

§714. Intercepted attorney-client communications of jail and correctional facility residents

1. Intercepted attorney-client communications of jail and correctional facility residents. If the sender or the recipient of an intercepted oral communication or wire communication was, at the time the communication was made, a resident in either a jail or an adult or juvenile correctional facility administered by the Department of Corrections and the other party was an attorney and if the resident demonstrates that the jail or correctional facility had actual or constructive notice at the time the communication was made of the attorney's name and, if the communication involved the use of a telephone, the jail or correctional facility had actual or constructive notice at the time that the communication was made of the attorney's telephone number and the communication was made directly to or from that telephone number:

A. The contents of the intercepted oral communication or wire communication and the fact and circumstances of the communication are not admissible in a criminal proceeding, including a proceeding under chapter 305-A; [PL 2023, c. 394, Pt. A, §5 (NEW).]

B. A person who viewed or listened to the intercepted communication and did not immediately discontinue viewing or listening to the communication as soon as the person had sufficient information to determine that the sender or the recipient of the communication was, at the time the communication was made, a resident in a jail or correctional facility and the other party was an attorney, is disqualified from participating in an investigation of the resident and from appearing as a witness in a criminal proceeding in which the resident is a defendant, including a proceeding under chapter 305-A; and [RR 2023, c. 2, Pt. A, §23 (COR).]

C. A person who viewed or listened to the intercepted communication and saw or heard information that may be relevant to a pending or anticipated charge against the resident or a defense the resident may assert, or may lead to the discovery of that evidence, is disqualified from participating in the investigation of the resident and from appearing as a witness in the pending or anticipated criminal proceeding in which the resident is a defendant, including a subsequent proceeding under chapter 305-A on the pending or anticipated charge. [PL 2023, c. 394, Pt. A, §5 (NEW).]

For purposes of this subsection, the inclusion of the attorney's name and telephone number on a list transmitted by the Maine Commission on Public Defense Services pursuant to Title 4, section 1804, subsection 3, paragraph P to a sheriff's office or to the Department of Corrections constitutes constructive notice to a jail in the same county as the sheriff's office or to all correctional facilities administered by the Department of Corrections, respectively, beginning on the Monday following the transmission.

[RR 2023, c. 2, Pt. A, §23 (COR).]

2. Application of other law or rule. This section does not limit the applicability of any other provision of law or of the Maine Rules of Evidence regarding the admissibility or inadmissibility in evidence of attorney-client communications that do not meet the requirements of this section.

[PL 2023, c. 394, Pt. A, §5 (NEW).]

SECTION HISTORY

PL 2023, c. 394, Pt. A, §5 (NEW). PL 2023, c. 558, §13 (REV). RR 2023, c. 2, Pt. A, §23 (COR).

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