

# CRIMINAL RECORDS REVIEW COMMITTEE

## Meeting Agenda

Tuesday, November 19, 2024 at 9:00a.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. Information Requests from October 24 Meeting
  - Office of Policy and Legal Analysis Staff
3. Overview of Recommendations Proposed by Committee Members
  - Office of Policy and Legal Analysis Staff
4. Committee Recommendations – Discussion and Voting
5. Review of Report-Drafting Process

*\*The Committee may take a lunch break during the meeting\**

## **Post-Judgment Motions to Seal Criminal History Record Information**

**Pursuant to Title 15, Chapter 310-A of the Maine Revised Statutes**  
(effective August 8, 2022)

	# Motions Filed	# Motions Granted	# Motions Denied *	# Motions Pending
2023	14	8	5	1
2024 (through 9/9/24)	18	6	11 denied 1 moot	0

\* Reasons for denying post-judgment motions to seal criminal history:

- Two motions were denied because the moving party had not been convicted of crimes; instead, these individual’s criminal charges had been dismissed.
- Each of the other denials was based on the moving party’s failure to meet one or more of the statutory requirements for sealing—for example, type of offense, age at time of conviction, or the individual was subsequently convicted of a crime or subsequently had a criminal charge dismissed as a result of a deferred disposition.

**Stocco, Janet**

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**Subject:** FW: Post-Judgment Sealing

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**From:** Albert Hansen <[al@hansenlawofficespllc.com](mailto:al@hansenlawofficespllc.com)>

**Sent:** Friday, August 30, 2024 9:35 AM

**To:** Matt Morgan <[MMorgan@McKeeMorgan.com](mailto:MMorgan@McKeeMorgan.com)>

**Subject:** RE: Post-Judgment Sealing

I've been annulling/"sealing" client's criminal records for 20+ years in NH pursuant to NH RSA 651:5 and the only reason ever given for not pursuing an annulment is the cost and/or lack of knowledge about the process (and, of course, there are certain offenses that cannot be annulled). I appreciate your work on this. This is such an important tool for clients, especially young clients, who have made a mistake but have now gotten their lives back on track. It's a tremendous benefit to the individual and the community as a whole.

**Albert Hansen, Esq.**

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**From:** 'Matt Morgan' via MaineMACDL <[mainemacdl@googlegroups.com](mailto:mainemacdl@googlegroups.com)>

**Sent:** Thursday, August 29, 2024 5:13 PM

**To:** [mainemacdl@googlegroups.com](mailto:mainemacdl@googlegroups.com)

**Subject:** [mainemacdl] Post-Judgment Sealing

The Legislature recently expanded sealing laws in Maine to remove a prior age requirement. New law is here: <https://legislature.maine.gov/statutes/15/title15ch310-Asec0.html>

I am MACDL's member on the Criminal Records Review Committee. The committee is looking to improve public awareness of the new sealing law and also expand it further.

I have been asked to ask the following on the list serv by the Committee's legislative analyst (please feel free to email me directly):

- We are also wondering if MACDL knows of any attorneys whose clients have decided not to pursue a post-judgment motion to seal their criminal records, and why? (We realize attorneys are not appointed for this process, but wonder if any MACDL attorneys nevertheless have insight into why some clients may not pursue this relief.)

Thanks,  
Matt

*Matthew D. Morgan*

Attorney at Law  
McKee Morgan, LLC, P.A.  
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207-620-8294

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McKee Morgan – The Story: <https://youtu.be/yHZFqbCKuFw>

**MCKEE MORGAN**

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*Please note my new email address, [MMorgan@McKeeMorgan.com](mailto:MMorgan@McKeeMorgan.com)*

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## Stocco, Janet

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**From:** Avery, Kent <kent.avery@maine.gov>  
**Sent:** Thursday, October 17, 2024 2:09 PM  
**To:** Stocco, Janet; McCollett, Amy  
**Cc:** Murphy, Elias; Paddon, Sophia  
**Subject:** RE: SBI Information about Pled Other Charges

**This message originates from outside the Maine Legislature.**

Janet,

In response to Attorney Morgan's request, what is contained in an individual's criminal history is a function of statute. The State Bureau of Identification maintains an individual's criminal, but not civil, history. The SBI's maintenance and dissemination of criminal history is governed by statute. With respect to dispositions, an SBI report reflects disposition information related to criminal history record information received from the court. Pursuant to the statutory definitions of "criminal history record information," "confidential criminal history record information," "public criminal history record information" and "disposition," if the disposition of the original criminal charge sent by the court to SBI is "dismissed pled other," that is a dismissal pursuant to a plea agreement and is public under the statute. 16 M.R.S. § 703 (2), (2)(G), (3), (5), (8).

If the court sends SBI information that there is a conviction on a separate criminal charge, that conviction is public criminal history record information, and appears on the public SBI. If there is an adjudication on a civil violation, the court does not send that to SBI, and the civil violation does not appear on an SBI report, because SBI does not maintain civil violation history, which is specifically excluded from the definition of criminal history record information. 16 M.R.S. § 703(3); 25 M.R.S. § 1541(4-A).



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**From:** Stocco, Janet <Janet.Stocco@legislature.maine.gov>  
**Sent:** Tuesday, October 8, 2024 3:45 PM  
**To:** McCollett, Amy <Amy.McCollett@maine.gov>; Avery, Kent <kent.avery@maine.gov>  
**Cc:** Murphy, Elias <elias.murphy@legislature.maine.gov>; Paddon, Sophia <Sophia.Paddon@legislature.maine.gov>  
**Subject:** FW: SBI Information about Pled Other Charges

Hello Amy and AAG Avery,

Please see Matt Morgan's request, below, for the written position of the Attorney General regarding "pled to other charges" information in SBI that was discussed in this morning's meeting. Is this something you can help us locate?

Janet

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**From:** Matt Morgan <[MMorgan@McKeeMorgan.com](mailto:MMorgan@McKeeMorgan.com)>  
**Sent:** Tuesday, October 8, 2024 11:13 AM

To: Stocco, Janet <[Janet.Stocco@legislature.maine.gov](mailto:Janet.Stocco@legislature.maine.gov)>

Subject: SBI Information about Pled Other Charges

This message originates from outside the Maine Legislature.

Janet,

Is it possible we could seek the written position of the AG's Office that SBI referred to today whereby someone can have a criminal charge dismissed and if the dismissal form indicates "pled to other charges," then SBI will report those dismissed charges even if the person did not in fact end up pleading to any criminal charge, but instead admitted a civil violation in lieu of a criminal plea?

Thanks,  
Matt

Matthew D. Morgan  
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**MCKEE MORGAN**

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Please note my new email address, [MMorgan@McKeeMorgan.com](mailto:MMorgan@McKeeMorgan.com)

## Stocco, Janet

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**From:** McCollett, Amy <Amy.McCollett@maine.gov>  
**Sent:** Thursday, October 10, 2024 3:27 PM  
**To:** Stocco, Janet  
**Cc:** Murphy, Elias; Paddon, Sophia  
**Subject:** RE: Any additional info

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

**This message originates from outside the Maine Legislature.**

SO I do not have a “map” for answer 2 as SBI is solely only responsible for the criminal history and SOR checks. Anything additional is from that agencies laws, rules, etc. (which I have mentioned below). Feel free to let me know if more details are needed before providing to Speaker.

### Sex Offender Registry:

Total Active registrants: 2902

Active registrants with only Out of State convictions: 791

Active registrants with Maine and OOS convictions: 110

### Maine SBI and Public Criminal History

SBI follows the Criminal History Record Information Act within Title 16 §703 for dissemination of public and confidential rap sheet information.

Public rap sheets can be obtained through our online service portal at [Maine Criminal History Record & Juvenile Crime Information Request](#) with the assistance of InforME (State contracted vendor for many agency’s needs)

- Pay individually at \$31 per or set up a subscription service and be billed at \$21 per
- Also, a non-billable account process for State and municipal entities for employment purposes (not certification or licensing) is available – free but subject to auditing process

The DHHS MBCC (Maine Background Check Center) has a variant method of receiving public rap sheet information. SBI has coordinated/created a mechanism to easily facilitate the quantity of requests DHHS MBCC needs as a piece of their credentialing mechanism. SBI only provides the public criminal history and public sex offender information.

Various State agencies obtain State and Federal fingerprint-based background checks based on State and Federally approved laws. Once the Maine State legislation is approved there is a vigorous CJILU (Criminal Justice Information Legal Unit) review that is completed for agencies to obtain Federal background information. From the State of Maine Title 15 §2265.8, SBI does in fact disseminate the sealed information for fingerprint-based background checks.

Each entity that is allowed access to State and Federal criminal history information is subject to audits which includes access and dissemination review. Every entity has their own laws, rules and guidelines on how they can proceed with credentialing individuals. It is typically not solely based on this criminal history. Many agencies utilize other necessary checks for their funding requirements.

**Stocco, Janet**

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**From:** McCollett, Amy <Amy.McCollett@maine.gov>  
**Sent:** Friday, October 11, 2024 9:13 AM  
**To:** Stocco, Janet  
**Cc:** Murphy, Elias; Paddon, Sophia  
**Subject:** RE: Any additional info

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

**This message originates from outside the Maine Legislature.**

I forgot to add this listing yesterday afternoon of the applicant fingerprinting reasons that SBI currently processes. There are a couple brand new agencies not listed as the systems are not set up to process. These include Psychologists and Physical Therapists.

The \* denotes client only receives a State response as no Federal is allowed.

Gambling Control Board
Commercial Beano Halls
Department of Education
DHHS/OCFS
DHHS/Adam Walsh
Serve America Act
Probate Courts
Concealed Weapon Check*
VISA Applicant*
Private Industry Applicants*
Bureau of Revenue Services
Board of Real Estate Appraisers
District Courts
MAINE SBI NCPA/VCA
Maine Inland Fisheries and Wildlife Guide License
Maine Board of Nursing
Maine Board of Osteopathic Licensure
Maine Board of Licensure in Medicine
Maine Office of Cannabis Policy
Maine Office of the State Auditor
DHHS/Support Enforcement
DHHS/Childrens Homes
DHHS/Childcare Provider
DOL/Unemployment Compensation
BMV Real ID
BMV CMVSE
BMV DRIVERS EDUCATION INSTRUCTORS

Amy McCollett  
Business System Administrator  
State Bureau of Identification  
Maine State Police, Dept. of Public Safety

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**From:** Stocco, Janet <Janet.Stocco@legislature.maine.gov>

**Sent:** Thursday, October 10, 2024 11:40 AM

**To:** McCollett, Amy <Amy.McCollett@maine.gov>

**Cc:** Murphy, Elias <elias.murphy@legislature.maine.gov>; Paddon, Sophia <Sophia.Paddon@legislature.maine.gov>

**Subject:** RE: Any additional info

Dear Amy,

Our meeting notes reflect the following two questions posed to SBI:

1. How many individuals are currently on the Maine sex offender registry? Of those, how many are on the registry due to an out-of-state conviction?
2. Please provide a map (overview/comparison) of the different types of background checks available in Maine.
  - a. Hopefully, you remember this question and have an idea of what the Speaker was seeking?
  - b. My guess is that the Speaker would like an overview of the types of checks (for example, public CHRI check, driving record check, background center check, OCFS check, adult protective service check, fingerprint-based background checks), who has access to the checks, and what information is included (especially whether sealed/pardoned offenses would be listed).

Thank you!

Janet

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**From:** McCollett, Amy <Amy.McCollett@maine.gov>

**Sent:** Wednesday, October 9, 2024 11:17 AM

**To:** Stocco, Janet <Janet.Stocco@legislature.maine.gov>

**Subject:** Any additional info

**This message originates from outside the Maine Legislature.**

Just wanting to check and see if you or the rest of the CRRC is needing any information from me as I will be heading out on vacation this Friday and will not be back in the office until 10/28!

Amy McCollett

Business System Administrator

State Bureau of Identification

Maine State Police, Dept. of Public Safety

207-530-2002

## CRIMINAL RECORDS REVIEW COMMITTEE

### Access to Sealed Criminal History Record Information – 15 M.R.S. §2265

**General Rule:** Criminal history record information relating to a sealed criminal conviction “must be treated as confidential criminal history record information for the purposes of dissemination to the public under” the Criminal History Record Information Act (the CHIRA) in [Title 16, chapter 7](#). See [15 M.R.S. §2265](#).

Under the CHIRA, [16 M.R.S. §705](#), confidential criminal history record information, including information about a sealed criminal conviction, **may be disseminated** by a Maine criminal justice agency **only**:

- To another criminal justice agency (or to a contractor required to follow the confidentiality provisions of the CHIRA) for purposes of administration of criminal justice and criminal justice agency employment;
- When specifically authorized by statute, executive order, court rule or decision;
- For the research, evaluation or statistical purposes under an agreement requiring the recipient to follow the confidentiality provisions of the CHIRA;
- To any person who specifically inquires “whether a named individual was summonsed, arrested or detained or had formal criminal charges initiated on a specific date”;
- To the public for the purpose of announcing the fact of a specific disposition within 30 days of the occurrence of that disposition;
- To the public at any time *if* the person to whom the disposition relates specifically authorizes that the information be made public; and
- To a public entity for purposes of international travel, such as issuing visas and granting citizenship.

