

CRIMINAL RECORDS REVIEW COMMITTEE

Meeting Agenda

Monday, November 13, 2023

9:00a.m. – 12:00p.m.

Maine State House, Room 228 (AFA) and via Zoom

Streaming: <https://legislature.maine.gov/Audio/#228>

1. Welcome and Introductions
 - Senator Donna Bailey, Senate Chair
 - Speaker Rachel Talbot Ross, House Chair
2. Review of Interim Study Process
 - Office of Policy and Legal Analysis, Staff
3. Findings and Recommendations from Previous Criminal Records Review Committee
 - Office of Policy and Legal Analysis, Staff
4. Overview of Committee's Duties and Expectations
 - Senator Donna Bailey, Senate Chair
 - Speaker Rachel Talbot Ross, House Chair
5. Criminal Record History Information and how the Information is Used
 - Laura Yustak, AAG
6. Overview of Criminal History Records Related to Marijuana
 - Any McCollett, Business Systems Administrator
State Bureau of Investigation, Maine Department of Public Safety
7. Discussion and Planning for Next Meeting
8. Adjourn

Future Meetings

- Wednesday, November 29, 9:00a.m. – 12:00p.m. (Hybrid: State House Room 228 and Zoom)
- Monday, December 11, 9:00a.m. – 12:00p.m. (Hybrid: State House Room 228 and Zoom)

STATE OF MAINE

IN THE YEAR OF OUR LORD

TWO THOUSAND TWENTY-THREE

H.P. 1047 - L.D. 1622

Resolve, to Reestablish the Criminal Records Review Committee

Sec. 1. Review committee established. Resolved: That the Criminal Records Review Committee, referred to in this resolve as "the review committee," is established.

Sec. 2. Review committee membership. Resolved: That, notwithstanding Joint Rule 353, the review committee consists of the following members:

1. Two members of the Senate, appointed by the President of the Senate, including one member from each of the 2 parties holding the largest number of seats in the Legislature;
2. Two members of the House of Representatives, appointed by the Speaker of the House of Representatives, including one member from each of the 2 parties holding the largest number of seats in the Legislature;
3. The Attorney General or the Attorney General's designee;
4. The Commissioner of Health and Human Services or the commissioner's designee;
5. The Commissioner of Public Safety or the commissioner's designee;
6. The Commissioner of Corrections or the commissioner's designee;
7. The President of the Maine Prosecutors Association or the president's designee;
8. The President of the Maine Association of Criminal Defense Lawyers or the president's designee;
9. The President of the Maine Sheriffs' Association or the president's designee;
10. The President of the Maine Chiefs of Police Association or the president's designee;
11. The chair of the Right To Know Advisory Committee or the chair's designee;
12. A representative of a civil rights organization whose primary mission includes the advancement of racial justice, appointed by the President of the Senate;
13. A representative of an organization that provides legal assistance on immigration, appointed by the President of the Senate;

14. A representative of an organization whose primary mission is to address issues related to poverty, appointed by the President of the Senate;

15. A representative of a statewide nonprofit organization whose mission includes advocating for victims and survivors of domestic violence, appointed by the President of the Senate;

16. A representative of a substance use disorder treatment or recovery community, appointed by the President of the Senate;

17. A representative of an adult and juvenile prisoners' rights organization, appointed by the President of the Senate;

18. A representative of newspaper and other press interests, appointed by the President of the Senate;

19. A representative of broadcasting interests, appointed by the Speaker of the House of Representatives;

20. A representative of a statewide nonprofit organization whose mission includes advocating for victims and survivors of sexual assault, appointed by the Speaker of the House of Representatives;

21. A representative of an organization that provides free civil legal assistance to citizens of the State with low incomes, appointed by the Speaker of the House of Representatives;

22. A representative of a mental health advocacy organization, appointed by the Speaker of the House of Representatives;

23. A representative of a civil liberties organization whose primary mission is the protection of civil liberties, appointed by the Speaker of the House of Representatives;

24. A representative of a nonprofit organization whose primary mission is to advocate for victims and survivors of sexual exploitation and sex trafficking, appointed by the Speaker of the House of Representatives;

25. A representative of an organization involved in advocating for juvenile justice reform, appointed by the Speaker of the House of Representatives; and

26. A representative of a public records access advocacy organization, appointed by the Speaker of the House of Representatives.

The review committee shall invite the Chief Justice of the Supreme Judicial Court to designate a member of the judicial branch to serve as a member of the committee.

Sec. 3. Chairs. Resolved: That the first-named Senate member is the Senate chair and the first-named House of Representatives member is the House chair of the review committee.

Sec. 4. Appointments; convening of review committee. Resolved: That all appointments must be made no later than 30 days following the effective date of this resolve. The appointing authorities shall notify the Executive Director of the Legislative Council once all appointments have been completed. After appointment of all members, the chairs shall call and convene the first meeting of the review committee. If 30 days or more after the effective date of this resolve a majority of but not all appointments have

been made, the chairs may request authority and the Legislative Council may grant authority for the review committee to meet and conduct its business.

Sec. 5. Duties. Resolved: That the review committee shall:

1. Review activities in other states that address the expungement, sealing, vacating of and otherwise limiting public access to criminal records;
2. Consider so-called clean slate legislation options;
3. Consider whether the following convictions should be subject to different treatment:
 - A. Convictions for conduct that has been decriminalized in this State over the last 10 years and conduct that is currently under consideration for decriminalization;
 - B. Convictions for conduct that is nonviolent or involves the use of marijuana; and
 - C. Convictions for conduct that was committed by victims and survivors of sexual exploitation and sex trafficking;
4. Consider whether there is a time limit after which some or all criminal records should not be publicly available;
5. Invite comments and suggestions from interested parties, including but not limited to victim advocates and prison and correctional reform organizations;
6. Review existing information about the harms and benefits of making criminal records confidential, including the use and dissemination of those records;
7. Invite comments and suggestions concerning the procedures to limit public accessibility of criminal records;
8. Consider who, if anyone, should continue to have access to criminal records that are not publicly available;
9. Develop options to manage criminal records; and
10. Review and consider criminal records expungement legislation referred to the Joint Standing Committee on Judiciary during the 131st Legislature, including, but not limited to, legislative documents 848, 1550, 1646 and 1789.

Sec. 6. Staff assistance. Resolved: That the Legislative Council shall provide necessary staffing services to the review committee, except that Legislative Council staff support is not authorized when the Legislature is in regular or special session.

Sec. 7. Interim report. Resolved: That, no later than December 6, 2023, the review committee shall submit to the Joint Standing Committee on Judiciary an interim report that includes, but is not limited to, its findings and recommendations, including suggested legislation, regarding the expungement, sealing, vacating of and otherwise limiting public access to criminal records related to convictions for conduct that is nonviolent or involves the use of marijuana. The joint standing committee may report out legislation related to the report to the Second Regular Session of the 131st Legislature.

Sec. 8. Final report. Resolved: That, no later than November 6, 2024, the review committee shall submit to the joint standing committee of the Legislature having jurisdiction over judiciary matters a final report that includes its findings and recommendations not included in the interim report, including suggested legislation. The

joint standing committee may report out legislation related to the report to the 132nd Legislature in 2025.

Criminal Records Review Committee
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Membership List

Name	Representation
Senator Donna Bailey- Chair	Senate member, appointed by the President of the Senate
Speaker Rachel Talbot Ross - Chair	House member, appointed by the Speaker of the House
Senator Eric Brakey	Senate member, appointed by the President of the Senate
Representative David Boyer	House member, appointed by the Speaker of the House
Foster Bates	Representative of a civil right organization whose primary mission includes the advancement of racial justice
Dan MacLeod	Representative of newspaper and other press interests
Andrea Mancuso	Representative of a statewide nonprofit organization whose mission includes advocating for victims and survivors of domestic violence
Courtney Gary-Allen	Representative of a substance use disorder treatment or recovery community
Joseph Jackson	Representative of an adult and juvenile prisoner's rights organization
Anna Welch	Representative of an organization that provides legal assistance on immigration
Jason Parent	Representative of an organization whose primary mission is to address issues related to poverty
Hannah Longley	Representative of a mental health advocacy organization
Amanda Comeau	Representative of a nonprofit organization whose primary mission is to advocate for victims and survivors of sexual exploitation and sex trafficking
Judith Meyer	Representative of a public records access advocacy organization
Melissa Martin	Representative of a statewide nonprofit organization whose mission includes advocating for victims and survivors of sexual assault
Jill Ward	Representative of an organization involved in advocating for juvenile justice reform
Pedro Vasquez	Representative of an organization that provides free civil legal assistance to citizens of the State with low incomes
Tim Moore	Representative of broadcasting interests
Michael Kebede	Representative of a civil liberties organization whose primary mission is the protection of civil liberties
Laura Yustak	The Attorney General or the Attorney General's Designee
John Feeney	Commissioner of Health and Human Services or the commissioner's designee

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Matthew Ruel	Commissioner of Public Safety or the commissioner's designee
Sam Praver	Commissioner of Corrections or the commissioner's designee
Amanda Doherty	Member of the Judicial Branch
Maeghan Maloney	President of the Maine Prosecutor's Association or the president's designee
Matt Morgan	President of the Maine Association of Criminal Defense Lawyers or the president's designee
Sheriff Joel Merry	President of the Maine Sheriff's Association or the president's designee
	President of the Maine Chiefs of Police Association or the president's designee
Representative Erin Sheehan	Chair of the Right to Know Advisory Committee or the chair's designee



State of Maine
130th Legislature, First Regular/Special Session

Criminal Records Review Committee

December 2021

Office of Policy and Legal Analysis

Executive Summary

The Criminal Records Review Committee (the review committee) was established by Resolve 2021, chapter 121 to review the issues involved in sealing and expunging criminal records and to explore various options for assisting persons who have been convicted of crimes served their sentences to be productive members of the community without their convictions holding them back. The Joint Standing Committee on Judiciary supported the Resolve to take the place of six bills focused on criminal records. The Judiciary Committee has authority to report out a bill based on the review committee's recommendations. The membership of the review committee consists of 29 members representing a broad range of groups interested in civil rights, prisoner advocacy, victim's and survivor's rights and law enforcement, among others.

The review committee charge included a lengthy list of information to gather and review, and a directive to explore different approaches pursued by other states to restore rights and provide opportunities for people with criminal records.

The review committee received a "Resource Notebook" before the first meeting that detailed the record clearing laws and procedures in many states. The review committee accepted the term "record clearing" to cover the entire array of approaches to address the negative effect of bias against persons with criminal records, from limiting access of the public to criminal records to more thorough record clearing. "Record clearing" includes sealing records from the public – whether petition-based or automatic, the actual destruction of records so they are unavailable for all purposes going forward and vacatur (such as vacating a conviction). Some jurisdictions also offer "certificates of rehabilitation" or "certificates of employability" to eliminate or reduce the effect of a criminal record that is public. Laws that restrict the availability of criminal records – through sealing, destruction or other limitations – are often referred to as "clean slate" laws, although the approaches taken in different states' clean slate legislation vary widely.

