court proceedings in response to legal process or prohibits an individual from reporting conduct to a law enforcement agency. This bill allows a settlement, separation or severance agreement, under certain circumstances, to include a provision that prevents the subsequent disclosure of factual information relating to a claim of discrimination, retaliation or harassment. It provides the Department of Labor with the duty to enforce these provisions and allows an individual to receive liquidated damages or to be employed or reinstated with back wages when an employer discharges or refuses to hire an individual who declines to enter into a contract or agreement that waives or limits any right to report or discuss discrimination, retaliation or harassment occurring in the workplace or at work-related events.

### **LD 1303**

#### **An Act To Ensure Judicial Discretion in Sentencing**

**Sponsored by Representative Warren**

This bill provides for the exercise of judicial discretion beginning January 1, 2022 to change all mandatory terms of imprisonment for persons sentenced beginning on that date to maximum terms of imprisonment. The bill applies to all Titles of the Maine Revised Statutes. The bill directs the Revisor of Statutes to review the Maine Revised Statutes and compile all provisions that require the court in sentencing a person for a violation of law to impose a mandatory term of imprisonment. The Revisor of Statutes is required to submit a report by January 15, 2022 to the Joint Standing Committee on Criminal Justice and Public Safety listing all provisions of all Titles that require the court to impose a mandatory term of imprisonment and providing amending language to change the mandatory term of imprisonment into a maximum term of imprisonment as determined in the discretion of the court. After receiving and reviewing the report of the Revisor of Statutes, the Joint Standing Committee on Criminal Justice and Public Safety may introduce legislation to the 130th Legislature.

### **LD 1310**

#### **An Act Regarding Criminal Records**

**Sponsored by Representative Talbot Ross**

This bill is a concept draft pursuant to Joint Rule 208.  
This bill would make changes to the laws regarding criminal records.

### **LD 1324**

#### **Resolve, Directing the Department of Health and Human Services To Conduct an Assessment of Human Trafficking in the State**

**Sponsored by Representative Roberts**

This resolve directs the Department of Health and Human Services to conduct an assessment of human trafficking in the State patterned on an assessment conducted in 2015 and to provide the assessment and recommendations to the Legislature on how to combat human trafficking with regard to prevention and reentry.

## **LD 1552**

### **An Act To Provide Reentry Services to Persons Reentering the Community after Incarceration Sponsored by Representative Talbot Ross**

This bill:

1. Establishes the Community-based Reentry Services Account as a special nonlapsing account within the Department of Corrections to issue grants to community-based nonprofit and faith-based organizations that provide or seek to provide reentry services to adults or juveniles reentering the community after incarceration, referred to as reentry service providers;
2. Requires the department to administer the Community-based Reentry Services Account and fund it by applying for federal and grant funding, including through the federal Second Chance Act of 2007, or transferring other available funds;
3. Requires the department to use the funds available in the Community-based Reentry Services Account to award grants to one or more reentry service providers to establish or provide reentry services programs, including assessment and planning of reentry services; individual case management or system navigation services; peer-to-peer mentoring; housing assistance; housing development; job training and placement services; medical and behavioral health assessment, treatment and support; parenting skills and family support services; development of a substance use disorder treatment program as an alternative to incarceration for primary caregivers; and organization of community and victim impact panels or educational classes;
4. Permits an individual who previously provided mentoring services to an incarcerated adult or juvenile to continue to provide mentoring services to that adult or juvenile as part of a reentry services program unless the department demonstrates that doing so poses a significant security risk to the individual, the adult or juvenile or any other individual;
5. Requires a reentry service provider to submit an application to the department that describes the reentry services program to be funded and the need for the program, a long term strategy and implementation plan for the program and the reentry service provider's experience working with formerly incarcerated individuals and individuals from marginalized communities; identifies any entity, including any governmental agency, community organization or faith community, the reentry service provider will coordinate or partner with; contains an annual budget for the program; and describes the method and outcome measures that the reentry service provider will use to evaluate the reentry services program;
6. Requires the department to adopt rules for the administration of the Community based Reentry Services Account, the evaluation of grant applications from reentry service providers and the distribution of grants from the account;

7. Requires the department to adopt rules requiring an individual participating in a substance use disorder treatment program who does not successfully complete the program to serve an appropriate sentence of imprisonment with respect to the underlying crime and requiring that the individual be notified of this requirement before the individual begins the program;
8. Requires a reentry service provider that receives a grant from the Community-based Reentry Services Account to submit a report for each fiscal year in which the reentry service provider spends funds from the grant containing a summary of the activities carried out under the reentry services program, an assessment of whether the reentry service provider is meeting the need specified in its grant application and any other information the department may require; and
9. Requires the Commissioner of Corrections to submit a report at the end of each fiscal year to the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters and the Governor containing assessments of the impact of reentry services funded through the Community-based Reentry Services Account on various factors and statistics on the relative reduction in recidivism for inmates released by the department within that fiscal year and the 4 prior fiscal years and comparing the rates of recidivism of individuals that participated in reentry services programs that received a grant to individuals that did not.

### **LD 1696**

#### **An Act to Clarify and Recodify Maine's Protection from Abuse Process**

**Sponsored by Senator Bailey**

This bill clarifies and recodifies Maine's protection from abuse statutes to make the process more accessible to the public, the legal community and the judiciary. This bill reorganizes the existing language to follow standard conventions of statutory construction and locate similar sections together. The bill breaks down dense paragraphs into easy-to-read numbered sections and increases readability of certain sections. Established case law is incorporated for judicial economy and clarity for self-represented litigants and the legal community. The bill does not make any substantive changes to existing law and is intended solely as reorganization of the existing statutes.

### **LD 1727**

#### **An Act Concerning Sexual Misconduct on College Campuses**

**Sponsored by President Jackson**

This bill does the following.

1. It requires institutions of higher education in the State to adopt sexual misconduct policies.
2. It creates the Higher Education Sexual Misconduct Advisory Commission to develop a biennial sexual misconduct climate survey to be provided to the Commissioner of Education and disseminated to institutions of higher education to conduct the surveys on each of their campuses.



3. It requires institutions of higher education to designate confidential resource advisors and provides confidential resource advisors with qualified privilege;
4. It requires training for confidential resource advisors and individuals involved in the institution's disciplinary process.
5. It requires institutions of higher education to report to the joint standing committee of the Legislature having jurisdiction over education matters, the Commissioner of Education and the Commissioner of Health and Human Services on incidents of sexual misconduct on their campuses.
6. It provides certain specific immunity to students who report or request investigations into incidents of sexual misconduct.
7. It requires institutions of higher education to enter into memoranda of understanding with Department of Health and Human Services-funded rape crisis centers or domestic violence support centers; this requirement may be waived upon a showing of a good faith effort to comply.
8. Provides the Commissioner of Education enforcement authority and provides that a civil penalty of not more than \$150,000 or 1% of an institution's operating budget, whichever is lower, may be adjudged for a violation.