**Exceptions:** In addition to the authority of a criminal justice agency under the CHIRA to disseminate information about all confidential criminal history (including sealed convictions), [15 M.R.S. §2265](#) also authorizes a criminal justice agency to disseminate information about sealed criminal convictions to:

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

**“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
- 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;”

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

- Unlike conviction records possessed by criminal justice agencies, “records of traffic crimes maintained by the Secretary of State” are **not governed by the CHIRA**. [16 M.R.S. §708\(6\)](#). [In fact, state courts do not transmit abstracts of convictions for Class D or Class E crimes under Title 29-A, the motor vehicle laws, to the State Bureau of Identification (SBI). [25 M.R.S. §1547](#).] In addition, the Secretary of State is not a “criminal justice agency” as that phrase is defined for purposes of the CHIRA or the laws governing the sealing of criminal records. See [16 M.R.S. §703\(4\)](#); [15 M.R.S. §2261\(4\)](#).
- Accordingly, regardless of whether the criminal history record information for a traffic crime conviction has been sealed under Title 15, chapter 310-A neither the CHIRA nor Title 15, chapter 310-A restrict the persons to whom the Secretary of State may disseminate information about the traffic crime conviction.

## CRIMINAL RECORDS REVIEW COMMITTEE

- Maine law instead provides that, when a court transmits an abstract of a conviction for a motor vehicle crime to the Secretary of State, the abstract is a public record. [29-A M.R.S. §2607\(3\)](#). Maine law also directs the Secretary of State to create a database of driver history records, including records of conviction for motor vehicle crimes, and to make driver history records available to members of the public upon payment of the required fee. [29-A M.R.S. §252\(1\), \(1-A\)](#).
- The Secretary of State explained that, in certain circumstances, federal law prohibits states from removing information about pardoned or sealed criminal convictions from a person’s driving history record. For example, federal regulations prohibit the State from “masking” a person’s conviction for violation of a traffic control law—other than convictions for parking, vehicle weight or vehicle defect offenses—on the Commercial Driver’s License Information System (CDILS), which must be checked before a person may be issued a Commercial Driver’s License. 49 C.F.R. §384.226; 49 C.F.R. §384.205. For purposes of this regulation, a “conviction” includes any “unvacated adjudication of guilt ... in a court of original jurisdiction or by an authorized administrative tribunal.” See 49 C.F.R. §384.105(a) (providing that the definitions in Title 49, part 383 if the Code of Federal Regulations apply to Part 384); 49 C.F.R. §383.5 (defining “conviction”). Thus, while federal law authorizes removal from the CDILS of a conviction for a traffic crime that has been vacated by the court, the State lacks authority to remove from the CDILS a conviction for a traffic crime that has been pardoned by the Governor or sealed by the court.

**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
- 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;

**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;

*Note: The CRRC has not explored the use of sealed criminal records by DPFR under state and federal law.*

**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;”

[Title 5, chapter 341](#) governs occupational license disqualification based on a criminal record:

Types of criminal convictions that may be considered by licensing agencies:

When deciding whether to deny, revoke or suspend professional licenses, registrations or permits, state licensing agencies may consider **only** the following types of criminal convictions—unless the conviction has been set aside or pardoned or the convicted person demonstrates they have “been sufficiently rehabilitated to warrant the public trust,” in which case the conviction may not be considered:

- Crimes punishable by < 1 year of incarceration that:
    - involve dishonesty or false statement;
    - directly relate to the trade or occupation; or
    - involve sexual misconduct *if* the applicant is seeking any of the licenses (listed on the next page) for which there is a 10-year lookback period, other than hemp-related licenses issued by DACF.

*Note: some of these convictions may be eligible for sealing under current law*
  - All crimes punishable by ≥ 1 year of incarceration
- Note: none of these convictions are eligible for sealing under current law*

## CRIMINAL RECORDS REVIEW COMMITTEE

### Time limit for consideration of criminal conviction by licensing agency:

- The following specific licensing agencies may deny, suspend, revoke or impose other discipline on licensees or applicants for licensure or registration based on a criminal conviction within **10 years** of the applicant's or licensee's final discharge, if any, from the correctional system for that conviction:
  - \* *Given the 10-year lookback period, it is possible that some of the criminal convictions considered by these licensing agencies may have been sealed under Title 15, chapter 310-A \**
  - The Board of Licensure in Medicine,
  - The Board of Osteopathic Licensure,
  - The Board of Dental Practice,
  - The State Board of Examiners of Psychologists,
  - The State Board of Social Worker Licensure,
  - The State Board of Nursing,
  - The Board of Chiropractic Licensure,
  - The Board of Trustees of the Maine Criminal Justice Academy,
  - The State Board of Examiners in Physical Therapy,
  - The State Board of Alcohol and Drug Counselors,
  - The Board of Respiratory Care Practitioners,
  - The Board of Counseling Professionals Licensure,
  - The Board of Occupational Therapy Practice,
  - The Board of Speech, Audiology and Hearing,
  - The Radiologic Technology Board of Examiners,
  - The Nursing Home Administrators Licensing Board,
  - The Board of Licensure of Podiatric Medicine,
  - The Board of Complementary Health Care Providers,
  - The Maine Board of Pharmacy,
  - The Emergency Medical Services' Board,
  - The Department of Agriculture, Conservation and Forestry (DACF) re: hemp licenses, and
  - Applicants for massage therapy licensure or licensed massage therapists.
- All other licensing agencies may only deny, suspend, revoke or impose other discipline on licensees or applicants for licensure or registration based on a criminal conviction within **3 years** of the applicant's or licensee's final discharge, if any, from the correctional system for that conviction
  - \* *Given the 3-year lookback period, it is possible that these licensing agencies could consider sealed convictions for the Class E crime of engaging in prostitution; however, it is not possible for these agencies to consider any other convictions sealed under Title 15, chapter 310-A, since those convictions are not eligible for sealing until at least 4 years after the person fully satisfies each of the sentencing alternatives imposed \**

### No time limit for considering the conduct underlying criminal conviction:

- Regardless of the 3-year and 10-year limitations on considering criminal convictions, described above, there is “**no time limitation** for consideration of an applicant's or licensee's **conduct** which gave rise to the criminal conviction if that conduct is otherwise a ground for disciplinary action.”
  - \* *Recall that the licensing agency has access to conviction records, including sealed conviction records, and the agency could choose to inquire about the conduct underlying those convictions regardless of the time that has elapsed since the convictions were imposed (or sealed) \**

**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

*Note: The CRRC has not explored the use of sealed records by financial institutions under state and federal law.*

## CRIMINAL RECORDS REVIEW COMMITTEE

**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](#).

Title 25, section 1542-A cross-references statutory requirements to conduct fingerprint-based criminal history record checks for the following non-law-enforcement-related purposes:

- Applicant for credentialing as a teacher or education professional subject to [20-A M.R.S. §6103](#);
- Prospective adoptive parents who are not the biological parents, as required by [18-C M.R.S. 9-304\(1\)](#);
  - *Exception:* background checks may not be required by the court for prospective adoptive parents seeking a confirmatory adoption following assisted reproduction under [18-C M.R.S. §9-316](#).
- Applicants for licensure as a Maine guide, under [12 M.R.S. §12853](#);
- Applicants for expedited M.D. or D.O. licensure under the Interstate Medical Licensure Compact, under [32 M.R.S. §18506](#);
- Applicants for licensure from the following professional licensing boards:
  - The State Board of Nursing, under [32 M.R.S. §2111\(1\)](#);
  - The State Board of Examiners of Psychologists, under [32 M.R.S. §3833-B](#); and
  - The Board of Examiners in Physical Therapy, under [32 M.R.S. §3114-D](#);
- Applicants for licensure or registration from the Office of Cannabis Policy as follows:
  - Applicants for licensure under the adult-use cannabis laws, pursuant to [28-B M.R.S. §204](#); and
  - Applicants for registration as a caregiver or as an officer, director or assistant of a dispensary or registered caregiver under the Maine Medical Use of Cannabis Act, [22 M.R.S. §2425-A](#);
- Applicants for licensure or authority to work from the Department of Health and Human Services as:
  - Licensed family child care providers or child care staff members, pursuant to [22 M.R.S. §8302-A](#);
  - Unlicensed persons who provide day care in their own home for 1 to 2 children whose care is paid by state or federal funds, pursuant to [22 M.R.S. §8302-B](#); and
  - Employees of a children’s residential care facility, emergency children’s shelter, shelter for homeless children or a transitional living program, pursuant to [22 M.R.S. §8110](#);
- Employees / applicants for employment by the Maine Bureau of Revenue Services and certain bureau contractors, subcontractors and their employees, pursuant to [36 M.R.S. §194-D](#);
- Employees / applicants for employment by the following—for purposes of complying with the IRS’s tax information and security guidelines because the person has or will have access to federal tax information:
  - Bureau of Unemployment Compensation, its contractors and subcontractors, under [26 M.R.S. §1085](#);
  - Office of the State Auditor, under [5 M.R.S. §247](#);
  - Department of Health and Human Services, its contractors and subcontractors (for example, in child support enforcement positions), under [19-A M.R.S. §2111](#); and
  - Office of Information Technology, its contractors or subcontractors, under [5 M.R.S. §1986](#);
- The following MaineCare provider applicants, under [22 M.R.S. 5307](#):
  - Providers in high-risk categories (for example, home health agencies; durable medical equipment, providers; diabetes prevention program providers; hospices; and certain opioid treatment programs);
  - High-risk providers (providers subject to previous discipline for fraud, waste, abuse, etc.); and
  - Individuals who maintain at least a 5% direct or indirect ownership interest in one of the above; and
- Licensees / applicants for licenses issued by the Gambling Control Board or Gambling Control Unit for sports wagering, casinos and related entities, and advance deposit wagering, including occupational licenses for certain employees of these licensees, under [8 M.R.S. §1204](#) and [Title 8, Chapter 31](#).

*\* Recall that 15 M.R.S. §2265, which is summarized in this handout, specifies only when a Maine criminal justice agency (like SBI) may disclose sealed criminal history record information. This Maine statute does not govern whether the Federal Bureau of Investigation may disclose sealed criminal history record information on the basis of background checks (including fingerprint checks) not listed in 25 M.R.S. §1542-A.*

## CRIMINAL RECORDS REVIEW COMMITTEE

### **A. Example laws and rules disqualifying individuals based on substantiations for abuse or neglect**

- Individuals are ineligible for employment as certified nursing assistants (CNAs), direct care workers or immediate supervisors if they have been substantiated on the CNA and Direct Care registry for abuse, neglect or misappropriation of property of a client, patient or resident. *See* 22 M.R.S. §1812-G; 42 U.S.C. §1395i-3 & §13964 (regarding CNAs); 10-144 C.M.R. ch. 128.
- Employers may not employ direct access workers if a comprehensive background check conducted by the Maine Background Check Center—including checks of child protective services records and the CNA/direct care worker registry—reveals a substantiated finding of patient or resident abuse, neglect or exploitation or misappropriation of patient or resident property. *See* 22 M.R.S. ch. 1691; 10-144 C.M.R. ch. 60.
- An individual with a substantiated finding of child abuse or neglect from DHHS or a comparable department in another state where the individual resided within the previous 5 years may not be (a) employed by or a volunteer at a children’s residential care facility or (b) employed at an emergency children’s shelter, shelter for homeless children or a transitional living program that is a children’s home. 22 M.R.S. §8110; 10-148 C.M.R. ch. 35, §6(B), (C) (children’s residential care facilities); 10-148 C.M.R. ch. 37, §8(B), (C) (emergency children’s shelters, shelters for homeless children, and transitional living programs that are children’s homes).
  - *Additional discretionary consideration:* if an individual has been substantiated by the DHHS Office of Aging and Disability Services for abuse, neglect or exploitation of an incapacitated or dependent adult, then the facility may only employ the person if it concludes the facility’s residents would not be endangered by the individual’s employment.
- An individual with a substantiated finding of child abuse or neglect from DHHS or a comparable department in another state where the individual resided within the previous 5 years:
  - Is ineligible for licensure as a child care provider—*i.e.*, a child care facility, family child care provider or nursery school. In addition, if any of the adult household members of an applicant for licensure as a family child care provider has such a substantiation, the license may not be granted.
  - Is ineligible for employment by a child care provider in a position involving the care or supervision of children or in a position with unsupervised access to children.  
22 M.R.S. §8302-A, 22 M.R.S. §8302-B; 10-148 C.M.R. ch. 34.
- Organizations (except certain legal aid or hospital nonprofit organizations) that assist parents or guardians with the process of executing powers of attorney for the temporary care of a minor must conduct background checks for the prospective agent and any adult member of the agent’s household. The organizations may not continue to assist the prospective agent if these background checks reveal a substantiated allegation of child abuse, neglect or exploitation. 18-C M.R.S. §5-127.

*The statutes and rules governing the underlying abuse and neglect registries establish processes for individuals to request administrative appeals from substantiation findings and, if unsuccessful, to appeal those findings in court. The timelines for those appeals are generally based on the date of the substantiation, not on the later date that the person discovers their ineligibility for a particular type of employment based on the substantiation. However, the rules governing the CNA and Direct Care Worker Registry additionally establish a process for individuals to petition for removal of certain non-abuse substantiated findings on the registry no sooner than 12 months after the substantiation.*

## CRIMINAL RECORDS REVIEW COMMITTEE

### **B. Example laws and rules authorizing consideration of substantiations for abuse or neglect**

- A court conducting an adoption proceeding is required to conduct a background check—including a screening of Department of Health and Human Services (DHHS) records “for child abuse cases”—for each prospective adoptive parent who is not a parent of the child. The information received from the background check “may be used by the court for the purpose of screening prospective adoptive parents in determining whether the adoption is in the best interest of the child.” 18-C M.R.S. §9-304(1)(B).
  - *Note:* this background check process does not apply in the context of confirmatory adoptions following assisted reproduction. 18-C M.R.S. §9-316(6)(B).
- DHHS has discretion to deny a license to operate a family foster home to a person who has an open, substantiated, or indicated child protective services case. 10-148 C.M.R. ch. 16, §9.
- DHHS is not required to consider an adult relative for placement of a child who has been removed from the child’s home if DHHS has “substantiated any report of child abuse or neglect regarding that relative or a substantially equivalent determination . . . has been made in another state.” 22 M.R.S. §4005-G(5).
- An individual who is rostered to serve as a children’s guardian *ad litem*—*i.e.*, who may be appointed as a guardian *ad litem* in child protection proceedings, divorce and parental rights and responsibilities proceedings, minor guardianship proceedings or adoption proceedings—may be reprimanded or removed from the guardian *ad litem* roster if DHHS has substantiated an allegation of abuse or neglect against that individual. Maine Rules for Guardians Ad Litem, Rule 9.