The first three meetings of the review committee were focused entirely on collecting the broadest range of information about other record clearing programs, how criminal records are used by various licensing and credentialing authorities in Maine and the reliance by crime victims and survivors on the information that is available about convictions. In addition, the review committee received a detailed presentation about Maine's Criminal History Record Information Act, and the distinction between public criminal history record information and confidential criminal history record information. The fourth meeting included a presentation from a news media and journalist point of view, emphasizing the First Amendment perspective regarding continued access to accurate information and the right to publish accurate, newsworthy information that has been legally obtained.

During the fourth meeting the review committee began to develop recommendations and engaged in a brief discussion on the potential limitations on the Legislature's options to enact legislation that potentially encroach on the Governor's pardon and commutation powers. After a presentation on the logistics of sealing criminal records during the fifth meeting, the review committee resumed its discussion of recommendations. Review committee members recognized that there was not sufficient time to complete a full slate of recommendations to fulfill the responsibilities under the Resolve.

Recommendations

The review committee, after five meetings, numerous presentations, testimony and serious discussion, makes the following recommendations.

1. Reestablish the Criminal Records Review Committee

A majority of the review committee recommends supporting LD 1818, Resolve, To Re-establish and Continue the Work of the Criminal Records Review Committee, to build on the progress made by the review committee in 2021 and move forward with additional legislation.

2. Consider options to address questions of the Separation of Powers doctrine limitation on legislative authority to enact record clearing legislation

A majority of the review committee recommends that the Judiciary Committee review options and report out legislation to address the Separation of Powers questions raised in *State v. Hunter*, 447 A.2d 797 (Me. 1982). It is unclear whether actions of the Legislature in sealing and therefore limiting public access to criminal records would encroach on the Governor's plenary pardon and commutation authority, rendering such actions unconstitutional. Removing or softening the barrier could give the Legislature options to provide opportunities for people who have been convicted of crimes.

3. Consider proposals for petition-based records sealing as proposed by LD 1459, An Act Regarding a Post-judgement Motion by a Person Seeking To satisfy the Prerequisites for Obtaining Special Restrictions on the Dissemination and Use of Criminal History Record Information for Certain Criminal Convictions, and associated suggestions

A majority of the review committee recommends that the Judiciary Committee hold a public hearing on a process for sealing criminal history record information as proposed in LD 1459, An Act Regarding a Post-judgment Motion by a Person Seeking To Satisfy the Prerequisites for Obtaining Special Restrictions on the Dissemination and Use of Criminal History Record Information for Certain Criminal Convictions, with consideration of amendments proposed during the work of the Criminal Records Review Committee. In anticipation of the work of the review committee, the Judiciary Committee voted Ought Not To Pass on LD 1459 during the First Special Session without holding a public hearing on the legislation. A majority of the review committee believes a public hearing on the proposal, including presentation of the suggestions offered during the course of the review committee's meetings, would be very useful in developing comprehensive record clearing legislation.

Committee member Samantha Hogan, representing the Maine Press Association, submitted a minority report with regard to this recommendation.

Committee member Judith Meyers, representing the Maine Freedom of Information Coalition, submitted a minority report with regard to this recommendation.

CHAPTER 7

CRIMINAL HISTORY RECORD INFORMATION ACT

§701. Short title

This chapter may be known and cited as "the Criminal History Record Information Act." [PL 2013, c. 267, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2013, c. 267, Pt. A, §2 (NEW).

§702. Scope; application

This chapter governs the dissemination of criminal history record information by a Maine criminal justice agency. This chapter establishes 2 distinct categories of criminal history record information and provides for the dissemination of each: [PL 2013, c. 267, Pt. A, §2 (NEW).]

1. Public criminal history record information. Public criminal history record information, the dissemination of which is governed by section 704; and
[PL 2013, c. 267, Pt. A, §2 (NEW).]

2. Confidential criminal history record information. Confidential criminal history record information, the dissemination of which is governed by section 705.
[PL 2013, c. 267, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2013, c. 267, Pt. A, §2 (NEW).

§703. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 2013, c. 267, Pt. A, §2 (NEW).]

1. Administration of criminal justice. "Administration of criminal justice" means activities relating to the apprehension or summoning, detention, pretrial release, post-trial release, prosecution, adjudication, sentencing, correctional custody and supervision or rehabilitation of accused persons or convicted criminal offenders. "Administration of criminal justice" includes the collection, storage and dissemination of criminal history record information.
[PL 2013, c. 267, Pt. A, §2 (NEW).]

2. Confidential criminal history record information. "Confidential criminal history record information" means criminal history record information of the following types:

A. Unless the person remains a fugitive from justice, summons and arrest information without disposition if an interval of more than one year has elapsed since the date the person was summonsed or arrested and no active prosecution of a criminal charge stemming from the summons or arrest is pending; [PL 2013, c. 267, Pt. A, §2 (NEW).]

B. Information disclosing that the responsible law enforcement agency or officer has elected not to refer a matter to a prosecutor; [PL 2013, c. 267, Pt. A, §2 (NEW).]

C. Information disclosing that the responsible prosecutorial office or prosecutor has elected not to initiate or approve criminal proceedings; [PL 2013, c. 267, Pt. A, §2 (NEW).]

D. Information disclosing that a grand jury has determined that there is insufficient evidence to warrant the return of a formal charge; [PL 2013, c. 267, Pt. A, §2 (NEW).]

- E. Information disclosing that a criminal proceeding has been postponed for a period of more than one year or dismissed because the person charged is found by the court to be mentally incompetent to stand trial or to be sentenced; [PL 2013, c. 507, §1 (AMD).]
- F. Information disclosing that a criminal charge has been filed, if more than one year has elapsed since the date of the filing; [PL 2013, c. 507, §2 (AMD).]
- G. Information disclosing that a criminal charge has been dismissed by a court with prejudice or dismissed with finality by a prosecutor other than as part of a plea agreement; [PL 2013, c. 267, Pt. A, §2 (NEW).]
- H. Information disclosing that a person has been acquitted of a criminal charge. A verdict or accepted plea of not criminally responsible by reason of insanity, or its equivalent, is not an acquittal of the criminal charge; [PL 2013, c. 267, Pt. A, §2 (NEW).]
- I. Information disclosing that a criminal proceeding has terminated in a mistrial with prejudice; [PL 2013, c. 267, Pt. A, §2 (NEW).]
- J. Information disclosing that a criminal proceeding has terminated based on lack of subject matter jurisdiction; [PL 2013, c. 267, Pt. A, §2 (NEW).]
- K. Information disclosing that a criminal proceeding has been terminated because the court lacked jurisdiction over the defendant; and [PL 2013, c. 267, Pt. A, §2 (NEW).]
- L. Information disclosing that a person has petitioned for and been granted a full and free pardon. [PL 2017, c. 432, Pt. B, §1 (AMD).]
[PL 2017, c. 432, Pt. B, §1 (AMD).]

3. Criminal history record information. "Criminal history record information" means information of record collected by a criminal justice agency or at the direction of a criminal justice agency or kept in the custody of a criminal justice agency that connects a specific, identifiable person, including a juvenile treated by statute as an adult for criminal prosecution purposes, with formal involvement in the criminal justice system either as an accused or as a convicted criminal offender. "Criminal history record information" includes, but is not limited to, identifiable descriptions or notations of: summonses and arrests; detention; bail; formal criminal charges such as complaints, informations and indictments; any disposition stemming from such charges; post-plea or post-adjudication sentencing; involuntary commitment; execution of and completion of any sentencing alternatives imposed; release and discharge from involuntary commitment; any related pretrial and post-trial appeals, collateral attacks and petitions; and petitions for and warrants of pardons, commutations, reprieves and amnesties. "Criminal history record information" does not include: identification information such as fingerprints, palmprints, footprints or photographic records to the extent that the information does not indicate formal involvement of the specific individual in the criminal justice system; information of record of civil proceedings, including traffic infractions and other civil violations; intelligence and investigative record information as defined in section 803; or information of record of juvenile crime proceedings or their equivalent. Specific information regarding a juvenile crime proceeding is not criminal history record information notwithstanding that a juvenile has been bound over and treated as an adult or that by statute specific information regarding a juvenile crime proceeding is usable in a subsequent adult criminal proceeding. "Formal involvement in the criminal justice system either as an accused or as a convicted criminal offender" means being within the jurisdiction of the criminal justice system commencing with arrest, summons or initiation of formal criminal charges and concluding with the completion of every sentencing alternative imposed as punishment or final discharge from an involuntary commitment based upon a finding of not criminally responsible by reason of insanity or its equivalent.
[PL 2013, c. 267, Pt. A, §2 (NEW).]

4. Criminal justice agency. "Criminal justice agency" means a federal, state or State of Maine government agency or any subunit of a government agency at any governmental level that performs the administration of criminal justice pursuant to a statute or executive order. "Criminal justice agency" includes federal courts, Maine courts, courts in any other state, the Department of the Attorney General, district attorneys' offices and the equivalent departments or offices in any federal or state jurisdiction. "Criminal justice agency" also includes any equivalent agency at any level of Canadian government and the government of any federally recognized Indian tribe.
[PL 2013, c. 267, Pt. A, §2 (NEW).]

5. Disposition. "Disposition" means information of record disclosing that a criminal proceeding has been concluded, although not necessarily finalized, and the specific nature of the concluding event. "Disposition" includes, but is not limited to: an acquittal; a dismissal, with or without prejudice; the filing of a charge by agreement of the parties or by a court; the determination that a defendant is currently a fugitive from justice; a conviction, including the acceptance by a court of a plea of guilty or nolo contendere; a deferred disposition; a proceeding indefinitely continued or dismissed due to a defendant's incompetence; a finding of not criminally responsible by reason of insanity or its equivalent; a mistrial, with or without prejudice; a new trial ordered; an arrest of judgment; a sentence imposition; a resentencing ordered; an execution of and completion of any sentence alternatives imposed, including but not limited to fines, restitution, correctional custody and supervision, and administrative release; a release or discharge from a commitment based upon a finding of not criminally responsible by reason of insanity or its equivalent; the death of the defendant; any related pretrial and post-trial appeals, collateral attacks and petitions; a pardon, commutation, reprieve or amnesty; and extradition. "Disposition" also includes information of record disclosing that the responsible law enforcement agency or officer has elected not to refer a matter to a prosecutor, that the responsible prosecutorial office or prosecutor has elected not to initiate or approve criminal proceedings or that a grand jury has determined that there is insufficient evidence to warrant the return of a formal charge.
[PL 2013, c. 267, Pt. A, §2 (NEW).]

6. Dissemination. "Dissemination" means the transmission of information by any means, including but not limited to orally, in writing or electronically, by or to anyone outside the criminal justice agency that maintains the information.
[PL 2013, c. 267, Pt. A, §2 (NEW).]

