

Title 17-A: MAINE CRIMINAL CODE

Chapter 48: VICTIMS' RIGHTS

Table of Contents

Part 3.
Section 1171. DEFINITIONS..... 3
Section 1172. VICTIMS TO BE NOTIFIED..... 3
Section 1173. PLEA AGREEMENT PROCEDURE..... 4
Section 1174. SENTENCING PROCEDURE..... 4
Section 1174-A. TERMINATION OR CONVERSION PROCEDURE..... 5
Section 1175. NOTIFICATION OF DEFENDANT'S RELEASE OR ESCAPE..... 5
Section 1175-A. NOTIFICATION OF DEFENDANT'S RELEASE ON BAIL..... 7
Section 1176. CONFIDENTIALITY OF VICTIM RECORDS..... 8
Section 1177. CERTAIN COMMUNICATIONS BY VICTIMS CONFIDENTIAL..... 8

Maine Revised Statutes
Title 17-A: MAINE CRIMINAL CODE
Chapter 48: VICTIMS' RIGHTS

§1171. DEFINITIONS

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [1995, c. 680, §5 (NEW).]

1. Crime. "Crime" means a criminal offense in which, as defined, there is a victim.

[1995, c. 680, §5 (NEW) .]

2. Victim. "Victim" means:

A. A person who is the victim of a crime; and [1995, c. 680, §5 (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. [1995, c. 680, §5 (NEW).]

[1995, c. 680, §5 (NEW) .]

SECTION HISTORY

1995, c. 680, §5 (NEW).

§1172. VICTIMS TO BE NOTIFIED

1. When practicable, the attorney for the State shall make a good faith effort to inform each victim of a crime of the following:

A. The details of a plea agreement, including a deferred disposition, before it is submitted to the court; [2005, c. 265, §4 (AMD).]

B. The right to comment on a plea agreement, including a deferred disposition, pursuant to section 1173; [2005, c. 265, §4 (AMD).]

B-1. 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; [2015, c. 431, §37 (AMD).]

C. The time and place of the trial; [1995, c. 680, §5 (NEW).]

D. The time and place of sentencing; [2005, c. 265, §4 (AMD).]

E. The right to participate at sentencing pursuant to section 1174; and [2005, c. 265, §4 (AMD).]

F. 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 1174-A. [2005, c. 265, §5 (NEW).]

[2015, c. 431, §37 (AMD) .]

2. 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 every day 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.

[1997, c. 286, §1 (AMD) .]

SECTION HISTORY

1995, c. 680, §5 (NEW). 1997, c. 286, §1 (AMD). 1997, c. 615, §1 (AMD). 2005, c. 265, §§4,5 (AMD). 2015, c. 431, §37 (AMD).

§1173. 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. [2015, c. 431, §38 (AMD) .]

SECTION HISTORY

1995, c. 680, §5 (NEW). 2015, c. 431, §38 (AMD).

§1174. SENTENCING PROCEDURE

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

A. Making an oral statement in open court; or [1995, c. 680, §5 (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. [1995, c. 680, §5 (NEW) .]

An attorney for the victim may submit a written statement or make an oral statement on the victim's behalf.

[2015, c. 282, §1 (AMD) .]

2. The court shall consider any statement made under subsection 1, along with all other appropriate factors, in determining the sentence.

[1995, c. 680, §5 (NEW) .]

3. Unlike victims defined under section 1171, family members not within that definition, close friends of the victim, community members and other interested persons do 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.

[1995, c. 680, §5 (NEW) .]

SECTION HISTORY

1995, c. 680, §5 (NEW). 2015, c. 282, §1 (AMD).

§1174-A. 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. [2005, c. 265, §6 (NEW) .]

SECTION HISTORY

2005, c. 265, §6 (NEW) .

§1175. 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 notice 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 notice 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 notice 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, section 4007 an active protection order or approved consent agreement against the defendant. [2017, c. 386, §1 (AMD) .]

1. A victim who wishes to receive notification must file a request for notification of the defendant's release or escape with the office of the attorney for the State. The attorney for the State shall forward this request form to the Department of Corrections, 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 or escape directly with the Department of Corrections.

[2017, c. 386, §1 (AMD) .]

2. The Department of Corrections, the state mental health institute or the county jail to which the defendant is committed shall keep the victim's written request 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 notice must be mailed to the address provided in the request or any subsequent address provided by the victim.

[2017, c. 386, §1 (AMD) .]

3. If the defendant is being released, the notice required by this section must contain:

A. The name of the defendant; [1995, c. 680, §5 (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; [2017, c. 128, §3 (AMD).]

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; [1995, c. 680, §5 (NEW).]

D. The geographic area to which the defendant's release is limited, if any; [1995, c. 680, §5 (NEW).]

E. The address at which the defendant will reside; and [1995, c. 680, §5 (NEW).]

F. The address at which the defendant will work, if applicable. [1995, c. 680, §5 (NEW).]

[2009, c. 268, §9 (AMD); 2013, c. 133, §11 (AMD); 2017, c. 128, §3 (AMD); 2017, c. 386, §1 (AMD) .]