# The Maine Background Check Center: Title 22 Chapter 1691

Bill Montejo, RN, Director

Alex Netten, MPA, Program Manager, MBCC

Division of Licensing and Certification



# Title 22 Chapter 1691:

## §9052. Background Check Center

“In order to promote and protect the health and safety of children and adults in need of support and care, the Background Check Center is established within the department to operate an Internet-based system that employers use to access criminal records and other background information to determine the eligibility of individuals to work in direct access positions with vulnerable Maine citizens including children, elderly persons, dependent adults and persons with disabilities. The online system is maintained by the Background Check Center in coordination with the Department of Public Safety, State Bureau of Identification and with other state and federal agencies.”

# MBCC background check processes:

- Employers register with the MBCC and receive authorization for use of the system.
- Quick Check – No cost preliminary registry screening.
- Employer's authorized user submits information for background checks on prospective employees.
- If the prospective employee has criminal convictions, then the employer will be provided with the publicly available conviction information.
- There is a process for employers to request waivers for certain disqualifying offenses, or error corrections should the applicant claim there is an error in the criminal record.
- Final hiring decision is entered in the MBCC portal.
- MBCC monitors for new criminal convictions and notifies employer should an individual screened by the MBCC receive a new State conviction.

# MBCC-Quick Check

**The quick check process enables providers to search all required registries simultaneously at no cost. Only the applicant's name and any aliases are needed.**

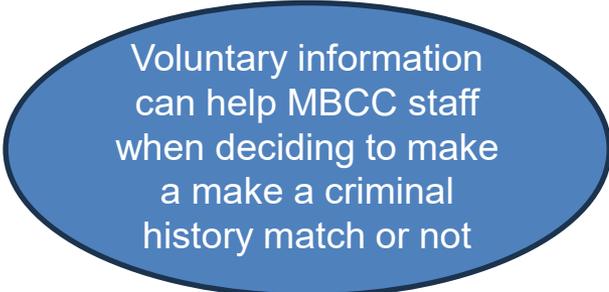
The quick check enables the employer to search the following registries:

- Maine Regulatory Licensing & Permitting (Professional and Occupational Licensing and CNA/DCW Registry)
- Maine Excluded Providers
- Maine Sex Offender Registry
- Office of Inspector General
- National Sex Offender Public Website (NSOPW)

**If a negative annotation for abuse, neglect, or misappropriation of funds is found, the application process can end here at no cost to the provider.**

# Employer applicant entries for background checks

- Applicant fills out a MBCC background application that gives provider permission to obtain a criminal history.
- The provider enters all the applicant's information into the MBCC.
- Required information (applicant must disclose):
  - Driver's license number
  - Full legal name
  - All alias names
  - Address
  - Job position applied for
- Voluntary information (applicant may disclose):
  - Hair/eye color
  - Race
  - Gender
  - Height/weight
  - Place of birth



Voluntary information can help MBCC staff when deciding to make a criminal history match or not

# MBCC criminal history check part 1

- Each application is processed separately.
- Providers can add up to 25 applications to a submission.

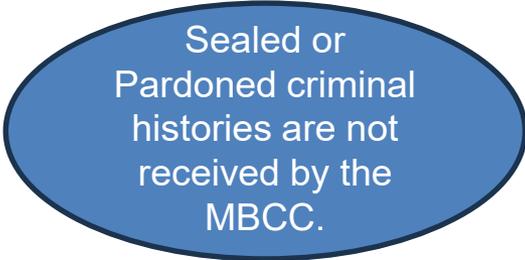
**The Maine State Bureau of Identification (SBI) will respond with one of two outcomes:**

- **No Hit:** No criminal history; application returns to the provider's work queue for completion.
- **Possible Hit:** Potential match to a criminal record; requires review by an Identification Specialist to confirm if criminal history belongs to the applicant or not.

# MBCC criminal history check part 2

**All potential matches to a criminal history will be reviewed by an Identification Specialist. They will verify whether the match corresponds to the applicant based on the SBI search algorithm.**

- If not a match, a "no hit" response is sent to the provider.
- If it is a match, the ID Specialist will analyze the RAP (Record of Arrest and Prosecution) sheet for disqualifying convictions.
  - If there are no disqualifying convictions, the provider receives notification they can proceed with hiring.
  - If there are disqualifying convictions, the provider will be informed that they cannot hire the applicant unless they request an error correction or a waiver.



Sealed or  
Pardoned criminal  
histories are not  
received by the  
MBCC.

# What constitutes a disqualification

**Under §9054 of the MBCC statute, there are two main types of disqualifications:**

## **1. Registry Disqualifications:**

- Findings for abuse, neglect, or misappropriation of funds in any required registry.

## **2. Criminal Record Disqualifications:**

- Convictions related to crimes or abuse in health care programs.
- Convictions for neglect or abuse of patients in health care delivery.
- Convictions affecting the health and safety of vulnerable individuals.
- Convictions for health care fraud.
- Class A, B, or C convictions related to controlled substances.
- Convictions violating federal or state laws or regulations mandating employment prohibitions.

# Error Correction and Waivers: Error Corrections

## When are error corrections used?

### 1. Registry Disqualifications:

- Negative annotation listed in error.
- Finding that relates to a different individual (e.g., wrong John Doe).
- Scheduled removal not completed.

### 2. Professional License Issues:

- Validation failed due to incorrect name or license number.
- License is expired or not yet issued.
- Out-of-state compact nursing licenses require manual validation.

### 3. Criminal History Errors:

- SBI incorrectly links another person's criminal history to the applicant.
- MBCC staff mistakenly match the applicant to someone else's criminal history.
- A conviction that should have been removed remains on the record.

# Error Correction and Waivers

## Waivers 1

### When are waivers used?

- A provider may request a waiver to hire an applicant with a disqualifying criminal conviction.
- Waiver requirements and considerations for the State are outlined in §9054(13) and §9054(15) of the MBCC statute.
- Waivers **cannot** be requested for registry disqualifications. There is a separate process to petition for change/removal from the Registry.

# Error Correction and Waivers

## Waivers 2

### Waiver Process Steps:

1. The provider sponsors the waiver by requesting it in the MBCC system and submitting a completed waiver request form from the applicant.
2. The provider must attest to considering the following factors:
  - Nature and gravity of the disqualifying offenses.
  - Time elapsed since the offenses.
  - Nature of the employment held or sought.
  - Whether the conduct was employment-related.
  - A reasonable conclusion that the individual does not pose a threat to protected individuals or others in their care.

# Error Correction and Waivers

## Waivers 3

**Each waiver request is reviewed by a three-person panel at DLC.**

### **Factors MBCC Considers for Waiver Issuance:**

1. Age of the applicant at the time of the disqualifying offense.
2. Time elapsed since the offense.
3. Number and type of disqualifying offenses.
4. Proven mitigating circumstances.
5. Objective evidence of successful completion of a criminal rehabilitation program.
6. Relevance of the offense to the proposed employment.
7. Length and consistency of post-conviction employment, if applicable.
8. Whether the individual is bonded under federal or state law.
9. Personal references or recommendations from employers.

# Error Correction and Waivers

## Waivers 4

### Waiver Statistics (03/01/2017 to 09/30/2024)

**Total Waivers Requested: 360**

- **Total Waivers Granted: 245**
- **Total Waivers Denied: 115**

### Reasons for Denial:

- **Request Rescinded by Provider\*: 60**
- **Non-Compliant\*\*: 46**
- **Denied for Cause: 7**
- **Denied for Registry Disqualification: 2**
- **Disqualification Conviction Removed from Record: 1**
- **Revoked for New Conviction: 1**

\*Provider withdrew request to hire applicant

\*\*Applicant failed to complete the waiver request form

# MBCC Website

URL: <https://www.maine.gov/dhhs/dlc/safety-reporting/maine-background-check-center>

Maine.gov Agencies | Online Services | Help | Search Maine.gov Select Language

STATE OF MAINE  
Department of Health and Human Services

Hotlines | Contact Us | Online Services | Privacy

Search DHHS SEARCH

Division of Licensing and Certification

DLC Home About Us Healthcare Oversight CNA Registry Licensing & Certification Safety & Reporting

DHHS → Division of Licensing and Certification → Safety & Reporting → Maine Background Check Center

Safety & Reporting

File a Complaint

File a Vaccine Eligibility Site Complaint

Report a Facility Incident

Sentinel Events

**Maine Background Check Center**

## Maine Background Check Center

The Maine Background Check Center (MBCC) is a secure, web-based system operated by the Maine Department of Health and Human Services (DHHS) in partnership with the Maine Department of Public Safety (DPS) and regulated employers that provide care and services to vulnerable Maine citizens.

For more information, visit the [Maine Background Check Portal](#).

### Training Resources

The Maine Background Check Center (MBCC) is a web-based application that has been developed to assist healthcare providers with performing registry checks and processing background checks for applicants in an efficient and effective manner.

There are PDFs and videos to help walk you through different parts of the process.

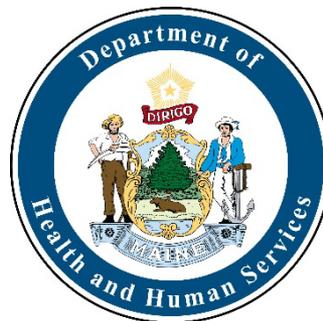
- [User Manual \(PDF\)](#)
- [Instructions for New Payment Portal \(PDF\)](#)

### Video Instructions:

- [Perform a Quick Check \(Youtube\)](#)
- [User Registration \(Youtube\)](#)
- [Login \(Youtube\)](#)
- [Enter Application Information \(Youtube\)](#)
- [Complete Registry Checks \(Youtube\)](#)
- [Preliminary Decision \(Youtube\)](#)
- [Determination \(Youtube\)](#)
- [Final Decision \(Youtube\)](#)
- [Error Correction \(Youtube\)](#)

# The Maine Background Check Center: An Introduction to Maine's Legislation and Provider Responsibilities

## Questions?



## Stocco, Janet

---

**From:** Jane Sternecky <jsternecky@uniformlaws.org>  
**Sent:** Thursday, October 10, 2024 11:21 AM  
**To:** Stocco, Janet  
**Subject:** RE: [EXTERNAL] Request from Maine for information on the Uniform Collateral Consequences of Conviction Act

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

**This message originates from outside the Maine Legislature.**

Janet:

I am following up to answer a couple outstanding questions from the hearing in late September.

The first question was about the availability of data demonstrating the success of the Act in enacting states. Unfortunately, I am not aware of any data, but will continue to look and let you all know if I locate any.

Second, the committee asked about the Act's requirements regarding federal collateral consequences. Section 4(c) states that the enacting state must include the title and internet address for the collection of collateral consequences imposed by federal law, and any provision of federal law that may afford relief from a collateral consequence. The National Inventory of Collateral Consequences of Conviction has compiled federal consequences as well; these can be searched by using the "Include Federal Consequences" checkbox on the website.

As far as relief, because this is state-level legislation, defendants are notified of federal consequences so they can understand the ramifications of a plea or conviction and so they can conduct themselves in accordance with the law. However, it is our current interpretation that the Act does not have the authority to grant relief from federal consequences. This would remain true for federal collateral consequences involving firearms.

Please do not hesitate to get in touch if I can answer any other questions.

Best,  
Jane

**Jane Sternecky (she/her) | Uniform Law Commission**  
Legislative Counsel  
111 N. Wabash Avenue, Suite 1010  
Chicago, IL 60602  
(312) 450-6622 | [jsternecky@uniformlaws.org](mailto:jsternecky@uniformlaws.org)

---

**From:** Jane Sternecky  
**Sent:** Tuesday, September 24, 2024 12:45 PM  
**To:** 'Stocco, Janet' <Janet.Stocco@legislature.maine.gov>  
**Subject:** RE: [EXTERNAL] Request from Maine for information on the Uniform Collateral Consequences of Conviction Act

Hi, Janet:

Thank you all for making the time for today's presentation. Attached is a copy of my PowerPoint for distribution to the Committee. I am also attaching a fiscal note from New Mexico's legislature that may be of interest.

**Stocco, Janet**

---

**From:** Prawer, Samuel W <Samuel.W.Prawer@maine.gov>  
**Sent:** Friday, November 15, 2024 2:54 PM  
**To:** Stocco, Janet; Paddon, Sophia  
**Subject:** MDOC Info Request for CRRC  
**Attachments:** MDOC Correctional Programming Guide.pdf; MDOC Technical and Trade Program Guide.pdf

**This message originates from outside the Maine Legislature.**

Good Afternoon Janet and Sophie,

Following up to provide some information that was previously requested of MaineDOC by the CRRC regarding the programming we provide in our facilities. I've attached some resources to this email that we are currently in the process of updating, so I must give the caveat that these are not representative of the full scope of services we currently provide. We will be presenting updated information to the Criminal Justice Committee during orientation in the upcoming session. Nevertheless, I was told it'd be helpful to have some information.