7. Executive order. "Executive order" means an order of the President of the United States or the chief executive of a state that has the force of law and that is published in a manner permitting regular public access.
[PL 2013, c. 267, Pt. A, §2 (NEW).]

8. Public criminal history record information. "Public criminal history record information" means criminal history record information that is not confidential criminal history record information, including information recorded pursuant to section 706.
[PL 2013, c. 267, Pt. A, §2 (NEW).]

9. State. "State" means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the United States Virgin Islands, Guam and American Samoa. "State" also includes the federal government of Canada and any provincial government of Canada and the government of any federally recognized Indian tribe.
[PL 2013, c. 267, Pt. A, §2 (NEW).]

10. Statute. "Statute" means an Act of Congress or an act of a state legislature or a provision of the Constitution of the United States or the constitution of a state.
[PL 2013, c. 267, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2013, c. 267, Pt. A, §2 (NEW). PL 2013, c. 507, §§1, 2 (AMD). PL 2017, c. 432, Pt. B, §1 (AMD).

§704. Dissemination of public criminal history record information

1. Generally. Public criminal history record information is public for purposes of Title 1, chapter 13. Public criminal history record information may be disseminated by a Maine criminal justice agency to any person or public or private entity for any purpose. Public criminal history record information is public whether it relates to a crime for which a person is currently within the jurisdiction of the criminal justice system or it relates to a crime for which a person is no longer within that jurisdiction. There is no time limitation on dissemination of public criminal history record information.

[PL 2013, c. 267, Pt. A, §2 (NEW).]

2. Required inquiry to State Bureau of Identification. A Maine criminal justice agency, other than a court, shall query the Department of Public Safety, State Bureau of Identification before disseminating any public criminal history record information for a noncriminal justice purpose to ensure that the most up-to-date disposition information is being used. "Noncriminal justice purpose" means a purpose other than for the administration of criminal justice or criminal justice agency employment.

[PL 2013, c. 267, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2013, c. 267, Pt. A, §2 (NEW).

§705. Dissemination of confidential criminal history record information

1. Generally. A Maine criminal justice agency, whether directly or through any intermediary, may disseminate confidential criminal history record information only to:

A. Other criminal justice agencies for the purpose of the administration of criminal justice and criminal justice agency employment; [PL 2013, c. 267, Pt. A, §2 (NEW).]

B. Any person for any purpose when expressly authorized by a statute, executive order, court rule, court decision or court order containing language specifically referring to confidential criminal history record information or one or more of the types of confidential criminal history record information; [PL 2013, c. 267, Pt. A, §2 (NEW).]

C. Any person with a specific agreement with a criminal justice agency to provide services required for the administration of criminal justice or to conduct investigations determining the employment suitability of prospective law enforcement officers. The agreement must specifically authorize access to data, limit the use of the data to purposes for which given, ensure security and confidentiality of the data consistent with this chapter and provide sanctions for any violations; [PL 2013, c. 267, Pt. A, §2 (NEW).]

D. Any person for the express purpose of research, evaluation or statistical purposes or under an agreement with the criminal justice agency. The agreement must specifically authorize access to confidential criminal history record information, limit the use of the information to research, evaluation or statistical purposes, ensure the confidentiality and security of the information consistent with this chapter and provide sanctions for any violations; [PL 2013, c. 267, Pt. A, §2 (NEW).]

E. Any person who makes a specific inquiry to the criminal justice agency as to whether a named individual was summonsed, arrested or detained or had formal criminal charges initiated on a specific date; [PL 2013, c. 267, Pt. A, §2 (NEW).]

F. The public for the purpose of announcing the fact of a specific disposition that is confidential criminal history record information, other than that described in section 703, subsection 2, paragraph A, within 30 days of the date of occurrence of that disposition or at any point in time if

the person to whom the disposition relates specifically authorizes that it be made public; and [PL 2013, c. 267, Pt. A, §2 (NEW).]

G. A public entity for purposes of international travel, such as issuing visas and granting of citizenship. [PL 2013, c. 267, Pt. A, §2 (NEW).]
[PL 2013, c. 267, Pt. A, §2 (NEW).]

2. Confirming existence or nonexistence of information. A Maine criminal justice agency may not confirm the existence or nonexistence of confidential criminal history record information to any person or public or private entity that would not be eligible to receive the information itself. [PL 2013, c. 267, Pt. A, §2 (NEW).]

3. Required inquiry to State Bureau of Identification. A Maine criminal justice agency, other than a court, shall query the Department of Public Safety, State Bureau of Identification before disseminating any confidential criminal history record information for a noncriminal justice purpose to ensure that the most up-to-date disposition information is being used. "Noncriminal justice purpose" means a purpose other than for the administration of criminal justice or criminal justice agency employment.

[PL 2013, c. 507, §3 (AMD).]

SECTION HISTORY

PL 2013, c. 267, Pt. A, §2 (NEW). PL 2013, c. 507, §3 (AMD).

§706. Public information about persons detained following arrest

1. Requirement of record. A Maine criminal justice agency that maintains a holding facility, as defined in Title 34-A, section 1001, subsection 9, or other facility for pretrial detention shall record the following information concerning each person delivered to it for pretrial detention for any period of time:

A. The identity of the arrested person, including the person's name, year of birth, residence and occupation, if any; [PL 2013, c. 267, Pt. A, §2 (NEW).]

B. The statutory or customary description of the crime or crimes for which the person was arrested including the date and geographic location where the crime is alleged to have occurred; [PL 2013, c. 267, Pt. A, §2 (NEW).]

C. The date, time and place of the arrest; and [PL 2013, c. 267, Pt. A, §2 (NEW).]

D. The circumstances of the arrest including, when applicable, the physical force used in making the arrest, the resistance made to the arrest, what weapons were involved, the arrested person's refusal to submit and the pursuit by the arresting officers. [PL 2013, c. 267, Pt. A, §2 (NEW).]
[PL 2013, c. 267, Pt. A, §2 (NEW).]

2. Time and method of recording. A Maine criminal justice agency shall record the information under subsection 1 immediately upon delivery of an arrested person to the criminal justice agency for detention. The criminal justice agency shall record and maintain the information in chronological order and keep the information in a suitable, permanent record. The information required by this section may be combined by a sheriff with the record required by Title 30-A, section 1505.
[PL 2013, c. 267, Pt. A, §2 (NEW).]

3. Information public. The information required to be recorded and maintained by this section is public criminal history record information.
[PL 2013, c. 267, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2013, c. 267, Pt. A, §2 (NEW).

§707. Unlawful dissemination of confidential criminal history record information

1. Offense. A person is guilty of unlawful dissemination of confidential criminal history record information if the person intentionally disseminates confidential criminal history record information knowing it to be in violation of any of the provisions of this chapter.

[PL 2021, c. 293, Pt. B, §4 (AMD).]

2. Classification. Unlawful dissemination of confidential criminal history record information is a Class E crime.

[PL 2013, c. 267, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2013, c. 267, Pt. A, §2 (NEW). PL 2015, c. 354, §2 (AMD). PL 2021, c. 293, Pt. B, §4 (AMD).

§708. Inapplicability of this chapter to criminal history record information contained in certain records

This chapter does not apply to criminal history record information contained in: [PL 2013, c. 267, Pt. A, §2 (NEW).]

1. Posters, announcements, lists. Posters, announcements or lists used for identifying or apprehending fugitives from justice or wanted persons;

[PL 2013, c. 267, Pt. A, §2 (NEW).]

2. Records of entry. Records of entry, such as calls for service, formerly known as "police blotters," that are maintained by criminal justice agencies, that are compiled and organized chronologically and that are required by law or long-standing custom to be made public;

[PL 2013, c. 267, Pt. A, §2 (NEW).]

3. Records of public judicial proceedings. Records of public judicial proceedings:

A. Retained at or by the District Court, Superior Court or Supreme Judicial Court. Public access to and dissemination of such records for inspection and copying are as provided by rule or administrative order of the Supreme Judicial Court; and [PL 2013, c. 267, Pt. A, §2 (NEW).]

B. From federal courts and courts of other states; [PL 2013, c. 267, Pt. A, §2 (NEW).]
[PL 2013, c. 267, Pt. A, §2 (NEW).]

4. Published opinions. Published court or administrative opinions not impounded or otherwise declared confidential;

[PL 2013, c. 267, Pt. A, §2 (NEW).]

5. Records of public proceedings. Records of public administrative or legislative proceedings;

[PL 2013, c. 267, Pt. A, §2 (NEW).]

6. Records of traffic crimes. Records of traffic crimes maintained by the Secretary of State or by a state department of transportation or motor vehicles or the equivalent thereof for the purposes of regulating the issuance, suspension, revocation or renewal of a driver's, pilot's or other operator's license; and
[PL 2013, c. 267, Pt. A, §2 (NEW).]

7. Pardons, other than full and free pardons, commutations, reprieves and amnesties. Petitions for and warrants of pardons, commutations, reprieves and amnesties other than warrants of full and free pardons and their respective petitions.

[PL 2017, c. 432, Pt. B, §2 (AMD).]

SECTION HISTORY

PL 2013, c. 267, Pt. A, §2 (NEW). PL 2017, c. 432, Pt. B, §2 (AMD).

§709. Right to access and review

1. Inspection. If a Maine criminal justice agency maintains criminal history record information about a person, the person or the person's attorney may inspect the criminal history record information. A criminal justice agency may prescribe reasonable hours and locations at which the right may be exercised and any additional restrictions, including satisfactory verification of identity by fingerprint comparison, as are reasonably necessary to ensure the security and confidentiality of the criminal history record information and to verify the identity of the person seeking to inspect that information. The criminal justice agency shall supply the person or the person's attorney with a copy of the criminal history record information pertaining to the person on request and payment of a reasonable fee. [PL 2013, c. 267, Pt. A, §2 (NEW).]

2. Review. A person or the person's attorney may request amendment or correction of criminal history record information concerning the person by addressing, either in person or in writing, the request to the criminal justice agency in which the information is maintained. The request must indicate the particular record involved, the nature of the amendment or correction sought and the justification for the amendment or correction.

On receipt of a request, the criminal justice agency shall take necessary steps to determine whether the questioned criminal history record information is accurate and complete. If investigation reveals that the questioned criminal history record information is inaccurate or incomplete, the criminal justice agency shall immediately correct the error or deficiency.

Not later than 15 days, excluding Saturdays, Sundays and legal public holidays, after the receipt of a request, the criminal justice agency shall notify the requesting person in writing either that the criminal justice agency has corrected the error or deficiency or that it refuses to make the requested amendment or correction. The notice of refusal must include the reasons for the refusal, the procedure established by the criminal justice agency for requesting a review by the head of the criminal justice agency of that refusal and the name and business address of that official.

[PL 2013, c. 267, Pt. A, §2 (NEW).]

