

**OFFICE OF POLICY AND LEGAL ANALYSIS  
BILL ANALYSIS**

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**TO: Members, Joint Standing Committee on Criminal Justice and Public Safety**

**FROM: Jane Orbeton, Legislative Analyst**

**DATE: February 26, 2021**

**LD: 369 An Act To Criminalize Recording an Incident in Progress but Failing To Report the Incident Immediately to the Appropriate Authority**

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**Summary**

This bill creates a new crime – the crime of a person failing to immediately report to law enforcement or emergency response services conduct that the person knows or has reason to believe is a crime or an incident involving serious bodily injury or death that the person has electronically recorded. The crime is a Class E crime.

**Testimony**

1. Senator Pouliot sponsored the bill and testified in support, speaking of the importance of a witness to a crime or incident involving serious bodily injury or death seeking emergency help, ensuring people's safety and not recording for social media or personal use. Additional testimony in support of the bill, stressing the dangers of people recording for social media posting, was submitted by Caleb Merendino and Benjamin Swanson.
2. Testimony in opposition was provided by the Michael Kebede for the ACLU of Maine, Tina Nadeau for the Maine Association of Criminal Defense Lawyers, Kelly McDonald for the Maine State Bar Association and John Pelletier for the Criminal Law Advisory Commission. This testimony argues against creating a new crime, citing Fifth Amendment concerns, the potential value of recordings and the very limited situations in Maine law that impose on a person the duty to report a crime, such as in situations in which a health care provider treats a gunshot wound, required reporting of serious motor vehicle accidents and mandatory reporting of suspected child abuse or neglect.