Attached to this email are the following documents:

1. **MDOC Technical and Trade Program Guide** – Listing many, but not all, of the vocational, technical, and trades programs we offer. Most of the “Coming Soon” programs have been implemented. One of the highlights we'll be discussing at the beginning of the next legislative session is how we've partnered with relevant agencies to enhance these programs with meaningful credentials. For example, last year, we began our very first commercial driver's license credentialing program. Allowing people to leave our facilities with a CDL and very often with a job requiring that credential.
2. **MDOC Correctional Programming Guide** – This guide is accessible on our website and has previously been presented to the Legislature. It provides an overview of our facilities and our approach to classification and programming. As I mentioned before, it is a couple years old and needs to be updated to include how our department has expanded and adjusted our approach to programming. Many new programs and approaches have been implemented since this guide was developed. For instance, we've taken a multi-pronged approach to treatment for substance use disorder, which includes medication assisted treatment. We've also greatly expanded the educational opportunities and employment opportunities for residents since the initial roll out. A full update will be provided during legislative orientation.

If there are follow up questions related to any of this information, please encourage people to reach out.

-Sam

Samuel W. Prawer  
Director of Government Affairs  
Maine Department of Corrections  
207-592-2000

Maine Department of Corrections

# Correctional Programming Division



Maine Department of Corrections  
Central Office  
25 Tyson Drive 3rd floor  
State House Station 111  
Augusta, Maine 04333-0111  
Telephone: (207) 287-2711  
Fax: (207) 287-4370  
TTY: Call Maine Relay 711



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<https://twitter.com/MECorrections>

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## Correctional Programming

Correctional programming intersects with many aspects of an offender’s life during their incarceration. With a goal of ensuring an offender successfully reintegrates back into the community, the Maine Department of Corrections is committed to ensuring they leave with the education, life skills, and treatment to succeed despite previous obstacles.

Areas that fall under Correction Programming include:

- Classification and Assessment
- Unit Management and Case Management
- CQI (Continuous Quality Improvement) and Data
- Mental Health, Substance Abuse and Sex Offender Treatment Services
- Non-treatment Programming
- Recreation, Religion, and Activities
- Educational Services
- Vocational Services
- Reentry Services
- Restrictive Housing
- Victim Services



*Deputy Commissioner  
Ryan Thornell, Ph.D.*

# A Message

## from the Deputy Commissioner

This handbook is intended to provide the reader with a comprehensive overview of Correctional Programming available across the Maine Department of Corrections (MDOC), including the areas that comprise the programming division, the key initiatives underway, and the services offered.

The average sentence of an offender in the custody of the MDOC is 15 months (excluding sentences greater than 40 years). That means regardless of how that individual spends their time in custody, they will ultimately be back in our communities, on average, in less than two years. Providing them with educational, vocational, and behavioral programming targeting and reducing criminogenic risk (those risks which contributed to their incarceration) is our focus.

Correctional Programming in MDOC has undergone significant transformation, expansion, and enhancement in recent years. As you will see in the pages that follow, programming staff provide evidence-based, 21st century risk reduction services to offenders beginning upon an offender's admission into the MDOC all the way through their reintegration into the community. Day to day, staff focus on utilization of the Principles of Effective Intervention – focusing on risk, needs, responsivity, and fidelity of services which combined help mitigate the rate of returns to MDOC custody.

We take our Department's mission seriously, focusing on behavioral change and rehabilitation in an effort to improve offender reintegration and reduce reoffending. Targeted programming is provided based upon objective assessments and sound case management strategies. Additionally, offenders are provided opportunities to be trained by Maine-based employers and hired into Maine-based jobs during work release or upon reentry. These opportunities reduce reoffending and support stronger families and communities.

As you learn more about the Correctional Programming provided in Maine, you will notice our commitment to continuous quality improvement and the roadmap provided by our Strategic Plan. We pride ourselves on our efforts to adhere to fidelity in our practices, challenge status quo provisions, and think outside-the-box. As we expand professional development and implement new technologies across our Department, we look forward to the future initiatives that build upon the tremendous work of our staff.

I hope you find this handbook informative and useful, and encourage you to explore other informational resources available on the MDOC website @ [www.maine.gov/corrections/home/quality.shtml](http://www.maine.gov/corrections/home/quality.shtml)

# The Correctional Programming Division

The Correctional Programming Division is committed to serving the State of Maine by ensuring offenders—from the recently incarcerated to the long-term committed—leave our facilities with the skills, treatment, and education needed to succeed after their period of incarceration. To ensure effectiveness, we monitor the Division by:

- Reporting regularly on key performance measure outcomes
- Monitoring programs and program delivery for fidelity
- Ensuring programming and treatment services are evidence-based and adhere to national best practices
- Making quality treatment and programming accessible to offenders
- Training, coaching, and mentoring staff to enhance their proficiency in delivering programs and services
- Using current technology for program delivery

The purpose of this publication is to inform the reader on the Maine Department of Corrections (MDOC) Correctional Programming Division offender rehabilitation efforts through targeted programming and treatment services provided during incarceration. It also offers a broad overview of processes and practices employed by MDOC from initial offender intake, to discharge and community reentry.

In the State of Maine, offenders whose sentence is equal to or greater than nine months and one day are sentenced to the care and custody of Maine Department of Corrections. All lesser sentencing is served in the jurisdiction in which the crime was committed.

The following sections will provide a look at the inner workings of Adult Correctional Facilities at Maine Department of Corrections and our efforts to rehabilitate offenders. These concerted efforts contribute to fulfilling our Department's mission (see box on right).



The mission of the Department of Corrections is to reduce the likelihood that juvenile and adult offenders will re-offend, by providing practices, programs and services which are evidence-based and which hold the offenders accountable.

**MAINE  
DEPARTMENT  
OF CORRECTIONS**

**ADULT  
FACILITIES  
CAPACITY**

Based on  
Bed Capacity

★ Work Release Site

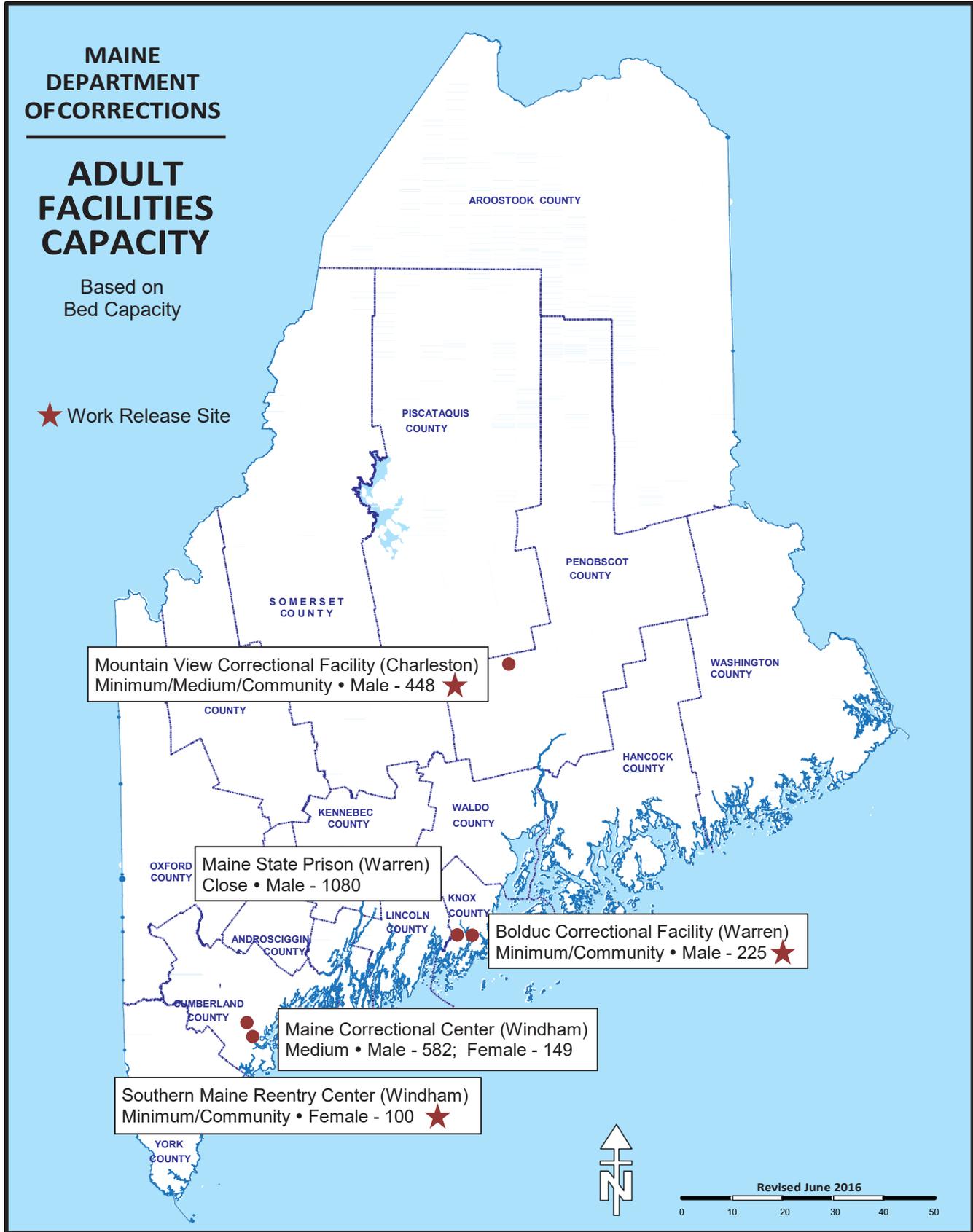
Mountain View Correctional Facility (Charleston)  
Minimum/Medium/Community • Male - 448 ★

Maine State Prison (Warren)  
Close • Male - 1080

Bolduc Correctional Facility (Warren)  
Minimum/Community • Male - 225 ★

Maine Correctional Center (Windham)  
Medium • Male - 582; Female - 149

Southern Maine Reentry Center (Windham)  
Minimum/Community • Female - 100 ★



Revised June 2016  
0 10 20 30 40 50

APPROXIMATE SCALE IN MILES

# Overview of MDOC Adult Facilities

The Maine Department of Corrections (MDOC) has five adult correctional facilities spanning from Southern Maine through Central and Western Maine, with a total average daily population of 2,450 in 2018.

## Maine Correctional Center and Women's Center

Maine Correctional Center (MCC) is Maine's primary adult reception facility for both male and female offenders and is located in Windham. At any time, this medium security facility has an average census of 582 male and 149 female offenders. All offenders sentenced to less than five years are directly admitted to this facility.

## Mountain View Correctional Facility

Mountain View Correctional Facility (MVCF) has a split population and functions as both a medium and minimum security facility for male offenders and is located in Charleston. It has a capacity of 448 Minimum/Community beds. Both Medium and Minimum beds are located on the same campus, however they are different buildings with appropriate security/accommodations for their respective custody levels. Medium custody provides treatment beds for residential substance abuse/sex offenders and the Young Adult Offender Program (YAOP). Community Custody provides reentry beds where offenders qualify for work release community job opportunities.

## Maine State Prison

Maine State Prison (MSP) is Maine's maximum security facility and is located in Warren. This facility houses an average of 1,080 male offenders. The offenders are classified as close and medium custody. MSP, like MCC, is a receiving facility but for specific offenders, those who sentence exceeds five years, have escape convictions or known escape attempts from a medium or higher security facility, have special needs such as severe mental or emotional health or physical disabilities which pose a threat to themselves or other offenders, and those who have been released within the last three years and at the time of release were classified as close custody. MSP also houses the Department's Intensive Mental House Unit.

### Maine Department of Corrections Adult Facilities

Maine Correctional Center (MCC)  
and Women's Center  
17 Mallison Falls Road  
Windham, ME 04062  
(207) 893-7000  
Medium Custody  
Male and Female Population

Mountain View Correctional  
Facility (MVCF)  
1182 Dover Road  
Charleston, ME 04422  
(207) 285-0880  
Medium/Minimum/Community  
Custody  
Male Population

Maine State Prison (MSP)  
807 Cushing Road  
Warren, ME 04864  
(207) 273-5300  
Close Custody  
Male Population

Southern Maine Women's Reentry  
Center (SMWRC)  
230 River Road  
Windham, ME 04002  
(207) 893-7132  
Minimum/Community Custody  
Female Population

Bolduc Correctional Facility (BCF)  
516 Cushing Road  
Warren ME 04864  
(207) 273-2036  
Minimum/Community Custody  
Male Population

## Overview of MDOC Adult Facilities continued

### Work Release Facilities

The Department operates three facilities that participate in work release:

- Bolduc Correctional Facility
- Mountain View Correctional Facility
- Southern Maine Women's Reentry Center

The work release program in the minimum facilities provides offenders who meet specific criteria the opportunity to gain employment in the community.

The program allows for offenders to earn wages which are used for room and board, restitution, personal expenses and savings.

**The Average Length of Stay  
for adult MDOC offenders  
is 1.71 years  
(or, 20.52 months)**

### Southern Maine Women's Reentry Center

Southern Maine Women's Reentry Center (SMWRC) is Maine's only female reentry center and is located in Windham. This is a 100-bed capacity minimum-security work release facility. Offenders residing here are minimum or community classification level and can work in the community while still being incarcerated. Female offenders can qualify for SMWRC when they have four years or less remaining on their sentence and are classified as minimum security.

### Bolduc Correctional Facility

Bolduc Correctional Facility (BCF) is a minimum and community custody facility with a capacity of 225 male offenders, located in Warren. Offenders residing here have four years or less left on their sentence. Programming and services include educational and vocational training, substance abuse treatment and the ability to participate in a community work release program.

# MDOC Strategic Initiatives

## Restrictive Housing Reform

The Maine Department of Corrections has taken a proactive approach in reforming the use of restrictive housing. The outcomes of these efforts includes decreased placements, shortened duration of placements, decreased facility incidents, and improved case plan and program compliance.