3. Administrative appeal. If there is a request for review, the head of the criminal justice agency shall, not later than 30 days from the date of the request, excluding Saturdays, Sundays and legal public holidays, complete the review and either make the requested amendment or correction or refuse to do so. If the head of the criminal justice agency refuses to make the requested amendment or correction, the head of the criminal justice agency shall permit the requesting person to file with the criminal justice agency a concise statement setting forth the reasons for the disagreement with the refusal. The head of the criminal justice agency shall also notify the person of the provisions for judicial review of the reviewing official's determination under subsection 4.

Disputed criminal history record information disseminated by the criminal justice agency with which the requesting person has filed a statement of disagreement must clearly reflect notice of the dispute after the filing of such a statement. A copy of the statement must be included, along with, if the criminal justice agency determines it appropriate, a copy of a concise statement of the criminal justice agency's reasons for not making the amendment or correction requested.

[PL 2013, c. 267, Pt. A, §2 (NEW).]

4. Judicial review. If an administrative appeal brought pursuant to subsection 3 is denied by the head of the criminal justice agency, that decision is final agency action subject to appeal to the Superior Court in accordance with Title 5, chapter 375, subchapter 7 and the Maine Rules of Civil Procedure, Rule 80C.

[PL 2013, c. 267, Pt. A, §2 (NEW).]

5. Notification. When a criminal justice agency has amended or corrected a person's criminal history record information in response to a written request as provided in subsection 2 or a court order, the criminal justice agency shall, within 30 days thereof, advise all prior recipients who have received

that information within the year prior to the amendment or correction that the amendment or correction has been made. The criminal justice agency shall also notify the person who is the subject of the amended or corrected criminal history record information of compliance with this subsection and the prior recipients notified.

[PL 2013, c. 267, Pt. A, §2 (NEW).]

6. Right of access and review of court records. This section does not apply to the right of access and review by a person or the person's attorney of criminal history record information about that person retained at or by the District Court, Superior Court or Supreme Judicial Court. Access and review of court records retained by the District Court, Superior Court or Supreme Judicial Court are as provided by rule or administrative order of the Supreme Judicial Court.

[PL 2013, c. 267, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2013, c. 267, Pt. A, §2 (NEW).

§710. Application to prior Maine criminal history record information

The provisions of this chapter apply to criminal history record information in existence before July 29, 1976, including that which has been previously expunged under any other provision of Maine law, as well as to criminal history record information in existence on July 29, 1976 and thereafter. [PL 2013, c. 267, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2013, c. 267, Pt. A, §2 (NEW).

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CHAPTER 310-A

POST-JUDGMENT MOTION TO SEAL CRIMINAL HISTORY RECORD

§2261. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 2021, c. 674, §1 (NEW).]

1. Administration of criminal justice. "Administration of criminal justice" has the same meaning as in Title 16, section 703, subsection 1.
[PL 2021, c. 674, §1 (NEW).]

2. Another jurisdiction. "Another jurisdiction" has the same meaning as in Title 17-A, section 2, subsection 3-B.
[PL 2021, c. 674, §1 (NEW).]

3. Criminal history record information. "Criminal history record information" has the same meaning as in Title 16, section 703, subsection 3.
[PL 2021, c. 674, §1 (NEW).]

4. Criminal justice agency. "Criminal justice agency" has the same meaning as in Title 16, section 703, subsection 4.
[PL 2021, c. 674, §1 (NEW).]

5. Dissemination. "Dissemination" has the same meaning as in Title 16, section 703, subsection 6.
[PL 2021, c. 674, §1 (NEW).]

6. Eligible criminal conviction. "Eligible criminal conviction" means a conviction for a current or former Class E crime, except a conviction for a current or former Class E crime under Title 17-A, chapter 11.
[PL 2021, c. 674, §1 (NEW).]

7. Sealed record. "Sealed record" means the criminal history record information relating to a specific criminal conviction that a court has ordered to be sealed under section 2264.
[PL 2021, c. 674, §1 (NEW).]

SECTION HISTORY

PL 2021, c. 674, §1 (NEW).

§2262. Statutory prerequisites for sealing criminal history record information

Except as provided in section 2262-A, criminal history record information relating to a specific criminal conviction may be sealed under this chapter only if: [PL 2023, c. 409, §1 (AMD).]

1. Eligible criminal conviction. The criminal conviction is an eligible criminal conviction;
[PL 2021, c. 674, §1 (NEW).]

2. Time since sentence fully satisfied. At least 4 years have passed since the person has fully satisfied each of the sentencing alternatives imposed under Title 17-A, section 1502, subsection 2 for the eligible criminal conviction;
[PL 2021, c. 674, §1 (NEW).]

3. Other convictions in this State. The person has not been convicted of another crime in this State and has not had a criminal charge dismissed as a result of a deferred disposition pursuant to Title 17-A, former chapter 54-F or Title 17-A, chapter 67, subchapter 4 since the time at which the person

fully satisfied each of the sentencing alternatives imposed under Title 17-A, section 1502, subsection 2 for the person's most recent eligible criminal conviction up until the time of the order; [PL 2021, c. 674, §1 (NEW).]

4. Convictions in another jurisdiction. The person has not been convicted of a crime in another jurisdiction since the time at which the person fully satisfied each of the sentencing alternatives imposed under Title 17-A, section 1502, subsection 2 for the person's most recent eligible criminal conviction up until the time of the order; [PL 2021, c. 674, §1 (NEW).]

5. Pending criminal charges. The person does not have any presently pending criminal charges in this State or in another jurisdiction; and [PL 2021, c. 674, §1 (NEW).]

6. Age of person at time of commission. At the time of the commission of the crime underlying the eligible criminal conviction, the person had in fact attained 18 years of age but had not attained 28 years of age. [PL 2021, c. 674, §1 (NEW).]

SECTION HISTORY

PL 2021, c. 674, §1 (NEW). PL 2023, c. 409, §1 (AMD).

§2262-A. Special statutory prerequisites for sealing criminal history record information related to engaging in prostitution

Criminal history record information relating to a criminal conviction for engaging in prostitution under Title 17-A, former section 853-A must be sealed under this chapter if: [PL 2023, c. 409, §2 (NEW).]

1. Eligible criminal conviction. The criminal conviction is an eligible criminal conviction; [PL 2023, c. 409, §2 (NEW).]

2. Time since sentence fully satisfied. At least one year has passed since the person has fully satisfied each of the sentencing alternatives imposed under Title 17-A, section 1502, subsection 2 for the eligible criminal conviction; and [PL 2023, c. 409, §2 (NEW).]

3. Other convictions. The person has not been convicted of a violation of Title 17-A, section 852, 853, 853-B or 855 or for engaging in substantially similar conduct in another jurisdiction. [PL 2023, c. 409, §2 (NEW).]

SECTION HISTORY

PL 2023, c. 409, §2 (NEW).

§2263. Motion; persons who may file

A person may file a written motion seeking a court order sealing the person's criminal history record information relating to a specific criminal conviction in the underlying criminal proceeding based on a court determination that the person satisfies the statutory prerequisites specified in section 2262 or 2262-A. The written motion must briefly address each of the statutory prerequisites. [PL 2023, c. 409, §3 (AMD).]

SECTION HISTORY

PL 2021, c. 674, §1 (NEW). PL 2023, c. 409, §3 (AMD).

§2264. Motion and hearing; process

1. Filing motion. A motion filed pursuant to section 2263 must be filed in the underlying criminal proceeding. After the motion is filed, the clerk shall set the motion for hearing.

[PL 2021, c. 674, §1 (NEW).]

2. Counsel. The person filing a motion pursuant to section 2263 has the right to be represented by counsel but is not entitled to assignment of counsel at state expense.

[PL 2021, c. 674, §1 (NEW).]

3. Representation of State. The prosecutorial office that represented the State in the underlying criminal proceeding may 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.

[PL 2021, c. 674, §1 (NEW).]

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

[PL 2021, c. 674, §1 (NEW).]

5. Hearing; order; written findings. The court shall hold a hearing on a motion filed 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 2262 or 2262-A, the court shall grant the motion and shall issue a written order sealing the criminal history record information of the eligible criminal conviction that was the subject of the motion. 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 2262 or 2262-A, the court shall issue a written order denying the motion. 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.

[PL 2023, c. 409, §4 (AMD).]

6. Notice to State Bureau of Identification. If the court issues an order under subsection 5 that includes the sealing of a criminal conviction maintained by the State Bureau of Identification pursuant to Title 25, section 1541 and previously transmitted by the court pursuant to Title 25, section 1547, the court shall electronically transmit notice of the court's order to the Department of Public Safety, Bureau of State Police, State Bureau of Identification. Upon receipt of the notice, the State Bureau of Identification shall promptly amend its records relating to the person's eligible criminal conviction to reflect that the criminal history record information relating to that criminal conviction is sealed and that dissemination is governed by section 2265. The State Bureau of Identification shall send notification of compliance with this subsection to the person's last known address.

[PL 2021, c. 674, §1 (NEW).]

7. Subsequent new criminal conviction; automatic loss of eligibility; person's duty to notify. Notwithstanding a court order sealing the criminal history record information pursuant to subsection 5, if at any time subsequent to the court's order the person is convicted of a new crime in this State or in another jurisdiction, the criminal history record information must be unsealed.

A. 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 eligibility, identifying the new conviction, including the jurisdiction, court and docket number of the new 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 the apparent existence of the new conviction and offer the person an opportunity to request a hearing to contest the fact of a new conviction. [PL 2021, c. 674, §1 (NEW).]

B. If the person requests a hearing under paragraph A, 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 has not been convicted of a crime subsequent to issuance of the sealing order. 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 newly convicted of the crime and as a consequence is no longer eligible for the sealing order and shall issue a written order unsealing the criminal history record information, with written findings of fact. 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. A copy of the court's written order must be provided to the person and the prosecutorial office that represented the State. [PL 2021, c. 674, §1 (NEW).]

C. If the person does not request a hearing under paragraph A, the court shall determine that the person has not satisfied the burden of proof and the court shall find that the person has been convicted of the new crime and as a consequence is no longer eligible for the sealing order and shall issue a written order unsealing the criminal history record information, with written findings of fact. A copy of the court's written order must be provided to the person and the prosecutorial office that represented the State. [PL 2021, c. 674, §1 (NEW).]

[PL 2021, c. 674, §1 (NEW).]

8. Notice of new crime. If the court orders the unsealing of the record under this section, the court shall electronically transmit notice of the court's order to the Department of Public Safety, Bureau of State Police, State Bureau of Identification. The State Bureau of Identification upon receipt of the notice shall promptly amend its records relating to the person's criminal history record information relating to that criminal conviction to unseal the record. The State Bureau of Identification shall send notification of compliance with that requirement to the person's last known address.

[PL 2021, c. 674, §1 (NEW).]

SECTION HISTORY

PL 2021, c. 674, §1 (NEW). PL 2023, c. 409, §4 (AMD).

