

Maine Revised Statutes

Title 15: COURT PROCEDURE -- CRIMINAL

Chapter 310: POST-JUDGMENT MOTION BY PERSON SEEKING
TO SATISFY THE PREREQUISITES FOR OBTAINING SPECIAL
RESTRICTIONS ON DISSEMINATION AND USE OF CRIMINAL HISTORY
RECORD INFORMATION FOR certain CRIMINAL CONVICTIONS

§2254. MOTION AND HEARING; PROCESS

(WHOLE SECTION TEXT EFFECTIVE UNTIL 10/1/19)

(WHOLE SECTION TEXT REPEALED 10/1/19 by T. 15, §2259; PL 2015, c. 354, §1 (NEW))

1. Filing motion. A motion filed pursuant to section 2253 must be filed in the underlying criminal proceeding. After a motion has been filed, the clerk shall set the motion for hearing.

[2015, c. 354, §1 (NEW) .]

2. Counsel. The person filing a motion pursuant to section 2253 has the right to employ counsel but is not entitled to assignment of counsel at state expense.

[2015, c. 354, §1 (NEW) .]

3. Representation of the State. The prosecutorial office that represented the State in the underlying criminal proceeding shall represent the State for purposes of this chapter. On a case-by-case basis, a different prosecutorial office may represent the State on agreement between the 2 prosecutorial offices.

[2015, c. 354, §1 (NEW) .]

4. Evidence. The Maine Rules of Evidence do not apply to a hearing on a motion under this section, and evidence presented at a hearing by the participants may include testimony, affidavits and other reliable hearsay evidence as permitted by the court.

[2015, c. 354, §1 (NEW) .]

5. Hearing; certification of results. The judge or justice shall hold a hearing on the motion under this section. At the conclusion of the hearing, if the court determines that the person who filed the motion has established by a preponderance of the evidence each of the statutory prerequisites specified in section 2252, the court shall find the person entitled to the special restrictions on dissemination and use of the criminal history record information relating to the criminal conviction as specified in section 2255 and shall issue a written order certifying this determination. If, at the conclusion of the hearing, the court determines that the person has not established one or more of the statutory prerequisites specified in section 2252, the court shall deny the motion and issue a written order certifying this determination. The order must contain written findings of fact supporting the court's determination. A copy of the court's written order must be provided to the person and the prosecutorial office that represented the State pursuant to subsection 3.

[2015, c. 354, §1 (NEW) .]

6. Notice to State Bureau of Identification. If the court determines pursuant to subsection 5 that a person has established by a preponderance of the evidence each of the statutory prerequisites specified in section 2252, a copy of the court's written order certifying its determination must be provided to the Department of Public Safety, Bureau of State Police, State Bureau of Identification. The State Bureau of Identification upon receipt of the order shall promptly alter its records relating to the person's eligible criminal

conviction to reflect that future dissemination of this criminal history record information must be pursuant to section 2255 rather than pursuant to Title 16, section 704. The State Bureau of Identification shall notify the person of compliance with that requirement.

[2015, c. 354, §1 (NEW) .]

7. Subsequent new criminal conviction; automatic loss of eligibility; person's duty to notify.

Notwithstanding that a person has been determined by a court pursuant to subsection 5 to be entitled to the special restrictions on dissemination and use of criminal history record information relating to a criminal conviction specified in section 2255, if at any time subsequent to the court's determination the person is convicted of a new crime in this State or in another jurisdiction, the new conviction extinguishes that entitlement. In the event of a new criminal conviction, the person shall promptly file a written notice in the underlying criminal proceeding of the person's disqualification from entitlement identifying the new conviction, including the jurisdiction, court and docket number of the criminal proceeding. If the person fails to file the required written notice and the court learns of the existence of the new criminal conviction, the court shall notify the person of its apparent existence and offer the person an opportunity at a hearing to contest the fact of a new conviction. If a hearing is requested by the person, the court shall, after giving notice to the person and the appropriate prosecutorial office, hold a hearing. At the hearing, the person has the burden of proving by clear and convincing evidence that the person does not have the new conviction. At the conclusion of the hearing, if the court determines that the person has not satisfied the burden of proof, it shall find that the person has been convicted of the new crime and as a consequence is no longer entitled to the special restrictions on dissemination and use of the criminal history record information relating to the criminal conviction as specified in section 2255 and shall issue a written order certifying this determination. If, at the conclusion of the hearing, the court determines that the person has satisfied the burden of proof, it shall find that the person has not been convicted of the new crime and issue a written order certifying this determination. The order must contain written findings of fact supporting the court's determination. A copy of the court's written order must be provided to the person and the prosecutorial office that represented the State.

[2015, c. 354, §1 (NEW) .]

8. Notice to State Bureau of Identification of new crime. If the court determines under subsection 7 that a person has been convicted of a new crime and as a consequence is no longer eligible for the special restrictions on dissemination and use of the criminal history record information relating to the criminal conviction as specified in section 2255, a copy of the court's written order certifying its determination must be provided to the Department of Public Safety, Bureau of State Police, State Bureau of Identification. The State Bureau of Identification upon receipt of the order shall alter its records relating to the person's criminal conviction to reflect that dissemination of this criminal history record information is pursuant to Title 16, section 704 rather than pursuant to section 2255. It shall notify the person of compliance with that requirement.

[2015, c. 354, §1 (NEW) .]

SECTION HISTORY

2015, c. 354, §1 (NEW) .

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