On average, 1% of the Department's adult prison population is housed in a restrictive housing setting at any given time. A few aspects of the new approach to restrictive housing include:

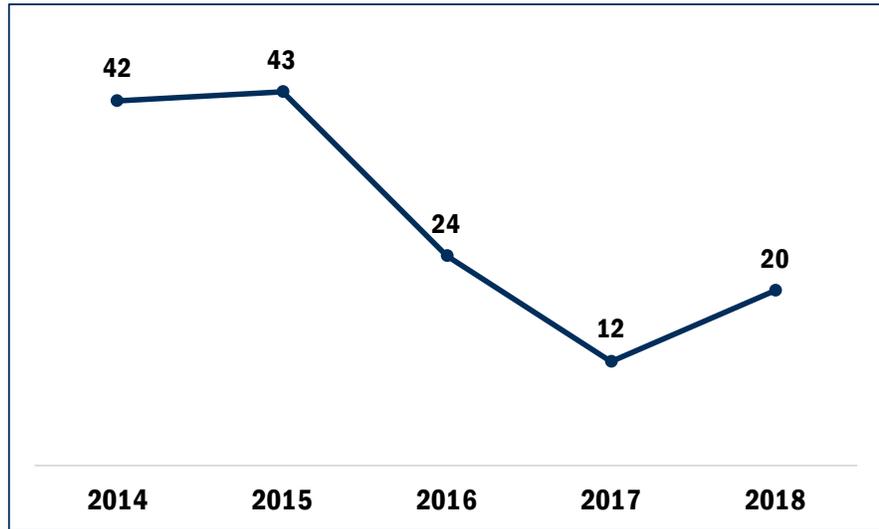
- Offenders spend two to four hours out of their cell each day, seven days per week, for programming and education, recreation, on-unit work, and structured activity.
- The new physical environment provides considerably more daylight, access to improved outdoor recreation space, modern exercise equipment, and secured programming space.
- Use of a revised level system allows offenders to earn additional privileges, property, and commissary, as well as paid work opportunities and gradual decreased use of restraints.
- High level of accountability in the placement and review process.

Restrictive Housing (also known as solitary confinement) is defined as “the inability (for an offender) to leave the room or cell for the majority of the day, typically 22 hours or more.”



*The Restrictive Housing Unit at the Maine State Prison.*

### MDOC Strategic Initiatives continued



*Average Daily Population (Maine State Prison) Segregation Unit. Review and then reforms were implemented in September 2015.*

Every offender placed in restrictive housing is reviewed within the first 72 hours of placement, and if retained, provided an appropriate case plan. Behavioral expectations, regular and meaningful reviews, and individual case plan progress are utilized to progress offenders back into general population in the most safe and efficient manner.

#### **Intensive Mental Health Unit**

- Provides mental health patients with a structured daily routine with intensive clinical treatment and care.
- Delivers educational and enrichment programming, along with agricultural activities.
- Ensures regular and adequate security and safety for staff and residents.

#### **Intensive Mental Health Unit (IMHU)**

The Maine Department of Corrections provides intensive treatment and care of incarcerated individuals with serious mental health challenges. Maine State Prison houses the Intensive Mental Health Unit (IMHU), for acute or severe mental health needs. The IMHU is a 32-bed unit and was opened in February 2014. Since that time, the IMHU has continuously housed an average of 25 residents referred from within the Department of Corrections, Riverview Psychiatric Center, and Maine’s County Jails. Since the IMHU opened, it has housed the most behaviorally challenging offenders suffering from acute, severe, and persistent mental health issues. The IMHU special needs population has received intensive, focused treatment, not available in general population at this or other DOC facilities.

## MDOC Strategic Initiatives continued

### **Release and Reentry**

The Maine Department of Corrections releases approximately 1,200 offenders annually. Reentry planning is initiated at the time of admission and is a focus throughout an offender's time, most notably during the last nine months of incarceration. A high percentage of these offenders release directly from a treatment program or pre-release setting to the community. In order to adequately address an offender's reentry needs, the Department provides a variety of services including:

- Dedicated intensive reentry Case Managers who work with offenders up to 30 days prior to their release and 90 days after release.
- Enrollment in the WorkReady vocational education program.
- Enrollment in the Planning Your Release (or similar) release planning program.
- Individualized release planning with case management staff, beginning at the time of admission and becoming a primary focus nine months before release.
- Referral to Department of Health and Human Services (DHHS) Intensive Case Management Services (if appropriate).
- Partnerships with DHHS, Social Security, Bureau of Motor Vehicles, and Department of Labor Career Centers for direct referrals and provisions of services.
- Placement onto the Supervised Community Confinement Program.

### **Gender-Responsive Practices**

To achieve successful outcomes for female offenders, the Maine Department of Corrections uses evidence-based, gender-responsive, and trauma-informed assessments and programming. Challenges faced by women involved in the criminal justice system differ from their male counterparts. These issues and challenges, such as domestic/sexual violence, substance abuse, trauma and motherhood, are circumstances taken into account by the Department when designing effective programming and services for female offenders.

# Initial Incarceration

## Assessment Tools

The Maine Department of Corrections uses a variety of screening and assessment tools to place offenders in appropriate treatment services.

Current assessment tools include:

- LSI-R
- SPIn-W
- PREA screening
- TCUDS II
- ODARA

## Intake and Assessment

Upon admission, offenders receive an orientation by security staff to review rules, policies, and general information prior to being placed on the Intake Housing Unit. Offenders placed here can remain on observation status for up to 72 hours. During this time the offender's conduct is observed closely by security staff before being allowed to have contact with other offenders in the Intake Housing Unit.

While in the unit, offenders undergo a wide array of assessments. Conducted by a multidisciplinary team of professionals, assessments consist of medical, security, mental health, and case management. All assessments and screenings are completed within a 14-day period from time of initial incarceration.

## Validated Assessment Tools Used

### Level of Service Inventory-Revised (LSI-R)

Administered by the Intake Housing Unit Case Manager, the LSI-R is an actuarial assessment tool designed to identify offender's risks and needs with regard to recidivism. The LSI-R seeks to classify an offender's risk of re-offending as well as to identify their criminogenic needs. This assessment is used in combination with other assessment tools to determine appropriate treatment and programming an offender receives while incarcerated.

### The Service Planning Instrument for Women (SPIn-W)

The SPIn-W is a gender-responsive assessment and case planning tool for female offenders. This assessment tool is administered by a Case Manager within 14 days of admission and is used in combination with other assessments to determine appropriate treatment and programming an offender receives while incarcerated.

## LSI-R Risk Domain Areas

- Criminal History
- Education/Employment
- Financial
- Family/Martial
- Accommodation
- Leisure/Recreation
- Companions
- Substance (Alcohol/Drug) Problems
- Emotional
- Attitudes/Orientation

## SPIn-W Risk Domains

- Criminal History
- Response to Supervision
- Family and Children
- Social Network
- Substance Use
- Vocational/Employment
- Attitudes
- Social/Cognitive Skills
- Mental Health
- Violence
- Community Living

SPIn-W reviews about one hundred areas to assess risk, needs and protective factors that are relevant for increasing responsiveness in case work with female offenders.

Domains include attitudes, aggression, interpersonal skills, and cognitive skills and take into account how these risk factors are manifested in female populations.

## Initial Incarceration continued

### **Prison Rape Elimination Act (PREA)**

PREA, a Federal Act passed in 2003:

- provides for the analysis of the incidents and effects of prison rape in Federal, State, and local institutions
- provides information, resources, recommendations and funding to protect individuals from prison rape
- states all jails and prisons must comply with aspects of this mandate

MDOC includes a PREA screening for potential sexual violence, prevention, detecting, and ultimately eliminating of sexual abuse of offenders at intake. MDOC has PREA compliance staff who monitors and follow-up on all allegations of offender sexual abuse. Appropriate actions are taken for victims and perpetrators if sexual violence has taken place at an MDOC facility. The PREA compliance staff is also responsible for mandatory reporting to the Federal Government agency.

### **Comprehensive Medical, Behavioral Health, Substance Abuse, and Sex Offender Assessments**

Upon admission, Wellpath, MDOC's comprehensive medical care contracted provider administers formal and informal screenings and assessments. Within 14 days of admission, offenders are assessed by a mental health clinician for needs which may require a referral to psychiatry or follow up treatment. Offenders also receive a full medical exam to identify medical needs requiring ongoing care and/or follow-up care. The medical department will document restricted activities that could impact housing and work assignments. Substance abuse screenings are conducted in conjunction with the mental health assessment. Offenders with assessed need of substance abuse, mental health and other medical care are referred to appropriate services by the MDOC medical vendor.

### **Texas Christian University Drug Screen II (TCUDS II)**

TCUDS II is a standardized 15-item screening tool that helps identify individuals with a history of heavy drug use or dependency. The instrument is widely used in adult criminal justice and correctional settings. Items on the TCUDS II represent key clinical and diagnostic criteria for substance abuse dependence as specified in the Diagnostic and Statistical Manual (DSM-IV) and the NIMH Diagnostic Interview Schedule (NIMH DISC).

## Initial Incarceration continued

### MDOC Security Custody Levels

- Close Custody: Offender has demonstrated irresponsible behavior (assaultive/dangerous behavior/threats, serious institutional misconduct, history of escape or escape attempt, etc.)
- Medium Custody: Offender has demonstrated limited responsible behavior.
- Minimum Custody: Offender has demonstrated responsible behavior.
- Community Custody: Offender has demonstrated sustained responsible behavior and is case plan compliant.

### Types of Housing Units

- Reception/Intake
- General Population
- Long-Timers
- Close Custody
- Pre-Release
- Veteran's Pod
- Restrictive Housing (RH)
- IMHU (Intensive Mental Health Unit)
- Residential Sex Offender (SO) Program
- Young Adult Offenders
- Assisted Living
- Residential Substance Abuse (SA) Program

### Ontario Domestic Assault Risk Assessment (ODARA)

The ODARA is an assessment tool used to identify the risk of future assaults against intimate partners, and was developed by the Ontario Provincial Police and the Ontario Ministry of Health and Long Term Care. It was the first empirically developed and validated domestic violence risk assessment tool to assess risk of future intimate partner violence as well as the frequency and severity of these assaults.

### Classification

Offender classification is a procedure by which each offender is rated per his/her institutional risk to determine an appropriate housing unit. An initial classification is performed upon admission to a correctional facility after completion of the various intake assessments. An offender's classification board is made up of a Unit Manager, a Case Manager, and a Correctional Sergeant or Officer from the reception unit. Taken into consideration for the initial classification are: crime(s) committed, risk assessments, the Case Manager's intake summary, any other intake assessments, and current and/or past behaviors during incarceration.

Offenders then meet with the board and are given their projected custody level (there are four security classifications custody levels, see box on left) as well as their recommended housing assignment. This provides the offender the opportunity to ask questions or provide additional input; they can also appeal their classification decision once it has been finalized. All scores are sent electronically to the Director of Classification for review and approval.

### Re-Classification Review Meetings

Re-classification review meetings are completed to highlight progress, behavior, programming, and ultimately—custody level. Like initial classification, the re-classification process includes a scoring instrument that takes several factors into consideration. Appropriate behavior, being discipline free, case plan compliant, and having adapted well to their living situation may result in a lower classification custody level. Individuals who struggle behaviorally, and are not compliant may also increase their custody level.

### Frequency Of Scheduled Classification Reviews

Offenders are scheduled to be reviewed as follows:

- Annually - Offender has more than 4 years (by current custody release date) remaining on their sentence.

## Initial Incarceration continued

- Every Six Months - Offender has less than 4 years, and/or are transgender/intersex.
- Interim Classifications - Interim classifications can be held at any time if situations change significantly and/or suddenly.

### Offender Privilege Level System

The MDOC's offender Privilege Level System provides an objective system of incentives to offenders in response to their engagement in rehabilitative, responsible and pro-social behavior during their period of incarceration. The Privilege Level System applies to all secure facilities. All newly admitted offenders start as Level 1, the most restrictive level and progress from there.

As offenders meet time frames and behavioral expectation criteria, they can apply to advance in the level system through written request to their assigned Case Manager. The application is reviewed by their housing unit staff team. If denied, the Unit Team will provide meaningful feedback to the offender identifying specific areas of needed improvement.

The Privilege Level System provides case managers an opportunity to reinforce positive offender behavior while bringing awareness and intervention strategies to negative behaviors. The system promotes offenders for positive behavior and choices.

### Unit Management

Within Maine's correctional facilities, offender housing areas are divided into housing units, usually defined by custody levels. These units are governed by the Unit Management Team. Unit management is an approach to managing a diverse population of offenders and each uses a multi-disciplinary team approach in overseeing all aspects of an offender's day to day life. The team includes a Unit Manager, Correctional Officer, Case Manager, Sergeant, as well as administrative and clinical staff. This team has authority to make decisions and recommendations regarding security, classification, services, and programming for offenders.

Unit management provides consistency and routine on the unit to help maintain safety for offenders and staff, as well as providing opportunities for offenders to engage in pro-social interactions with staff.

### Unit Management Approach

- Provide an environment emphasizing safety and security for staff and offenders
- Ensure efficient allocation of staff and fiscal resources
- Promote staff teamwork and cooperation
- Encourage staff/offender contact and interaction
- Hold weekly meetings with Unit Team

### Unit Team Members:

- Unit Manager
- Sergeant
- Case Managers
- Correctional Officer(s)
- Unit Clerk
- Others may include mental health, educational, and medical staff

### Unit Manager's Responsibilities

- Offender's orientation to the unit
- Housing assignments (within and between pods)
- Case management
- On-unit programming (individual/group counseling, educational groups, stress/anger management, drug/alcohol education groups, etc.)
- Reclassification (custody level and programming)
- Transfer recommendations (inter-unit or inter-facility)

## Initial Incarceration continued

### **Correctional Case Management is present within All MDOC Facilities**

Every offender—regardless of gender or security classification—is assigned a Case Manager upon reception to the MDOC.