§2265. Special restrictions on dissemination and use of criminal history record information

Notwithstanding Title 16, section 704, the criminal history record information relating to a criminal conviction sealed under section 2264 is confidential, must be treated as confidential criminal history record information for the purposes of dissemination to the public under Title 16, section 705 and may not be disseminated by a criminal justice agency, whether directly or through any intermediary, except as provided in Title 16, section 705 and as set out in this section. In addition to the dissemination authorized by Title 16, section 705, a criminal justice agency may disseminate the sealed criminal history record information to: [PL 2021, c. 674, §1 (NEW).]

1. Subject of conviction. The person who is the subject of the criminal conviction or that person's designee;

[PL 2021, c. 674, §1 (NEW).]

2. Criminal justice agency. A criminal justice agency for the purpose of the administration of criminal justice and criminal justice agency employment. For the purposes of this subsection, dissemination to a criminal justice agency for the purpose of the administration of criminal justice includes:

A. Dissemination and use of the criminal history record information relating to the sealed record by an attorney for the State or for another jurisdiction as part of a prosecution of the person for a new crime, including use in a charging instrument or other public court document and in open court; and [PL 2021, c. 674, §1 (NEW).]

B. Dissemination and use of the criminal history record information relating to the sealed record as permitted by the Maine Rules of Evidence and to comply with discovery requirements of the Maine Rules of Civil Procedure and the Maine Rules of Unified Criminal Procedure; [PL 2021, c. 674, §1 (NEW).]

[PL 2021, c. 674, §1 (NEW).]

3. Secretary of State. The Secretary of State to ensure compliance with state and federal motor vehicle laws;

[PL 2021, c. 674, §1 (NEW).]

4. Victims. The victim or victims of the crime related to the conviction or:

A. If the victim is a minor, to the parent or parents, guardian or legal custodian of the victim; or [PL 2021, c. 674, §1 (NEW).]

B. If the victim cannot act on the victim's own behalf due to death, age, physical or mental disease or disorder, intellectual disability or autism or other reason, to an immediate family member, guardian, legal custodian or attorney representing the victim; [PL 2021, c. 674, §1 (NEW).]

[PL 2021, c. 674, §1 (NEW).]

5. Financial services regulatory agencies. The Department of Professional and Financial Regulation, Bureau of Insurance, Bureau of Consumer Credit Protection, Bureau of Financial Institutions and Office of Securities to ensure compliance with Titles 9-A, 9-B, 10, 24, 24-A and 32, as applicable, and any state or federal requirement to perform criminal background checks by those agencies;

[PL 2021, c. 674, §1 (NEW).]

6. Professional licensing agencies. Licensing agencies conducting criminal history record checks for licensees, registrants and applicants for licensure or registration by the agencies; licensing agencies performing regulatory functions enumerated in Title 5, section 5303, subsection 2; and the State Board of Veterinary Medicine pursuant to Title 32, chapter 71-A to conduct a background check for a licensee; [PL 2021, c. 674, §1 (NEW).]

7. Financial institutions. A financial institution if the financial institution is required by federal or state law, regulation or rule to conduct a criminal history record check for the position for which a prospective employee or prospective board member is applying; or

[PL 2021, c. 674, §1 (NEW).]

8. Subject to fingerprinting. An entity that is required by federal or state law to conduct a fingerprint-based criminal history record check pursuant to Title 25, section 1542-A.

[PL 2021, c. 674, §1 (NEW).]

SECTION HISTORY

PL 2021, c. 674, §1 (NEW).

§2266. Limited disclosure of eligible criminal conviction

A person whose eligible criminal conviction is the subject of a sealing order under section 2264 may respond to inquiries from persons other than criminal justice agencies and other than entities that are authorized to obtain the sealed criminal history record information under section 2265 by not disclosing the existence of the eligible criminal conviction without being subject to any sanctions under the laws of this State. Other than when responding to criminal justice agencies or when under oath while being prosecuted for a subsequent crime, a person whose criminal conviction is sealed does not violate Title 17-A, section 451, 452 or 453 by not disclosing the sealed criminal conviction. [PL 2021, c. 674, §1 (NEW).]

SECTION HISTORY

PL 2021, c. 674, §1 (NEW).

§2267. Review of determination of eligibility; review of determination of subsequent criminal conviction

A written order entered under section 2264, subsection 5 or 7 may be reviewed by the Supreme Judicial Court. [PL 2021, c. 674, §1 (NEW).]

1. Appeal by person. A person aggrieved by a written order under section 2264, subsection 5 or 7 may not appeal as of right. The time for taking the appeal and the manner and any conditions for the taking of the appeal are as the Supreme Judicial Court provides by rule. [PL 2021, c. 674, §1 (NEW).]

2. Appeal by State. If the State is aggrieved by a written order under section 2264, subsection 5 or 7, it may appeal as of right, and a certificate of approval by the Attorney General is not required. The time for taking the appeal and the manner and any conditions for the taking of the appeal are as the Supreme Judicial Court provides by rule. [PL 2021, c. 674, §1 (NEW).]

SECTION HISTORY

PL 2021, c. 674, §1 (NEW).

§2268. Eligible criminal conviction sealed under former chapter 310

Notwithstanding Title 16, section 704, the criminal history record information relating to a criminal conviction for which the court has determined the person is entitled to special restrictions on dissemination and use under former section 2254 is confidential and may not be disseminated by a criminal justice agency, whether directly or through any intermediary, except to the person who is the subject of the criminal conviction or that person's designee and to a criminal justice agency for the purpose of the administration of criminal justice and criminal justice agency employment. For the purposes of this section, dissemination to a criminal justice agency for the purpose of the administration of criminal justice includes dissemination and use of the criminal history record information relating to the qualifying criminal conviction by an attorney for the State or for another jurisdiction as part of a prosecution of the person for a new crime, including use in a charging instrument or other public court document and in open court. [PL 2021, c. 674, §1 (NEW).]

Section 2264, subsection 7 applies to a criminal conviction for which the court has determined the person is entitled to special restrictions on dissemination and use under former section 2254 if the person is convicted of a new crime. [PL 2021, c. 674, §1 (NEW).]

SECTION HISTORY

PL 2021, c. 674, §1 (NEW).

§2269. Violation

A person who, in violation of section 2265 or 2268, intentionally disseminates sealed criminal history record information relating to a criminal conviction knowing it to be in violation of section 2265 or 2268 is guilty of unlawful dissemination of sealed records. Violation of this section is a Class E crime. [PL 2021, c. 674, §1 (NEW).]

SECTION HISTORY

PL 2021, c. 674, §1 (NEW).

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An Overview of Maine's Criminal History Record Reporting System

State Bureau of Identification

State Bureau of Identification (SBI) Purpose

- SBI's Criminal History Record Information system (CHRI) is the State's official central repository for criminal history
- CHRI collects, preserves, files, and distributes criminal history based on State of Maine and Federal laws
- Tri-State ABIS
- Maine Sex Offender Registry

Information NOT maintained by CHRI?

- Police reports
- Protection orders (abuse/harassment)
- Warrants
- Bail Conditions
- Civil violations ,traffic infractions, local ordinance violations, civil possession of marijuana, Title 12 and Title 29A prior to 09/01/2000
- Mental Health Orders
- Weapons Restriction Order

CHRI maintained crimes

- Any offense by statute labeled as ‘criminal’ offense
- Title 12 and 29-A crimes involving drugs or alcohol after 09/01/00
- Any felony-level Title 29-A offense after 09/01/00
- Juvenile criminal offenses after 09/01/00

Maintain ≠ Disseminate

- CHRI maintains adult criminal history and juvenile history
- TWO types of criminal history - public and confidential
- SBI disseminates public criminal history based on Maine law Title 16, Ch 7 §704...
- Confidential dissemination based on Title 16, Ch 7 §705...
- Juvenile adjudication dissemination based on Title 15, Ch 507 §3308-A...

What makes up criminal history?

- Summary information regarding an identifiable person's passage of an incident through the criminal justice system
- Some examples:
 - Arrest or summons (may include fingerprints)
 - Prosecutors complaint or decision not to prosecute
 - Indictment or no bill (GJ declines to indict)
 - Acquittal or dismissal
 - Conviction with sentence
 - Juvenile adjudication
 - Prison intake from MCC and MSP

Arrest Tracking Number (ATN) Charge Tracking Number (CTN)

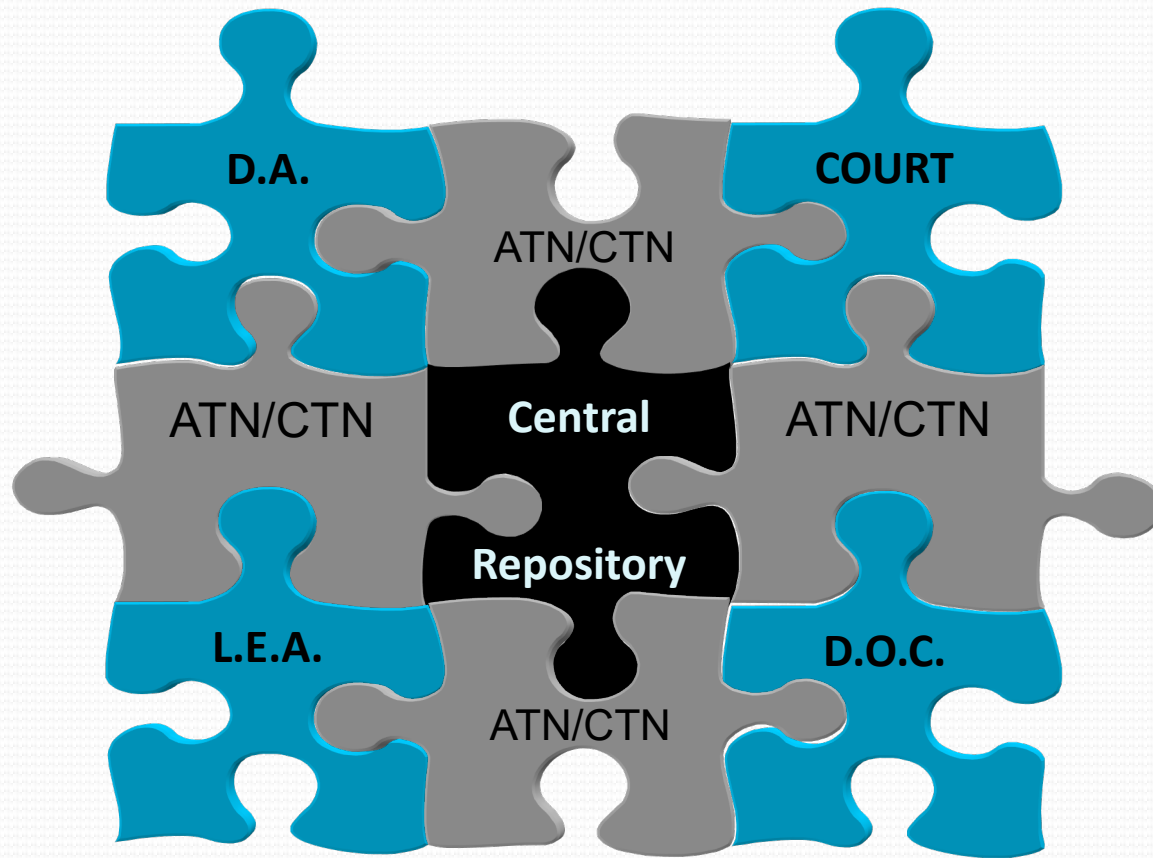
Use of ATN/CTN

- Cornerstone of Maine's Criminal History Record Information System
- Unique identifier among multiple agencies
- Allows information from one incident to be linked together from arrest through prosecution, court disposition and corrections

Non-use of ATN/CTN

- There is no record of the incident
- Officer and public safety may be jeopardized
- Criminal justice agencies and public consumers cannot make sound judgments based on incomplete criminal history

Connecting Together...