3-A. If the defendant has escaped, the notice required by this section must contain the name of the defendant, the manner of the escape, the place from which the defendant escaped and the date of the escape.

[2017, c. 386, §1 (NEW) .]

4. The notice requirement under this section ends when:

A. Notice 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 [2009, c. 268, §10 (AMD).]

B. The victim has filed a written request with the Department of Corrections, the state mental health institute or the county jail to which the defendant is committed asking that no further notice be given. [1995, c. 680, §5 (NEW).]

[2009, c. 268, §10 (AMD) .]

5. 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 of 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 institution for the care and treatment of 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.

[2017, c. 386, §1 (AMD) .]

SECTION HISTORY

1995, c. 680, §5 (NEW). RR 1999, c. 2, §20 (COR). 1999, c. 126, §1 (AMD). 2001, c. 354, §3 (AMD). 2003, c. 186, §1 (AMD). 2003, c. 689, §B7 (REV). 2005, c. 488, §§3,4 (AMD). 2005, c. 527, §§14-16 (AMD). 2009, c. 268, §§8-10 (AMD). 2009, c. 391, §1 (AMD). 2009, c. 652, Pt. A, §17 (AMD). 2013, c. 133, §§10, 11 (AMD). 2017, c. 128, §§1-3 (AMD). 2017, c. 386, §1 (AMD).

§1175-A. NOTIFICATION OF DEFENDANT'S RELEASE ON BAIL

1. 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.

[2011, c. 639, §1 (NEW) .]

2. In a case of an alleged crime involving domestic violence, sexual assault under chapter 11 or stalking, a jail shall notify a victim of a defendant's release on preconviction bail as soon as possible but no later than one hour after the defendant's release. If the defendant is released on bail before being delivered to a jail, the arresting law enforcement agency shall notify the victim as provided in this section.

[2011, c. 639, §1 (NEW) .]

3. 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 or stalking. That law enforcement agency shall make a reasonable attempt to notify the victim of the defendant's release on preconviction bail.

[2011, c. 639, §1 (NEW) .]

4. 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.

[2011, c. 639, §1 (NEW) .]

5. 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.

[2011, c. 639, §1 (NEW) .]

6. 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 where 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.

[2011, c. 639, §1 (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 4002, subsection 4. [2011, c. 639, §1 (NEW) .]

SECTION HISTORY

2011, c. 639, §1 (NEW) .

§1176. 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.

[2007, c. 475, §13 (NEW) .]

2. Disclosure to law enforcement or victim services agencies. 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; [2007, c. 475, §13 (NEW) .]
- B. A criminal justice agency if necessary to carry out the administration of criminal justice or the administration of juvenile justice; [2007, c. 475, §13 (NEW) .]
- C. A victims' service agency with a written agreement with a criminal justice agency to provide services as a victim advocate; or [2007, c. 475, §13 (NEW) .]
- D. A person or agency upon request of the victim. [2007, c. 475, §13 (NEW) .]

[2007, c. 475, §13 (NEW) .]

3. Limited disclosure as part of court order or bail condition. 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.

[2007, c. 475, §13 (NEW) .]

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

[2015, c. 431, §39 (AMD) .]

5. Disclosure of victim's request for notice prohibited. In no case may a victim's request for notice of release of a defendant 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 employees to perform their official duties.

[2007, c. 475, §13 (NEW) .]

SECTION HISTORY

2005, c. 389, §1 (NEW). 2007, c. 475, §13 (RPR). 2015, c. 431, §39 (AMD).

§1177. CERTAIN COMMUNICATIONS BY VICTIMS CONFIDENTIAL

The following communications are privileged from disclosure. [2009, c. 2, §40 (COR) .]

1. 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.

[2009, c. 2, §40 (COR) .]

2. Communications by a victim, as defined in Title 16, section 53-B, subsection 1, paragraph B, to an advocate, as defined in Title 16, section 53-B, subsection 1, paragraph A, 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.

[2009, c. 2, §40 (COR) .]

3. 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.

[2009, c. 2, §40 (COR) .]

SECTION HISTORY

RR 2009, c. 2, §40 (COR). 2009, c. 608, §7 (NEW).

The State of Maine claims a copyright in its codified statutes. If you intend to republish this material, we require that you include the following disclaimer in your publication:

All copyrights and other rights to statutory text are reserved by the State of Maine. The text included in this publication reflects changes made through the Second Special Session of the 128th Maine Legislature and is current through November 1, 2018. The text is subject to change without notice. It is a version that has not been officially certified by the Secretary of State. Refer to the Maine Revised Statutes Annotated and supplements for certified text.

The Office of the Revisor of Statutes also requests that you send us one copy of any statutory publication you may produce. Our goal is not to restrict publishing activity, but to keep track of who is publishing what, to identify any needless duplication and to preserve the State's copyright rights.

PLEASE NOTE: The Revisor's Office cannot perform research for or provide legal advice or interpretation of Maine law to the public. If you need legal assistance, please contact a qualified attorney.
--