### **Case Management Services for Offenders**

From initial incarceration to release, MDOC Case Managers (CM) provide critical services for all offenders. Case Managers complete several assessments to gather information on offenders. This includes a comprehensive psychosocial assessment, risk assessment (Level of Service Inventory Revised-LSI-R), Prison Rape Elimination Act (PREA) assessment, and an intake summary report.

CMs use the information gathered during these assessments to inform the offender’s initial classification. Once the risk assessment is completed, the CM will review results with the offender and begin the development of their case plan to address the higher-risk domains. CMs are responsible for referring offenders to appropriate programming, based on risk and other assessments.

An example of a case plan goal area may be around antisocial attitudes and beliefs that contributed directly to an offender’s incarceration. In this case, the Case Manager would likely refer the offender to the “Thinking for a Change” program. This evidence-based program addresses offender antisocial attitudes and beliefs and equips them with strategies to make positive change. Offender case plans are dynamic and are continually reviewed to ensure the highest risk areas are targeted. At a minimum case plans are formally updated twice annually.



## Initial Incarceration continued

Case Managers also facilitate offender rehabilitation groups. Groups typically are held bi-weekly and may run 90 minutes in duration. The focus of these groups is to promote healthy, pro-social interaction and thought processes. Cognitive behavioral therapy theory is woven into these groups.

When an offender has nine months remaining until release, the CM coordinates with community service providers, Probation and Parole (if released to probation status), and family members to ensure the best possible success in transition back to the community. It is important to encourage an offender to maintain pro-social relationships as these provide a support system necessary for the successful reintegration into the community.

### Foundations of Case Management in Maine DOC

In early spring 2018, the Department finalized a training and orientation manual for existing and new hire Case Managers. The manual is comprehensive, covering the expansive role of case management. To effectively manage offender caseloads, MDOC trains its CMs in several key evidence-based approaches, techniques, and intervention styles:

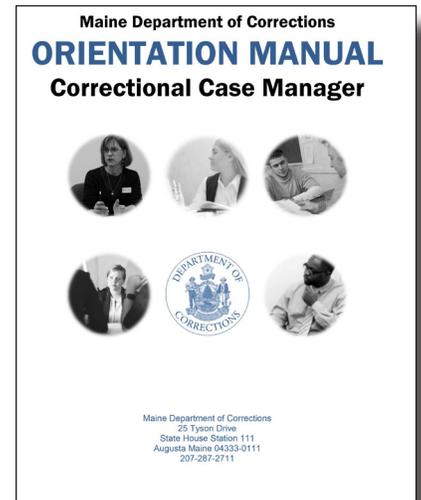
#### • Principles for Effective Offender Intervention

The MDOC employs Principles for Effective Offender Intervention as developed by The National Institute of Corrections (NIC) in all case management practices. The NIC highlights eight well researched, proven principles to effectively manage offender caseloads. These principles are:

- Assess Actuarial Risks and Needs
- Enhance Intrinsic Motivation
- Target Intervention
- Skill Train with Directed Practice
- Increase Positive Reinforcement
- Engage Natural Support in Natural Communities
- Measure Relevant Processes/Practices
- Provide Measurement Feedback

#### • Core Correctional Practices

In addition to Principles of Effective Offender Intervention, MDOC staff are trained in Core Correctional Practices. This approach of interaction with offenders was developed to support cognitive behavioral programming. Used in this approach are relationships skills, effective use of reinforcement, effective use of disapproval, effective use of authority, pro-social modeling, cognitive restructuring, social skills training and problem solving skills.



*In early spring 2018, the Department finalized a training and orientation manual for existing and new hire Case Managers. The manual is comprehensive, covering the expansive role of case management in MDOC.*

## Programming for Offenders Continues Throughout Their Stay with MDOC

Offender enters MDOC system and is assessed by

- Medical Staff
- Security Staff
- Case Manager

Offender is assessed by medical staff for:

- Medical needs
- Behavioral Health needs
- Substance Abuse/Use Needs
- Sex Offender treatment needs

Case Manager assessments consists of:

- Psychosocial Assessment
- Prison Rape Elimination Assessment (PREA)
- Intake Summary Report
- Risks/Needs Assessment (using LSI-R™ or SPInW™)

Offender meets with Case Manager and a case plan is developed using assessments results.

Offender participates in appropriate programming which may include:

- Education
- Vocational
- Behavioral Health Treatment (e.g. Substance Abuse and Sex Offender)

90 days before release offender's reentry plan is reviewed and adjusted (if needed) for:

- Housing
- Employment
- Continuation of needed treatment

## Initial Incarceration continued

### • Creating Regulation & Resilience (CR/2)

CR/2 is a communication model designed to foster productive interactions with incarcerated offenders. All Case Managers, Correctional Officers, and facility staff are required to attend this two-day training. Grounded in research on the neuro-physiology of trauma and resilience, CR/2 translates research on trauma-informed care, evidence-based, and promising interventions into an integrated approach that can enhance outcomes. CR/2 was jointly developed by Orbis Partners and Core Associates, LLC. (<http://orbispartners.com/programs/cr2/>)

The CR/2 model introduces skills and strategies that have demonstrated positive results in:

- Enhancing motivation
- Supporting growth and behavior change
- Reducing recidivism

Training materials include exercises, case examples, and reflective activities that demonstrate how CR/2 can be used to work more effectively with offenders in the moment and across a variety of professional roles, functions and tasks, including:

- Crisis management and de-escalation
- Maintaining professional boundaries
- Conducting assessments, building case plans, facilitating groups
- Fulfilling operational procedures

### • Risk, Needs, Responsivity and Fidelity

The Risk, Needs, Responsivity, and Fidelity (RNR-F) model provides a programmatic approach to principles of effective intervention. Programs that adhere to these four principles have a greater likelihood of reducing an offender's return to custody. Assessing who we target, what and how we target, as well as focusing on how well we deliver the programs, are essential in effective correctional intervention.

# Treatment and Rehabilitation Services

The Maine Department of Corrections (MDOC) provides comprehensive treatment and rehabilitation services to offenders. These evidence-based programs and services target criminogenic needs identified at admission through a validated risk assessment tool (see pages 10-11).

## **Behavioral Health Treatment Services**

Structured, evidence informed and evidence-based behavioral health services are available to all offenders in our adult corrections facilities through a contract with Wellpath. Wellpath strives to ensure all programming and treatment is trauma informed, gender responsive, and individualized. Offenders are screened and assessed for behavioral health needs during intake and reassessed regularly throughout their incarceration on an as needed basis.

## **Intensive Mental Health Unit (IMHU)**

In 2014, MDOC received legislative approval to develop and open the state's first and only Intensive Mental Health Unit (IMHU), located within the secure perimeter of Maine State Prison (MSP). The IMHU houses up to 32 MDOC and county jail offenders who suffer from an acute, sub-acute, or chronic mental illness and/or are violent. The IMHU provides modern, comprehensive mental health and medical care to those corrections clients most in need, in a setting separate from the general prison population. Since opening, programming in the IMHU has helped decreased the frequency of self-injurious behavior; reduced violence; increased medication compliance; and improved the transition and transfer process of mentally ill clients back to county jails, communities, or state hospitals.

The IMHU has received nearly 200 referrals for placement from MDOC facilities and county jails. For those acute and sub-acute cases in which stabilization is possible, the average length-of-stay in the IMHU is approximately 120 days. This excludes the chronic cases which may remain in the IMHU indefinitely.

## **Behavioral Health Treatment Services are Available to All MDOC Offenders**

Wellpath is an independent contractor that provides medical and behavioral health services for offenders in all Maine DOC facilities.

Day One (subcontracted with Wellpath) provides substance abuse treatment to males at Mountain View Correctional Facility.

## **IMHU Evaluation**

Through a 2016-17 evaluation and corrective action plan, the Intensive Mental Health Unit (IMHU) has seen a shift in Departmental oversight, unit management, staff training and professional development, revised policy and procedure, enhanced communications and reviews, and heightened programming and treatment.

The results include:

- Increased staff satisfaction.
- Improved medication compliance and stabilization.
- Decrease in fights, assaults, suicide behavior, self-abuse, use of force, use of restraints, use of weapons, grievances and disciplines.

## Treatment and Rehabilitation Services continued



*Recent additions to the IMHU include rocking chairs and exercise equipment.*



These positive results have all been obtained while continuing to house the state's most dangerous, mental health patients for the prison system and the county jails – offenders for which there is no other suitable placement.

### Sex Offender Assessment and Treatment

All sex offenders are screened upon intake to identify static and dynamic factors (see box on left) relevant to their treatment and management, and are reassessed on a regular basis during the course of programming. Those offenders identified as needing treatment and being appropriate for services receive intensive, evidence-based treatment at Maine Correctional Center or Mountain View Correctional Facility. Those offenders qualifying for a pre-release placement participate in Sex Offender Aftercare Programming Recovery Model (e.g., check-ins, process groups, self-guided assignments, relapse prevention planning, building support networks, etc.).

### Substance Abuse Treatment and Recovery

The Maine Department of Corrections offers substance abuse treatment programs at all its secure adult facilities. The Department partners with Wellpath and Day One to provide these services.

The Department has two residential substance abuse treatment programs for male offenders, the Correctional Recovery Center at the Maine Correctional Center (MCC) and the Substance Abuse Unit at Mountain View Correctional Facility (MVCF). Additional treatment programs are offered across MDOC facilities on an outpatient basis.

Both internal and external risk factors contribute to criminal behavior and recidivism. These factors are split into two categories:

**Static Risk Factors** are related to recidivism but cannot be altered through the delivery of services.

- criminal history
- family criminality
- age first admitted to a correctional facility
- number of prior incarcerations
- commitment offense

**Dynamic Risk Factors** are changeable and in flux throughout an individual's lifetime:

- company kept (family/martial status/peers)
- beliefs/attitudes/core values
- substance use
- employment/school status
- leisure activities/recreation

## Treatment and Rehabilitation Services continued

### **Cognitive Behavioral Treatment (CBT) Programs**

Cognitive Behavioral Treatment programs such as “Thinking for a Change” are designed to enable a participant to recognize risky, inaccurate, or negative thoughts and thought patterns and replace them with positive, healthy thoughts. Participants develop the ability to apply specific coping strategies when encountering difficult situations. CBT programs emphasize skill training with directed practice, in which participants practice real life situations and scenarios. They learn and practice new, pro-social skills and behaviors. The Department offers CBT programs at all its facilities.

### **Family Violence Education Program (FVEP)**

FVEP is a diversionary program and cognitive intervention focused on educating offenders regarding the impact of violence on relationships. FVEP provides offenders with the building blocks of interpersonal skills to develop violence-free relationships and an understanding of power and control dynamics.

### **Recovery Coach Program**

The offender/peer led Recovery Coach Program is designed to help offenders who have experienced problems with their use of alcohol and drugs. Offenders who have been trained as Recovery Coaches in the Connecticut Community for Addiction Recovery (CCAR) model help program participants plan and make positive changes in their lives, including preparing for life after release. The Recovery Coach Program is person-centered and strengths-based. The Deputy Chief Administrative Officer and facility staff provide support for the program at each facility where the program is offered.

The MDOC Recovery Coach Program honors all pathways of recovery, including faith-based and 12-step-based recovery paths. The program recognizes that trained peers—Recovery Coaches—are especially important in helping offenders initiate and maintain their recovery.

# Educational Opportunities for Offenders



The Maine Department of Corrections has 16 teachers throughout our adult facilities. In addition to adult basic education and high school equivalency classes, college classes are offered and offenders have opportunity to earn associate or bachelor's degree while incarcerated.

## Education Programs Offered in MDOC Facilities

### *Adult Basic Education (A.B.E.)*

This course works towards increasing offenders literacy while helping individuals gain the knowledge and skills necessary to be successful in life and work towards a high school diploma or equivalency.

### *High School Equivalency Test (HiSET)*

HiSET courses are designed to prepare offenders to pass the High School Equivalency Tests. The HiSET consists of five components and when all five tests are passed the student will receive a High School Equivalency Diploma (HSED) from the Maine Department of Education. This rigorous program will also help students to gain lifelong skills and establishes the foundation for attending college classes.

### *College Courses*

A variety of college programming is provided to offenders, from correspondence courses to Master's Degree level courses. Most of the college programming is offered through the Second Chance Pell Program and the Sunshine Lady Foundation, in partnership with the University of Maine and Southern Maine Community College. Students can enroll in college programming part-time or full-time with the option to pursue an Associate or a Bachelor of Arts Degree, primarily in Liberal Studies. Graduations are held every semester, with the most recent graduation including 8 Associate Degrees and 8 Bachelor Degrees. In addition, some DOC teachers provide college-level courses for credit, including Personal Finance and Business Law.

## Library Services

The library offers a large selection of reading materials (novels, autobiographies, documentaries, newspapers, magazines, etc.), including books available through inter-library loan.

Computers are also available for individuals cleared for usage.

The library offers West Law for legal research.

# Vocational Opportunities for Offenders

MDOC offers vocational training opportunities throughout our adult facilities. Vocational programming is taught by teachers and Vocational Trades Instructors (VTI). Offenders are equipped with gainful employment skills in trades and vocations. These programs combine classroom time with hands on, and on the job training. For individuals not ready to enter one of the vocational programs offered, MDOC provides WorkReady training, a Department of Education manualized certificate program. This 60-hour course teaches offenders the soft skills needed to seek out and obtain a job. These soft skills include preparing for the workforce, effective communication, how to work successfully with others, problem solving, diversity, resume and cover letter writing, employer forms, wages/benefits, and mock interviews.