Public Criminal History

- Adult convictions including disposition, sentencing and correctional (prison) information
- Adult pending charges, if active and within one year, and received prosecutor information
- **Felony** juvenile adjudications
 - Starting in 09/01/2000
 - Significant changes as of 10/18/21

Confidential Criminal History

- Not all criminal history is public.

Examples:

- Acquittals
- No bills (GJ declines to indict)
- Most types of dismissals
- Full and free pardons
- Pending matters over 1 year without disposition
- Juvenile misdemeanor history (through 10/18/21; this is now more restrictive)
- Sealed record by court (adult and juvenile)

Fingerprint Based Record Checks

- Public or confidential records could contain FP based data
 - Every FP based record gives another level of identification to the CHRI records
- Maine submits criminal history information to the FBI for inclusion by law enforcement nationwide
 - Information is only accepted if supported by a biometric
- Information is available for certain State and Federal law enforcement purposes
- Federally maintained criminal history is accessible for certain licensing and certification purposes with appropriate state legislative approval as found in (federal PL. 92-544)

Record Check Results

Public

- Everyone has access with our online service for Name and DOB searches
 - Hundreds of thousands of checks are done each year
- Checks completed for housing, employment, certificates and licensing, etc.

Confidential

- Completed through electronic mechanism for certified personnel
 - Checks completed by dispatch centers, officers, prosecutor and court staff
- Regulated by SBI's Access Integrity Unit (AIU) to maintain State and Federal protocols

Importance of maintaining CHRI

- Vital for law enforcement to have any and all information to properly access and react to situation at hand
- Needs of the public have grown exponentially over the last 10 years
- The State CHRI has the most complete record and needs to be available to the public, or decisions are made with incomplete information
- Failure to provide timely, accurate, complete records negatively impacts users/consumers/business. (Inability to get licenses/certifications, impact on reciprocity agreements for certain jobs, liability, delays in international travel, prohibits federal reimbursements in some cases, impacts public safety).

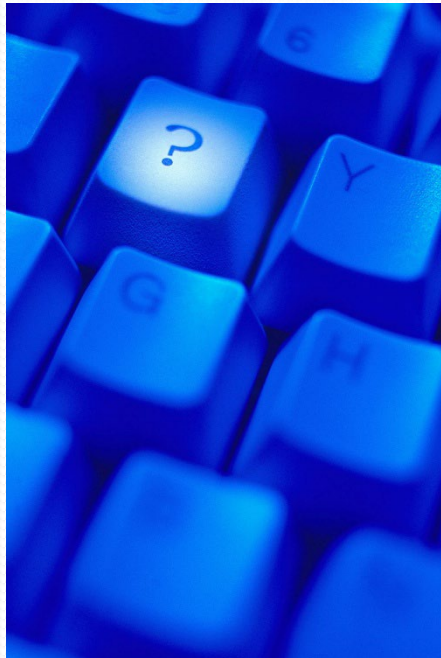
Marijuana

- Pre 10/01/2002, CHRI records were ALL received via paper from the courts. There was no ATN/CTN and no standardization of statute information
- Hand written offenses for marijuana could have language: cannabis, MJ, hashish, Mary Jane, drug (not specific at all)
- Since 2002 standardization of drug statutes became “scheduled drug W, X, Y, or Z” submitted to SBI.
- An ask for SBI to remove marijuana offense/convictions will be an intense and very complicated task. SBI receives basic data to ingest into system and the actual named drug, weight, etc. is not a piece of this. Staff would have to request each and every docket record for reviewal.
 - Suggest it be up to individual to have court review and make determination to sealing

Sealed vs. Expungement

- Sealed will NOT be seen on the public criminal history record
- Sealed WILL be seen on confidential criminal history by certified staff
- Sealed WILL be seen on Federal based rap sheets unless State law specifically deems removal at FBI level
- Expunged offense(s) are never seen...ever again
- No way to determine repeat behaviors if completely deleted from systems
- No real statistical data of offenses/convictions if expunged and never seen again in any system

Contact Information



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131st MAINE LEGISLATURE

FIRST REGULAR SESSION-2023

Legislative Document

No. 848

H.P. 537

House of Representatives, February 21, 2023

An Act to Expunge Certain Nonviolent Drug Crimes

Reference to the Committee on Judiciary suggested and ordered printed.

Robert B. Hunt
ROBERT B. HUNT
Clerk

Presented by Representative FAULKINGHAM of Winter Harbor.
Cosponsored by President JACKSON of Aroostook and
Representatives: ANDREWS of Paris, CLOUTIER of Lewiston, Speaker TALBOT ROSS of
Portland, TERRY of Gorham, Senator: VITELLI of Sagadahoc.

LDS in Resolve §5, sub-§10

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

2 **Sec. 1. 15 MRSA c. 313** is enacted to read:

3 **CHAPTER 313**

4 **EXPUNGEMENT OF RECORDS**

5 **§2321. Expungement of records of nonviolent crimes**

6 **1. Drug possession crimes.** A person convicted of violating Title 17-A, section
7 1107-A may petition the court in which the conviction was recorded to expunge the record
8 of the conviction after a period of 5 years from the completion of the sentence. The court
9 shall order all records of the conviction expunged if the defendant has not been convicted
10 of a crime in this State or any other jurisdiction since the conviction subject to the petition
11 and has no formal charging instrument for a crime pending in this State or any other
12 jurisdiction.

13 **2. State Bureau of Identification.** Following receipt of a court order for expungement
14 under subsection 1, the Department of Public Safety, Bureau of State Police, State Bureau
15 of Identification shall make the necessary arrangements with the identification division of
16 the Federal Bureau of Investigation to have all references to the expunged crime deleted
17 from the Federal Bureau of Investigation's identification record and any state materials
18 returned to the contributing agency.

19 **SUMMARY**

20 This bill allows a person convicted of violating the Maine Revised Statutes, Title 17-A,
21 section 1107-A to petition the court where the person was convicted to expunge all records
22 of the crime 5 years after the completion of the person's sentence. Expungement is not
23 available for persons who have subsequent convictions or pending criminal charges.



131st MAINE LEGISLATURE

FIRST SPECIAL SESSION-2023

Legislative Document

No. 1550

S.P. 613

In Senate, April 6, 2023

An Act to Authorize the Expungement of Records of Nonviolent Crimes

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT
Secretary of the Senate

Presented by Senator BRAKEY of Androscoggin.
Cosponsored by Speaker TALBOT ROSS of Portland and
Senator: HICKMAN of Kennebec, Representatives: BOYER of Poland, CLUCHEY of
Bowdoinham, COLLINGS of Portland, LEE of Auburn.

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

2 Sec. 1. 15 MRSA c. 313 is enacted to read:

3 CHAPTER 313

4 EXPUNGEMENT OF RECORDS

5 §2321. Expungement of records of nonviolent crimes

6 1. Class E, D and C crimes. A person convicted of a Class E, Class D or Class C
7 crime may petition the court in which the conviction was recorded to expunge the record
8 of the conviction after a period of 5 years from the completion of the sentence. The court
9 shall order all records of the conviction expunged if:

10 A. The defendant has not been convicted of a crime in this State or any other
11 jurisdiction since the conviction subject to the petition and has no formal charging
12 instrument for a crime pending in this State or any other jurisdiction; and

13 B. The crime is not a crime:

14 (1) Under Title 17-A, chapter 11, 12, 25 or 35;

15 (2) That involved violence or domestic violence; or

16 (3) That had as an element of the offense a victim who was 17 years of age or
17 younger or a victim who was 65 years of age or older.

18 2. State Bureau of Identification. Following receipt of a court order for expungement
19 under subsection 1, the Department of Public Safety, Bureau of State Police, State Bureau
20 of Identification shall make the necessary arrangements with the identification division of
21 the Federal Bureau of Investigation to have all references to the expunged crime deleted
22 from the Federal Bureau of Investigation's identification record and any state materials
23 returned to the contributing agency.

24 SUMMARY

25 This bill allows a person convicted of a Class E, Class D or Class C crime to petition
26 the court where the person was convicted to expunge all records of the crime 5 years after
27 the completion of the person's sentence. Expungement is not available for persons who
28 have subsequent convictions or pending criminal charges; for crimes involving violence or
29 domestic violence or sex offenses; for crimes involving bribery or corrupt practices; or for
30 crimes that had as an element of the offense victims who were minors or were 65 years of
31 age or older.



131st MAINE LEGISLATURE

FIRST SPECIAL SESSION-2023

Legislative Document

No. 1646

H.P. 1056

House of Representatives, April 12, 2023

An Act to Vacate or Adjust Sentences and Expunge Arrests, Convictions and Adjudications for Cannabis-related Offenses

Reference to the Committee on Judiciary suggested and ordered printed.

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

ROBERT B. HUNT
Clerk

Presented by Representative BOYER of Poland.
Cosponsored by Representative RISEMAN of Harrison,
Senator BRAKEY of Androscoggin and
Representatives: DANA of the Passamaquoddy Tribe, FAULKINGHAM of Winter Harbor,
MILLIKEN of Blue Hill, O'NEIL of Saco, Speaker TALBOT ROSS of Portland, WHITE of
Guilford, WILLIAMS of Bar Harbor, Senator: HICKMAN of Kennebec.

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

2 Sec. 1. 15 MRSA c. 313 is enacted to read:

3 **CHAPTER 313**

4 **EXPUNGEMENT OF RECORDS AND ADJUSTMENT OF SENTENCES FOR**
5 **CANNABIS-RELATED OFFENSES**

6 **§2331. Definitions**

7 As used in this chapter, unless the context otherwise indicates, the following terms
8 have the following meanings.

9 1. Cannabis. "Cannabis" has the same meaning as in Title 28-B, section 102,
10 subsection 27 and includes "marijuana" as defined in Title 17-A, section 1101, subsection
11 1.

12 2. Cannabis-related offense. "Cannabis-related offense" means a conviction or
13 adjudication for a crime or civil violation:

14 A. Involving the sale, use or possession of cannabis or paraphernalia related to
15 cannabis; and

16 B. Other than a crime or civil violation described in paragraph A that, but for the
17 presence of cannabis or paraphernalia, would not have been a crime or civil violation.

