



128th MAINE LEGISLATURE

FIRST REGULAR SESSION-2017

Legislative Document

No. 169

H.P. 125

House of Representatives, January 19, 2017

An Act To Support Sexual Assault Survivors

Reference to the Committee on Criminal Justice and Public Safety suggested and ordered printed.

A handwritten signature in cursive script that reads "R B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative MADIGAN of Waterville.
Cosponsored by Senator VOLK of Cumberland and
Representatives: BERRY of Bowdoinham, HYMANSON of York, O'NEIL of Saco, PARKER
of South Berwick, WARREN of Hallowell, Senators: BREEN of Cumberland, CHIPMAN of
Cumberland, VITELLI of Sagadahoc.

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

2 **Sec. 1. 5 MRSA §3360-M, sub-§2-A** is enacted to read:

3 **2-A. Survivor information.** The prosecutor or law enforcement agency that has
4 jurisdiction over an alleged or suspected gross sexual assault shall provide written
5 information to the alleged victim as provided in this subsection.

6 A. The prosecutor or law enforcement agency shall inform the alleged victim of the
7 right to undergo a forensic examination.

8 B. The prosecutor or law enforcement agency shall inform the alleged victim of the
9 right to receive the results and any report resulting from a forensic examination,
10 including a DNA profile match, a toxicology report and other results from the
11 examination, unless the prosecutor or law enforcement agency has determined that
12 disclosure to the alleged victim may impede or compromise an ongoing investigation
13 or an ongoing prosecution.

14 **Sec. 2. 5 MRSA §3360-M, sub-§6** is enacted to read:

15 **6. Retention of forensic examination results.** The following provisions govern
16 retention of the results of a forensic examination and subsequent any report resulting
17 from the examination and govern the destruction or disposal of the results and report.

18 A. The prosecutor or law enforcement agency that has custody of the results of a
19 forensic exam and any report arising from that forensic exam shall retain the results
20 and report until the expiration of the period of the statute of limitations applicable
21 under Title 17-A, subsection 8. The prosecutor or law enforcement agency may not
22 impose any charge in addition to the charge for the examination under subsection 2
23 for retention of the results and report.

24 B. At least 60 days prior to destroying or disposing of the results and any report, the
25 prosecutor or law enforcement agency shall provide notice to the alleged victim of
26 the intended destruction or disposal. If the alleged victim objects to destruction or
27 disposal, the prosecutor or law enforcement agency shall retain the results and report
28 as provided in rules adopted pursuant to this subsection.

29 The board shall adopt rules regarding retention, destruction and disposal of the results and
30 any report from a forensic examination under this subsection. Rules adopted pursuant to
31 this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter
32 2-A.

33 **Sec. 3. 25 MRSA §2915, sub-§§5 and 6** are enacted to read:

34 **5. Right to forensic examination; results and report.** A prosecutor or law
35 enforcement agency shall provide written information to an alleged victim of gross sexual
36 assault regarding the alleged victim's right to undergo a forensic examination. The
37 prosecutor or law enforcement agency must inform the alleged victim of the right to
38 receive the results of the forensic examination and any report resulting from the forensic
39 examination, including a DNA profile match, a toxicology report and other results from
40 the examination, unless the prosecutor or law enforcement agency has determined that

1 disclosure to the alleged victim may impede or compromise an ongoing investigation or
2 an ongoing prosecution.

3 **6. Forensic examination records retention and disposal.** The following
4 provisions govern the retention and destruction or disposal of the records of the results of
5 a forensic examination under subsection 5 and any report resulting from the examination.

6 A. The prosecutor or law enforcement agency that has custody of the results and any
7 report shall retain the results and report until the expiration of the period of the statute
8 of limitations applicable under Title 17-A, subsection 8. Notwithstanding Title 5,
9 section 3360-M, subsection 2, the prosecutor or law enforcement agency may not
10 impose any charge for retention of the results and report.

11 B. At least 60 days prior to the end of the statute of limitations period under
12 paragraph A, the prosecutor or law enforcement agency shall provide notice to the
13 alleged victim of the prosecutor's or law enforcement agency's intention to destroy or
14 dispose of the examination results and any reports. If the alleged victim objects to
15 the destruction or disposal, the prosecutor or law enforcement agency shall retain the
16 results and report as provided in rules adopted pursuant to this subsection.

17 The Chief of the State Police shall adopt rules regarding retention and destruction or
18 disposal of the results and any report from a forensic examination under this section.

19 **SUMMARY**

20 This bill enacts protections for alleged victims of gross sexual assault that mirror
21 protections provided in federal law. The bill contains the following provisions.

22 1. The bill requires a prosecutor or law enforcement agency to provide written
23 information to an alleged victim concerning the right to undergo a forensic examination
24 and the right to receive the results and any report resulting from a forensic examination
25 unless disclosure to the alleged victim could impede or compromise an ongoing
26 investigation or an ongoing prosecution.

27 2. The bill requires the prosecutor or law enforcement agency that has custody of the
28 results and any report to retain the results and any report without charge until the
29 expiration of the period of the statute of limitations. The bill requires the prosecutor or
30 law enforcement agency, at least 60 days prior to destroying or disposing of the results
31 and report, to provide notice of the intended destruction or disposal to the victim and
32 allows for further retention upon the objection of the victim. The bill provides for routine
33 technical rulemaking by the Chief of the State Police regarding retention and destruction
34 or disposal of the results and any report.