## Vocational Programs

### *Automotive Repair Program*

This instruction includes basic maintenance, inspection, brakes, steering and suspension, basic electrical, computer controls, engine mechanical, transmission, drive train, emissions controls, heating and air conditioning, and basic diesel engine work. Classes prepare students for the Maine State inspection exam and for Automotive Service Excellence (ASE) testing.

### *Building Trades*

Students learn materials estimating, basic wood construction and assembly skills, along with finishing techniques. This course provides students the job skills necessary to enter a carpentry field at the apprentice level.

### *Business Basics/Financing*

Students learn the basics of starting and operating a small business. Classes cover market strategies, necessary legal forms, estimating expenses, working capital requirements, obtaining financing, and performance monitoring.

### *Computer Literacy & Computer Technology*

Students learn computing basics, Internet, email, operating systems, and software applications. Students have the opportunity to earn a nationally-recognized Digital Literacy certificate.

## Enrichment and Self-Help Groups

In addition to diverse education and vocational opportunities, many varied self-help and enrichment classes are also offered to offenders. These are taught by facility staff, offender peers, and community volunteers. These groups include:

- Native American Studies
- Yoga & Meditation
- Religious Education & Services
- Musical Enrichment
- Poetry Club
- New Readers Club
- Theater Group
- Stress Management
- Biology of Exercise

## Vocational Opportunities for Offenders continued



*The culinary arts program gives offenders the opportunity to become certified in ServeSafe.*



*Through a partnership with local animal shelters, offenders socialize and train dogs optimizing the animal's chances for adoption.*

### Partnering With DOL

The Maine Department of Corrections initiated a partnership with the Maine Department of Labor (DOL) to enhance corrections vocational programming, targeting Maine's job outlook and community needs.

#### ***Computer Coding Program***

The computer coding program is offered for female offenders. It provides an overview of several computer languages and helps students learn to code through completing challenges and building projects.

#### ***Culinary Arts***

This program teaches introductory skills that can be applied in a professional capacity. Students also have the opportunity to earn ServSafe certification which is recognized throughout the restaurant industry.

#### ***National Center for Construction Education and Research (NCCER)***

NCCER is a standardized training and credentialing program for the construction industry. Utilizing the NCCER curricula, students gain portable credentials in a wide array of skills related the construction industry. The Department routinely invites guest employers from Maine's construction field to meet students enrolled in the NCCER program.

#### ***Small Engine Repair***

Students learn maintenance and repair of small engines including lawnmowers, snow blowers, motorcycles, four wheelers, and outboard motors.

#### ***Welding***

Using state of the art equipment, students learn how to: stick, MIG, and TIG weld. On-the-job training consists of community projects brought into the facility (e.g. fire trucks and State and municipal equipment).

#### ***Wood Harvesting***

This program is competency based and follows a Certified Logging Professional (CLP) curriculum. The program teaches students to safely use wood harvest techniques in anticipation of using these skills for employment.

MDOC is partnering with the Maine Department of Education and Labor to connect coding students to federal grant opportunities through TechHire. This is intended to provide technology training and increase skills required to be employable in the IT field.

# Life Skills

MDOC Life Skills programming which aids offenders in preparing for return to the community addresses four components:

- **Personal Missions**

Helps offenders identify realistic goals that they may begin working on to prepare for re-entry.

- **Relationships**

Helps offenders identify appropriate boundaries within their families as well as social interactions with friends and colleagues.

- **Work Resources**

Helps offenders identify appropriate work and career goals, including: gaining competency in filling out job applications; creating resumes, cover letters, and thank you notes; attending job interviews; appropriate computer/e-mail communication; understanding American's with Disabilities Act (ADA); appropriate social behavior at work as well as current laws observed within a work environment, including sexual harassment and hostile work environments.

- **Community Resources**

Helps offenders identify resources within their communities. Guest speakers participate and cover: renewing damaged credit; probation and parole; taxes; and vocational rehabilitation. Other topics include volunteering, self-help groups, spiritual guidance, transportation, smart shopping, speaking with authorities, and opening/maintaining bank accounts.

## Life Skills Courses

### **Your Money Your Life**

This class gives offenders opportunities to plan for financial stability. Topics covered are savings, earnings, banking, credit, debt, loans, mortgages, investing, taxes, and insurance.

### **Problem Solving Using Mathematical Thinking**

This class gives offenders many opportunities to solve problems in various topics including logic, algebra, geometry, and measurement.

### **Long Distance Dads**

A 12-week program based on a nationally recognized curriculum which focuses on group discussion addressing issues such as the frustration and discouragements of being in prison, healthy relationships, parenting issues, and anger issues. Certificates are given to individuals who complete the program.

### **Inside-Out Dads**

Incarcerated fathers get the tools they need to become more involved, responsible, and committed in the lives of their children -- providing increased motivation for them to get out and stay out.

### **Meeting Brook Conversations**

These conversations encourage "the practice of listening, speaking, and thinking with others." Topics range from literary, ethical, artistic, as well as ordinary everyday issues. This is an open group and may be facilitated by volunteers.

# Core Programming for Offenders by Facility (not all inclusive)

## Maine State Prison

- Adult Education and HiSET
- Alternatives to Violence Program
- Cognitive Behavioral Therapy/Program
- College
- Criminal Addictive Thinking
- Domestic Violence Programming
- Impact of Crime
- Inside-Out Dads / Parenting Program
- Intensive Mental Health Unit
- Outpatient Substance Abuse Treatment
- Reentry Programming
- Restrictive Housing Program
- Veteran's Program
- Vocational Programming
- WorkReady

## Maine Correctional Center

- Adult Education and HiSET
- Anger Management
- Cognitive Behavioral Therapy/Program
- College
- Criminal Addictive Thinking
- Domestic Violence Programming
- Impact of Crime
- Inside-OutDads / Parenting Program
- Non-Violent Communications
- Outpatient Substance Abuse Treatment
- Reentry Programming
- Residential Sex Offender Treatment
- Residential Substance Abuse Treatment
- Vocational Programming
- WorkReady

## Mountain View Correctional Facility

- Adult Education and HiSET
- Anger Management
- Cognitive Behavioral Therapy/Program
- College (correspondence)
- Domestic Violence Programming
- Inside-Out Dads / Parenting Program
- Outpatient Substance Abuse Treatment
- Reentry Programming
- Residential Sex Offender Treatment
- Residential Substance Abuse Treatment
- Vocational Programming
- WorkReady
- Young Adult Offender Program

## Bolduc Correctional Facility

- Adult Education and HiSET
- Cognitive Behavioral Therapy/Program
- Domestic Violence Programming
- Outpatient Substance Abuse Treatment
- Reentry Programming
- Vocational Programming
- WorkReady

## Women's Center and Southern Maine Women's Reentry Center

- Adult Education and HiSET
- Anger Management
- Co-Dependent No More
- Cognitive Behavioral Therapy/Program
- College
- Domestic Violence Programming
- Gender Responsive Programming
- Outpatient Substance Abuse Treatment
- Reentry Programming
- Trauma-based Programming
- Vocational Programming
- WorkReady

# Continuous Quality Improvement

## **Treatment Programming**

MDOC employs a continuous quality improvement (CQI) model to measure fidelity of treatment programming we deliver. Evidence-based, manualized programming has been well researched and shown to produce positive results with incarcerated offenders, however, the research also points out that those results are only likely if the program being delivered at high fidelity to the program model.

MDOC has partnered with University of Cincinnati Corrections Institute (UCCI) and adopted their program observation and fidelity rating process. The tool is designed to use two observers who observe program delivery and then discuss outcomes. Once discussed and findings are corroborated, they share the results with the program staff. This process examines adherence to the program model based on several domains, and provides an overall fidelity rating score for the staff delivering the program. Strengths as well as areas of needed improvement are discussed. When improvement is needed, strategies are discussed and this feedback is incorporated into future program delivery.

MDOC currently follows this process for core evidence-based programs, including substance abuse treatment, sex offender treatment, and other cognitive behavioral based manualized programs. All scoring for these observations is tracked and reported to DOC leadership on a monthly basis as part of the CQI plan.

## **Contracted Comprehensive Medical Care Vendor**

Wellpath provides their own CQI processes in addition to MDOC's. They monitor all aspects of medical, substance abuse, and sex offender treatment they administer. Some of the areas continually reviewed include:

- Timeliness and quality of services delivered
- Site audits of records and medications administration
- Staff competency

## **Education Classrooms**

MDOC has developed an observation process for educational program classrooms. This process is the same as used for our core treatment programs, but the observation tool items have been appropriately replaced with

## Continuous Quality Improvement continued

commonly recognized educational best practices. The CQI process was piloted early 2018 in offender high school equivalency classrooms. The pilot was a success and will continue moving forward ensuring quality education opportunities for offenders.

### Case Management Practices

During 2018, a comprehensive Case Management CQI process was initiated. Case Managers (CM) are observed while working with offenders one-on-one, as well as, reviews/audits of records. During the observation session, the supervisor is looking for the CM to demonstrate skills in the areas of:

- Interpersonal skills
- Communication/engagement/motivational interviewing skills
- Core Correctional Practices
- Risk reduction case planning
- Offender records review

Each of these areas has several items to rate. Items that need improvement are included in a coaching and development plan. This improvement plan may include trainings and/or resources to aid staff in reaching a more proficient level.

This process is done monthly with new CMs for six months to ensure they receive all the coaching, feedback and support they need to be successful in their role. CMs who have been with the MDOC longer are also observed, at least annually as part of the CQI process.

### Data Driven Decision Making

MDOC Correctional Programming Division regularly incorporates the use of its own data in making key decisions. Leadership routinely relies on available reports on key statistics and metrics to monitor change and identify if improvement planning is necessary. Reports that are regularly relied upon include:

- Financial and staffing matrix regarding contracted comprehensive medical services vendor
- Offender population (current demographics and trending)
- Program CQI and fidelity
- Treatment, education, and vocational program statistics
- Offender custody ratings—current and trending
- Offender transfers to higher and lower security facilities, bed reports, level changes

### Return to Custody Reports

For the first time, MDOC published Return to Custody Reports in 2017 highlighting one-year and three-year return to custody rates. These reports can be found on the Department's website: <https://www.maine.gov/corrections/reports-statistical-data.htm>

**Maine Department of Corrections**  
**Return to Custody Reports and Findings**

**Terminology**  
The Maine Department of Corrections (MDOC) works from the following definitions of key terms.

**Return to Custody** - When an offender from a Maine Department of Corrections facility returns to a Maine Department of Corrections facility with or without new criminal conviction.

**Return to Custody Rate (RCR)** - The rate at which an offender from a Maine Department of Corrections facility returns to a Maine Department of Corrections facility. This data is collected in three year increments, post release. Calculation of RCR is made through review of Maine Department of Corrections data only. Data from local correctional systems is not available and is not part of these calculations, nor is data from federal correctional systems.

**Recidivism** - The Department of Corrections does not use the term recidivism in reports as the term means different things to different stakeholders. Often data termed recidivism data is a combination of data from federal, state and local correctional institutions. This can be misleading when having a dialogue specific to Maine Department of Corrections. To reduce the potential for confusion, MDOC uses the term "return to custody" as it describes the rate at which a Maine Department of Corrections offender returns to a Maine Department of Corrections facility.

**Straight Release** - When an offender is released directly from a Maine Department of Corrections facility back into his or her community, without probation.

**Probation Release** - When an offender is released from a Maine Department of Corrections facility onto probation supervision.

**CORIS** - The Maine Department of Corrections offender management database. It holds data from the Maine Department of Corrections only.

**Available Reports**  
The Maine Department of Corrections has reports related to return to custody available on the MDOC website.  
<https://www.maine.gov/corrections/reports-statistical-data.htm>

**Straight Release**  
The average RCR for MDOC straight releases between 2010-2013 was 21.4%.  
2010 Release Year - Three year RCR - 17.6%  
2011 Release Year - Three year RCR - 20.7%  
2012 Release Year - Three year RCR - 22.2%  
2013 Release Year - Three year RCR - 25%  
Three year RCR Average - 21.4%

**Probation Release**  
The average RCR for MDOC probation releases between 2010-2013 was 33.1%.  
2010 Release Year - Three year RCR - 30.4%  
2011 Release Year - Three year RCR - 34.1%  
2012 Release Year - Three year RCR - 33.1%  
2013 Release Year - Three year RCR - 34.8%  
Three year RCR Average - 33.1%

**Other Key Findings**

- Offenders released between the ages of 20-29 years had the highest average three year return to custody rate at 36.5%.
  - The next highest average return to custody rate age group is 30-39 years of age at 30.25%.
- Offenders released with a Close (high risk) custody level had the highest average three year return to custody rate at 42.8%, followed by Medium (moderate risk) custody at 34.5%.

MDOC continues to review the impact programming has on return to custody rates. The 2018 Return to Custody Report is in progress. It will incorporate information relating to the correlation between core programming and return to custody rates.

In 2018, the Maine Department of Corrections developed a sentencing calculation manual to ensure accuracy and consistency across the Department.

## Continuous Quality Improvement continued

- Use of restrictive housing and related specialty in cell treatment programming
- Division Management weekly/monthly reports on respective areas of operation
- Staff development, trainings accomplished and perceived needs
- IMHU admissions and discharges, patient progress updates, and treatment programming
- All policies annually reviewed for relevance, revision, and ensuring they are carried out as written

### Strategic Planning

Mid 2016, MDOC started to develop a strategic plan for the Correctional Programming Division. It began with questionnaires sent to leadership and staff representatives from each area covered under the Division (see page 2). The request asked participants to identify strengths, weaknesses, opportunities, and threats of their specific area of oversight.