18 3. Department. "Department" means the Department of Public Safety.

19 4. Expunge. "Expunge" means to permanently delete or to physically destroy or
20 obliterate.

21 5. Paraphernalia. "Paraphernalia" has the same meaning as "drug paraphernalia" as
22 defined in Title 17-A, section 1111-A, subsection 1, except that it is limited to
23 paraphernalia used for cannabis-related activities, including, but not limited to, cultivation,
24 transportation and use of cannabis.

25 **§2332. Vacating of arrests, convictions and adjudications and expungement of**
26 **records for offenses for possession of cannabis**

27 1. Vacating offenses for possession of cannabis. All arrests, convictions and
28 adjudications for possession of cannabis are deemed vacated and the records of those
29 arrests, convictions and adjudications must be expunged pursuant to subsection 2.

30 2. Expungement of records for offenses for possession of cannabis. The
31 expungement of records of arrests, convictions and adjudications for crimes or civil
32 violations for possession of cannabis is governed by this subsection.

33 A. The department shall review all records possessed by any state criminal justice or
34 law enforcement agency, the department's Bureau of State Police, State Bureau of
35 Identification or the Federal Bureau of Investigation that contain criminal history
36 record information pursuant to Title 16, section 703, subsection 3 and, no later than
37 January 1, 2025, shall expunge all records that relate to arrests, convictions and
38 adjudications for crimes or civil violations for possession of cannabis.

1 B. Upon a request made pursuant to subsection 4 by an individual who has been
2 arrested, convicted or adjudicated of a crime or civil violation for possession of
3 cannabis, the department, within 30 days of receipt of the request, shall review the
4 request, make a determination as to the eligibility of the individual for action under this
5 section and notify the individual of the department's decision. If the department
6 determines the individual eligible, the department shall expunge that individual's
7 relevant records within 30 days of the determination.

8 C. Following the actions taken pursuant to paragraph A or B, the department shall
9 notify each court in which a conviction or adjudication of a crime or civil violation for
10 possession of cannabis was made of the actions taken by the department pursuant to
11 this subsection.

12 **3. Court action regarding convictions or adjudications for possession of cannabis.**
13 Within 3 months of notification pursuant to subsection 2, paragraph C by the department
14 of the expungement of records related to arrests, convictions or adjudications of crimes or
15 civil violations for possession of cannabis, the court receiving the notification shall vacate
16 all convictions and adjudications for crimes or civil violations for possession of cannabis.

17 **4. Requests for expungement and vacation.** An individual who has been convicted
18 or adjudicated of a crime or civil violation for possession of cannabis may request the
19 department review and expunge that individual's record as described in subsection 2. If the
20 department fails to notify the individual within 30 days of the decision of the department
21 or fails to expunge the individual's record as required by subsection 2, the individual may
22 petition the court for review of the individual's eligibility under this section. The court may
23 not charge a fee for the filing of this petition.

24 **5. Outstanding fees, fines or costs.** The department shall expunge the records of an
25 individual who is eligible pursuant to subsection 2, and the court shall vacate the
26 convictions and adjudications of an eligible individual pursuant to subsection 3
27 notwithstanding any outstanding court-imposed or court-related fees, fines, costs,
28 assessments or other charges.

29 **6. Costs to department and courts.** The department and the Administrative Office
30 of the Courts shall annually determine the costs to the department and courts, respectively,
31 of complying with this section and shall request payment of those costs from the State
32 Controller. Upon receipt of a request for payment, the State Controller shall reimburse the
33 department and the courts for those costs using funds in the Adult Use Cannabis Public
34 Health and Safety and Municipal Opt-in Fund established in Title 28-B, section 1101.

35 **§2333. Resentencing for conviction of cannabis-related offense**

36 **1. Determination of individuals serving sentences for cannabis-related offense.**
37 By January 1, 2024, the chief administrative officer of a correctional facility and the jail
38 administrator shall create a list of all individuals serving a sentence of imprisonment in a
39 correctional facility or jail in this State, respectively, for a cannabis-related offense and
40 those individuals on supervised release, probation or administrative release as part of a
41 sentence for a cannabis-related offense. The chief administrative officer and the jail
42 administrator shall provide the list to the court at which the individual was sentenced and
43 shall notify each individual on the list of that individual's right to petition the sentencing
44 court for resentencing pursuant to this section.

1 **2. Petition for resentencing.** An individual who has been convicted of a cannabis-
2 related offense and who has not completed the sentence imposed by the court for that
3 conviction may petition that sentencing court, either before or after receipt of notification
4 pursuant to subsection 1, for resentencing.

5 **3. Action on petition.** Action on a petition for resentencing for conviction of a
6 cannabis-related offense pursuant to subsection 2, referred to in this subsection as "the
7 petition," is governed by this subsection.

8 A. A court receiving a petition shall provide a copy of the petition to the office of the
9 prosecutor that prosecuted the cannabis-related offense that is the subject of the
10 petition.

11 B. A prosecutor receiving a petition pursuant to paragraph A has 14 days from receipt
12 of the petition to object to the petition and request a hearing pursuant to paragraph D.

13 C. If a prosecutor fails to object within 14 days of receipt of the petition, the court shall
14 grant the petition and resentence the individual who is the subject of the petition to the
15 portion of the sentence the individual has already served.

16 D. If the prosecutor objects to the petition within 14 days of receipt of the petition, the
17 court shall schedule a hearing on the petition. At that hearing, the prosecutor is required
18 to prove, by clear and convincing evidence, that:

19 (1) The crime that is the subject of the petition is not a cannabis-related offense;

20 (2) Resentencing would not be in the interests of justice; or

21 (3) If resentencing is appropriate, the appropriate sentence is something other than
22 the portion of the sentence the individual who is the subject of the petition has
23 already served.

24 E. There is a rebuttable presumption that resentencing is in the interests of justice due
25 to the legalization of the cultivation, manufacture, distribution, sale, use and possession
26 of cannabis for adult use pursuant to Title 28-B. This presumption is rebutted if:

27 (1) Additional, more serious charges unrelated to activities permitted pursuant to
28 Title 28-B were dismissed as part of a plea deal; or

29 (2) The cannabis-related offense involved distribution of cannabis to a minor or
30 using a minor to distribute cannabis.

31 F. Unless the prosecutor proves by clear and convincing evidence the requirements of
32 paragraph D, subparagraph (1) or (2), the court shall resentence the individual as
33 specified in this paragraph.

34 (1) Unless the prosecutor proves by clear and convincing evidence that a different
35 sentence is required pursuant to paragraph D, subparagraph (3), the court shall
36 sentence the individual to the portion of the sentence the individual has already
37 served.

38 (2) If the prosecutor proves by clear and convincing evidence that resentencing to
39 a sentence other than the portion of the sentence already served is appropriate, the
40 court shall resentence the individual to the most minimum sentence that is in the
41 interests of justice.

1 A court may not increase a sentence or impose an additional sentence in response to a
2 petition.

3 G. An individual who files a petition that is objected to by a prosecutor is entitled to
4 court-appointed legal representation at no cost to the individual and without being
5 required to prove indigency.

6 H. A fee may not be imposed for the filing of a petition.

7 **4. Costs to Department of Corrections, county jails, courts and prosecutors.** The
8 Department of Corrections, the jail administrator, the Administrative Office of the Courts
9 and the district attorneys for the prosecutorial districts in this State shall annually determine
10 the costs to the department, the jails, the courts, including the cost of providing legal
11 representation to individuals filing a petition pursuant to this section, and the district
12 attorneys, respectively, of complying with this section and shall request payment of those
13 costs from the State Controller. Upon receipt of a request for payment, the State Controller
14 shall reimburse the requesting entity for those costs using funds in the Adult Use Cannabis
15 Public Health and Safety and Municipal Opt-in Fund established in Title 28-B, section
16 1101.

17 **Sec. 2. 28-B MRSA §1101, sub-§4** is enacted to read:

18 **4. Use of fund for vacating certain sentences, expungement of records and**
19 **resentencing for crimes and civil violations related to cannabis.** Money credited to the
20 fund must be used to pay the costs of implementing the vacating of a conviction or
21 adjudication of a crime or civil violation for possession of cannabis and the expungement
22 of records of arrest, conviction or adjudication for a crime or civil violation for possession
23 of cannabis pursuant to Title 15, section 2332 and the costs incurred for determining
24 individuals eligible for resentencing and implementing the petition and resentencing
25 process pursuant to Title 15, section 2333.

26 **SUMMARY**

27 This bill provides that all arrests, convictions and adjudications for crimes or civil
28 violations for possession of cannabis are vacated and requires the records of those arrests,
29 convictions and adjudications to be expunged in accordance with a process established in
30 the bill. This bill also allows for an individual who has been convicted of a cannabis-related
31 offense and who is still serving a sentence, including incarceration or supervised release,
32 probation or administrative release, for that crime to petition the original sentencing court
33 to resentence that individual. The bill defines "cannabis-related offense" as a conviction
34 or adjudication for a crime or civil violation involving the sale, use or possession of
35 cannabis or paraphernalia related to cannabis or that, but for the presence of cannabis,
36 would not have been a crime or civil violation.

37 Under the bill, the sentencing court must notify the prosecutor who prosecuted the
38 cannabis-related offense of the petition, who must object to the petition within 14 days or
39 the court is required to grant the petition and resentence the individual to time served. If
40 the prosecutor objects, the prosecutor must prove, by clear and convincing evidence, that
41 the crime for which the individual was sentenced is not a cannabis-related offense, that
42 resentencing is not in the interests of justice or that if resentencing is appropriate,
43 resentencing to something other than the portion of the sentence the individual has already
44 served is appropriate. The bill establishes a rebuttable presumption that resentencing is in

1 the interests of justice due to the legalization of the cultivation, manufacture, distribution,
2 sale, use and possession of cannabis for adult use pursuant to the Maine Revised Statutes,
3 Title 28-B.

4 The bill provides that a court may resentence the individual who is the subject of a
5 petition to time served or longer but may not resentence the individual to a longer sentence
6 than the original sentence.

7 The bill also provides that an individual who files a petition for resentencing is entitled
8 to court-appointed legal representation, without having to prove indigency.

9 Under the bill, all costs of all the entities involved in the vacating of arrests, convictions
10 and adjudications and expunging of records related to crimes or civil violations for
11 possession of cannabis and all entities involved in resentencing of convictions for cannabis-
12 related offenses are entitled to reimbursement of costs incurred to carry out those actions.
13 Reimbursement must be paid from the Adult Use Cannabis Public Health and Safety and
14 Municipal Opt-in Fund.



131st MAINE LEGISLATURE

FIRST SPECIAL SESSION-2023

Legislative Document

No. 1789

S.P. 714

In Senate, April 25, 2023

**An Act to Remove All Marijuana-related Provisions from the Maine
Criminal Code and Expunge All Convictions Involving Marijuana**

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT
Secretary of the Senate

Presented by Senator BALDACCI of Penobscot.

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

2 **Sec. 1. 15 MRSA §3314, sub-§6**, as amended by PL 2019, c. 113, Pt. C, §50, is
3 further amended to read:

4 **6. Forfeiture of firearms.** As part of every disposition in every proceeding under this
5 code, every firearm that constitutes the basis for an adjudication for a juvenile crime that,
6 if committed by an adult, would constitute a violation of section 393; Title 17-A, section
7 1105-A, subsection 1, paragraph C-1; Title 17-A, section 1105-B, subsection 1, paragraph
8 C; Title 17-A, section 1105-C, subsection 1, paragraph C-1; ~~Title 17-A, section 1105-D,~~
9 ~~subsection 1, paragraph B-1;~~ or Title 17-A, section 1118-A, subsection 1, paragraph B and
10 every firearm used by the juvenile or any accomplice during the course of conduct for
11 which the juvenile has been adjudicated to have committed a juvenile crime that would
12 have been forfeited pursuant to Title 17-A, section 1504 if the criminal conduct had been
13 committed by an adult must be forfeited to the State and the juvenile court shall so order
14 unless another person satisfies the court prior to the dispositional hearing and by a
15 preponderance of the evidence that the other person had a right to possess the firearm, to
16 the exclusion of the juvenile, at the time of the conduct that constitutes the juvenile crime.
17 Rules adopted by the Attorney General that govern the disposition of firearms forfeited
18 pursuant to Title 17-A, section 1504 govern forfeitures under this subsection.

19 **Sec. 2. 17-A MRSA §1102, sub-§4, ¶B**, as enacted by PL 1975, c. 499, §1, is
20 repealed.

21 **Sec. 3. 17-A MRSA §1103, sub-§1-A, ¶C**, as enacted by PL 2001, c. 383, §115
22 and affected by §156, is repealed.

23 **Sec. 4. 17-A MRSA §1103, sub-§1-A, ¶D**, as enacted by PL 2001, c. 383, §115
24 and affected by §156, is repealed.

25 **Sec. 5. 17-A MRSA §1103, sub-§1-A, ¶E**, as enacted by PL 2001, c. 383, §115
26 and affected by §156, is repealed.

27 **Sec. 6. 17-A MRSA §1103, sub-§1-A, ¶F**, as enacted by PL 2001, c. 383, §115
28 and affected by §156, is repealed.

29 **Sec. 7. 17-A MRSA §1103, sub-§3, ¶A**, as amended by PL 1997, c. 481, §3, is
30 repealed.

31 **Sec. 8. 17-A MRSA §1105-A, sub-§1, ¶A**, as enacted by PL 2001, c. 383, §119
32 and affected by §156, is amended by repealing subparagraph (2).

33 **Sec. 9. 17-A MRSA §1105-A, sub-§1, ¶A**, as enacted by PL 2001, c. 383, §119
34 and affected by §156, is amended by repealing subparagraph (4).

35 **Sec. 10. 17-A MRSA §1105-A, sub-§1, ¶B**, as amended by PL 2007, c. 476, §39,
36 is further amended by repealing subparagraph (2).

37 **Sec. 11. 17-A MRSA §1105-A, sub-§1, ¶B**, as amended by PL 2007, c. 476, §39,
38 is further amended by repealing subparagraph (4).

39 **Sec. 12. 17-A MRSA §1105-A, sub-§1, ¶C-1**, as enacted by PL 2001, c. 667, Pt.
40 D, §23 and affected by §36, is amended by repealing subparagraph (2).

1 **Sec. 13.** 17-A MRSA §1105-A, sub-§1, ¶C-1, as enacted by PL 2001, c. 667, Pt.
2 D, §23 and affected by §36, is amended by repealing subparagraph (4).

3 **Sec. 14.** 17-A MRSA §1105-A, sub-§1, ¶E, as amended by PL 2005, c. 415, §2,
4 is further amended by repealing subparagraph (2).

5 **Sec. 15.** 17-A MRSA §1105-A, sub-§1, ¶E, as amended by PL 2005, c. 415, §2,
6 is further amended by repealing subparagraph (4).

7 **Sec. 16.** 17-A MRSA §1105-A, sub-§1, ¶F, as enacted by PL 2001, c. 383, §119
8 and affected by §156, is amended by repealing subparagraph (2).

9 **Sec. 17.** 17-A MRSA §1105-A, sub-§1, ¶F, as enacted by PL 2001, c. 383, §119
10 and affected by §156, is amended by repealing subparagraph (4).

11 **Sec. 18.** 17-A MRSA §1105-D, as amended by PL 2019, c. 12, Pt. B, §6, is
12 repealed.

13 **Sec. 19.** 17-A MRSA §1106, sub-§3, ¶A, as amended by PL 2009, c. 67, §1, is
14 repealed.

15 **Sec. 20.** 17-A MRSA §1107-A, sub-§1, ¶F, as amended by PL 2009, c. 67, §2, is
16 further amended to read:

17 F. A schedule Z drug. Violation of this paragraph is a Class E crime ~~unless the drug~~
18 ~~is marijuana, in which case a violation of this paragraph is:~~

19 ~~(1) For possession of over 2 1/2 ounces to 8 ounces of marijuana, a Class E crime;~~

20 ~~(2) For possession of over 8 ounces to 16 ounces of marijuana, a Class D crime;~~

21 ~~(3) For possession of over one pound to 20 pounds of marijuana, a Class C crime;~~
22 ~~and~~

23 ~~(4) For possession of over 20 pounds of marijuana, a Class B crime.~~

24 **Sec. 21.** 17-A MRSA §1111-A, sub-§1, ¶G, as amended by PL 1981, c. 531, §2,
25 is repealed.

26 **Sec. 22.** 17-A MRSA §1117, as amended by PL 2019, c. 12, Pt. B, §11, is repealed.

27 **Sec. 23.** 17-A MRSA §1125, sub-§1, as enacted by PL 2019, c. 113, Pt. B, §16, is
28 amended to read:

29 **1. Minimum term of imprisonment.** Except as otherwise provided in subsections 2
30 and 3, for a person convicted of violating section 1105-A, 1105-B, 1105-C, ~~1105-D~~ or
31 1118-A the minimum term of imprisonment, which may not be suspended, is as follows:

32 A. When the sentencing class is Class A, the minimum term of imprisonment is 4
33 years;

34 B. When the sentencing class is Class B, the minimum term of imprisonment is 2
35 years; and

36 C. ~~With the exception of a conviction under section 1105-A, 1105-B, 1105-C or~~
37 ~~1105-D when the drug that is the basis for the charge is marijuana, when~~ When
38 the sentencing class is Class C, the minimum term of imprisonment is one year.

1 **Sec. 24. 17-A MRSA §1125, sub-§2, ¶A**, as enacted by PL 2019, c. 113, Pt. B,
2 §16, is amended by amending subparagraph (3) to read:

3 (3) Failure to impose a minimum unsuspended term of imprisonment under
4 subsection 1 will not appreciably impair the effect of subsection 1 in deterring
5 others from violating section 1105-A, 1105-B, 1105-C, ~~1105-D~~ or 1118-A; and

6 **Sec. 25. 17-A MRSA §1126, sub-§1**, as enacted by PL 2019, c. 113, Pt. B, §17, is
7 amended to read:

8 **1. Fine based on value of scheduled drugs at time of offense.** As authorized by
9 section 1706, subsection 3, if the State pleads and proves the value at the time of the
10 commission of a crime of a scheduled drug that is the basis for a conviction under section
11 1103, 1105-A, 1105-B, 1105-C, ~~1105-D~~; 1106 or 1107-A, the convicted person may be
12 sentenced to pay a fine in an amount up to the value, as pleaded and proved by the State,
13 of that scheduled drug.

14 **Sec. 26. 17-A MRSA §1126, sub-§2**, as amended by PL 2021, c. 434, §9, is further
15 amended to read:

16 **2. Mandatory minimum fine barring court finding exceptional circumstances.** In
17 addition to any other authorized sentencing alternative specified in section 1502, subsection
18 2 for individuals or section 1502, subsection 7 for organizations, the court shall impose a
19 minimum fine of \$400, none of which may be suspended, except as provided in subsection
20 3, for an individual convicted of a crime under section 1103; 1104; 1105-A; 1105-B;
21 1105-C; ~~1105-D~~; 1106; 1107-A; 1108; 1109; 1111-A, subsection 4-A; 1116; ~~1117~~; or 1118.

22 **Sec. 27. 17-A MRSA §1504, sub-§1, ¶A**, as enacted by PL 2019, c. 113, Pt. A,
23 §2, is amended by repealing subparagraph (5).

24 **Sec. 28. 17-A MRSA §1604, sub-§4**, as enacted by PL 2019, c. 113, Pt. A, §2, is
25 amended to read:

26 **4. Mandatory minimum sentence of imprisonment for certain drug crimes.** For
27 an individual convicted of violating section 1105-A, 1105-B, 1105-C, ~~1105-D~~ or 1118-A,
28 except as otherwise provided in section 1125, subsections 2 and 3, the court shall impose a
29 minimum sentence of imprisonment, which may not be suspended, as provided in section
30 1125, subsection 1.

31 **Sec. 29. Department of Public Safety to expunge all records relating to**
32 **eligible marijuana convictions and violations.** By July 1, 2024, the Department of
33 Public Safety shall review all records possessed by any state criminal justice or law
34 enforcement agency, the Department of Public Safety, Bureau of State Police, State Bureau
35 of Identification or the Federal Bureau of Investigation that contain criminal history record
36 information pursuant to the Maine Revised Statutes, Title 16, section 703, subsection 3 and
37 expunge all records that relate to criminal convictions and civil violations for conduct
38 involving marijuana or conduct that is authorized under Title 28-B, chapter 3. For purposes
39 of this section, "expunge" means to permanently delete or to physically destroy or
40 obliterate.

1

SUMMARY

2 This bill removes marijuana from the Maine Criminal Code by doing the following:
3 removing marijuana being listed as a scheduled drug; eliminating the crime of unlawful
4 trafficking in marijuana; eliminating the crime of aggravated trafficking of marijuana;
5 eliminating the crime of aggravated cultivating of marijuana; removing the permissible
6 inference under the Maine Rules of Evidence, Rule 303 that a person who intentionally or
7 knowingly possesses a certain quantity, state or concentration of marijuana is unlawfully
8 furnishing marijuana; eliminating the crime of unlawful possession of marijuana; removing
9 drug paraphernalia related to marijuana from the definition of "drug paraphernalia";
10 eliminating the crime of cultivating marijuana; and eliminating any mandatory minimum
11 term of imprisonment for marijuana-related drug offenses.

12 The bill also directs the Department of Public Safety to review all criminal records
13 possessed by any state criminal justice or law enforcement agency and to expunge all
14 records that relate to criminal convictions and civil violations for conduct involving
15 marijuana or that are otherwise authorized under Maine's adult use cannabis laws.