Specific areas addressed in the plan include:

- Education and Vocational Services
- Women's Services
- Data and CQI
- Case Management and Reentry
- Behavioral Health
- Facility Treatment and Programming
- Classification

The multidisciplinary strategic planning member's efforts resulted in the identification of three overarching priority areas:

#### Staff Development

- Provide continuing essential job skills training for all Division staff to enhance skills for current positions
- Provide continuing essential supervisory skills training programs
- Provide a continuing DOC mentoring program for staff interested in learning about more DOC areas for career advancement; provide for cross divisional mentoring relationships
- Provide topic specific training programs to all program staff, topics focus on supporting longevity within corrections

### Reporting the Numbers

*The Department's Continuous Quality Improvement (CQI) staff are responsible for the collection, analysis, and reporting of key Departmental performance measures.*

*Beginning in Spring 2016, the Department began a new initiative to enhance its CQI efforts in order to ensure it continues making data-driven decisions. These reports can be found on the Department's website:*

<https://www.maine.gov/corrections/reports-statistical-data.htm>

#### 2017 Year End

### MDOC Adult Data Report



**MDOC Data Team**  
This document contains key adult  
correctional data points to assist  
management and staff in making  
evidence-based decisions.

Ryan Thornell, Ph.D., Associate Commissioner  
Maine Department of Corrections  
Correctional Programming Division  
25 Tyson Drive  
State House Station 111  
Augusta Maine 04333-0111  
207-287-2711

1/16/2018

## Continuous Quality Improvement continued

### Program Expansion

- Comprehensive review of all core and non-core programming
- Creation and use of program manuals
- Recruit and expand use of volunteers

### Utilization of Technology

- Increase the use of technology in education programming
- Increase the use of technology in vocational programming
- Support the increased use of technology with contracted providers

Each area was broken down into strategies and includes methods to measure achievement toward success. The action steps are specific, measurable, attainable, name responsible parties, and give timelines for accomplishments to be achieved. The duration of the current plan spans from 2018-2021. The plan is dynamic, and updated regularly with noted accomplishments to date.

# Victim Services

**To contact Victim Services,  
Call 1-800-968-6909**

MDOC has a dedicated division regarding services provided to victims of crime. These services include:

- Sentencing information
- Anticipated date of release
- Place of confinement
- Restitution status

The victim notification law applies to victims of murder or of a Class A-D crime. A victim who wishes to receive notification *must* file a request with the office of the prosecuting attorney or online at [www.maine.gov/corrections/Victim Services/index.htm](http://www.maine.gov/corrections/Victim%20Services/index.htm). A victim's request is kept confidential. The victim will be notified prior to work release, furlough, or release from confinement.

Victim services can provide assistance in cases of harassment. If an offender in custody of, or under the supervision of the Maine Department of Corrections engages in any conduct with intent to harass, torment, or threaten another person, Victim Services may be contacted for assistance.

# Afterword

The Maine Department of Corrections (MDOC) Correctional Programming Division puts ongoing effort into the rehabilitation of offenders, thus reducing the likelihood of offenders returning to custody. From initial needs assessments, to comprehensive behavioral, medical, sex offender and substance abuse treatment, and educational and vocational training opportunities, MDOC makes offender rehabilitation a priority.

In addition, MDOC has seen many measurable improvements in the way it conducts day to day business, provides quality services, and rehabilitative opportunities.

Our observation and CQI processes of treatment and education programs have brought positive change, ensuring they are delivered with high fidelity and strict adherence to a treatment model or best practice. Immediate feedback and coaching post observations have become expected and embraced by clinicians, teachers, and other staff delivering programming. Ongoing monthly programming CQI reporting allows MDOC leadership to track progress in this area.

Other CQI processes continue to spread throughout MDOC. Newly initiated Case Manager CQI process will ensure staff have the necessary skills to do effective case management, and get the training and coaching they need to continue to grow and flourish in this role.

In 2016, the creation of a dedicated data team enabled MDOC leadership to use and rely on data to guide decisions. MDOC's data team produces reports monthly, quarterly, and annually that help those in management make the best-informed decisions possible.

The creation of a Strategic Initiatives Plan continued MDOC's momentum in staff development, delivery of quality programming, and use of new technology.

MDOC's use of CQI processes, regular reporting on key metrics, data driven decisions making, and following our strategic plan continues to move us forward in fulfilling our mission:

*To reduce the likelihood offenders will re-offend, by providing practices, programs and services which are evidence-based and which hold the offenders accountable.*

## Correctional Programming Core Principles

Always meet the staff members and facility where they're at in terms of skills/abilities and the change process – we will find staff with varying levels of skills and desire to change, it is our job to help them advance from where they're at, regardless of the level, to where we all are going;

Remain focused on the strengths and abilities of the staff and facility, and work to build upon these strengths – we are here to train, coach, and support the staff and facility, in order to build skills and capacity for long-term implementation, effectiveness and sustainability;

Stay positive and committed—the implementation, training, and change processes are long and often filled with obstacles, but our job is not to catch staff or facilities out of compliance or in a negative light, but to build motivation, influence commitment, and establish focus on the end goal;

Become a coach and champion—do not tell them what they have to do; instead, lead and coach them in a way that makes them want to buy-into our efforts and initiatives.

# Appendix A

## Terminology and Acronyms

BCF - Bolduc Correctional Facility

BH - Behavioral Health

CAO - Chief Administrative Officer

CASAS - Comprehensive Adult Student Assessment Systems. Assessment tool of basic skills to target instruction.

CBT - Cognitive Behavioral Therapy

Close Custody - Prisoners who have demonstrated irresponsible behaviors such as assault or other dangerous behavior or threats, serious institutional misconduct, have a history of escape (or attempted escape) or may constitute an escape risk due to the time remaining to be served. All Close Custody prisoners are housed at a secure (fenced) facility.

CM - Case Manager

CO - Correctional Officer

Community Custody - Prisoners who have demonstrated sustained responsible behavior and are permitted to access programs, services and activities not under direct correctional supervision. A Community Custody prisoner is eligible to apply for furloughs, community transition programs, and supervised community confinement.

CQI - Continuous Quality Improvement

Criminogenic - (of a system, situation, or place) causing or likely to cause criminal behavior.

DHHS - Department of Health and Human Services

FVEP - Family Violence Education Program. A 26-week-long program designed using the DULUTH model which places accountability for abuse on the offender (<http://www.theduluthmodel.org/>).

HiSET - High School Equivalency Test

IMHU - Intensive Mental Health Unit

LSI-R - Level of Service Inventory–Revised. A quantitative survey of offender attributes and their situations relevant to level of supervision and treatment decisions. Helps predict parole outcome, success in correctional halfway houses, institutional misconducts, and recidivism.

MCC - Maine Correctional Center

Medium Custody - Prisoners who have demonstrated limited responsibility and are housed in a secure (fenced) facility. Medium Custody prisoners must be escorted when outside the secure facility and are subject to controlling equipment (restraints).

MDOC - Maine Department of Corrections

Minimum Custody - Prisoners who have demonstrated responsible behavior and less than four years remaining on their sentence. Minimum Custody prisoners may be permitted access to programs, services and activities not under direct correctional supervision; may be permitted outside the perimeter of the facility for work assignments.

MSP - Maine State Prison

PREA - Prison Rape Elimination Act. The act provides for the analysis of the incidence and effects of prison rape in Federal, State, and local institutions.

Recidivism - the tendency of a convicted criminal to reoffend.

Return to Custody - an offender is returned to a MDOC facility.

SMWRC - Southern Maine Women's Reentry Center

SO - Sex Offender. A person convicted of crimes involving sex, including rape, molestation, sexual harassment and/or pornography production/distribution.

SPIn-W - Service Planning Instrument for Women. A gender-responsive assessment and case planning tool for female offenders.

TCUDS-II - Texas Christian University Drug Screen II. Screens for mild to severe substance use disorder; useful when determining placement and level of care in treatment.

UCCI - University of Cincinnati Corrections Institute

UM - Unit Manager

WellPath - provides medical and behavioral health services to offenders in care of the Department.

# Appendix B

A comprehensive listing of programming offered at Maine Department of Corrections. These programs include those taught by DOC & contracted staff, as well as offenders and community volunteers.

## Treatment

Aggression Replacement Training  
 Alternatives To Violence  
 Anger Management  
 Beyond Anger & Violence  
 Beyond Trauma  
 Cage Your Rage  
 Challenge Program  
 Co-Dependent No More  
 Cognitive-Behavioral Interventions for Substance Abuse (CBI-SA)  
 Commitment To Change  
 Criminal Addictive Thinking  
 Epictecus Club  
 Family Violence Prevention  
 Grief And Loss  
 Healthy Relationships  
 Houses Of Healing  
 How to be a Responsible Father  
 Inside-Out Dads  
 Intensive Reentry Services  
 Life Skills Group  
 Living in Balance  
 Long Distance Dads  
 Moving On  
 New Freedom  
 Prime For Life  
 Prime Solutions  
 Psychology Of Incarceration  
 R.U.L.E.  
 Recovery Peer Support  
 Relapse Prevention  
 Residential Substance Abused Treatment

Safety Awareness Planning  
 Healthy Education (SAPHE)  
 Seeking Safety  
 Sexual Behavior Treatment  
 Mt. View  
 Sober Life Treatment Series  
 Stages of Change  
 Start Now  
 Substance Abuse - Aftercare  
 Substance Abuse - Individual  
 The Impact of Crime  
 Thinking for a Change  
 Young Adult Offender Program

## Educational

Accounting  
 Adult Basic Education  
 College  
 College Transition  
 English As A Second Language  
 High School Diploma Prep  
 HiSET Prep Math  
 HiSET Prep Reading  
 HiSET Prep Science  
 HiSET Prep Social Studies  
 HiSET Prep Writing  
 Money And Your Life  
 Post-Secondary/ College Prep

## Vocational

Auto Body  
 Auto Mechanics  
 Bee Keeping

Building Trades  
 Business Basics  
 Business Law  
 Computer Coding  
 Computer Technology  
 Culinary Arts  
 Electrical  
 Flagger Certification  
 Graphic Arts  
 Master Gardener  
 NCCER  
 OSHA Certification  
 Servsafe Certification  
 Small Engines  
 Welding  
 Wood Harvesting  
 Work Ready

## Additional Programming (offender & volunteer lead)

AA  
 Alanon  
 Art Education  
 AVP  
 Biology of Exercise  
 Celebrate Recovery  
 Code of the Warrior  
 Creative Problem Solving  
 Dog Porgrams  
 Dungeons and Dragons  
 Failing Forward  
 Family Crisis Book Group  
 Getting it Right  
 Grief and Loss

Health Start  
 Healthy Relationships  
 Hope Writing  
 Horticulture Master Gardener  
 Hospice  
 Houses of Healing  
 Impact of Crime  
 Intro to Recovery  
 Leadership Circle  
 Long Timers Wellness Group  
 Mad Hatters Croche/ knitting  
 Master Minds  
 Meditation  
 Meeting Brook Conversations  
 Mom's Helping Mom's  
 Musical Enrichment/ Guitar doors/ Band  
 NA  
 Native American Studies  
 New Books for New Readers  
 Poetry Evening  
 Release Group  
 Science of Willpower  
 Smart Recovery  
 Stress Management  
 The ALU Group  
 Theater Group  
 Yoga  
 99 Days and a Get Up



### **Special Thanks**

The great work exemplified in this manual and its creation was made possible by the dedicated staff of our Adult Correctional Facilities, and contracted service providers who have given themselves to the fulfillment of the mission of the Department of Corrections.

The mission of the Department of Corrections is to reduce the likelihood that juvenile and adult offenders will re-offend, by providing practices, programs and services which are evidence-based and which hold the offenders accountable.



**MAKING OUR COMMUNITIES  
SAFER BY REDUCING HARM  
THROUGH SUPPORTIVE  
INTERVENTION, EMPOWERING  
CHANGE AND RESTORING LIVES**



## **Changing Lives, Seizing Opportunities**



# **MAINE DEPARTMENT OF CORRECTIONS**

## **Technical & Trade Program Guide**

**Training options for new  
and current residents**

MDOC offers many vocational training opportunities throughout our adult facilities. Vocational programming is taught by teachers in MDOC's Education Department. Along with community partners, residents are trained in skills for trades and vocations that are employable upon release. These programs combine classroom time with hands-on and on-the-job training.

### **MAINE DEPARTMENT OF CORRECTIONS CENTRAL OFFICE**

25 TYSON DRIVE 3RD FLOOR  
STATE HOUSE STATION 111  
AUGUSTA, MAINE 04333-0111  
PHONE: (207) 287-2711  
FAX: (207) 287-4370  
TTY: CALL MAINE RELAY 711

## Mountain View Correctional Facility

Carpentry 1-4 Apprenticeship for College Credit\*  
Culinary Arts/Line Cook Apprenticeship\*  
Warehouse Material Handler Apprenticeship\*  
Sawyer Apprenticeship  
Professional Logger Apprenticeship/CLP  
Institutional Food Service Cook\*  
Apprenticeship  
Small Engine Repair for College Credit\*  
NCCER Core Curriculum  
Work Ready  
OSHA 10 Training  
OSHA 30 Training  
Flagging  
Welding NCCER Certification for College Credit\*  
Custodial Services Apprenticeship  
Building Trades Apprenticeship Prep  
Culinary Arts/ServSafe Apprenticeship\*  
Industries-Wood Working  
Auto Mechanics/Maine Inspection Mechanic  
Auto Mechanics/ASE\*

### Coming Soon

Agriculture Apprenticeship  
Helping Hands Apprenticeship

## Southern Maine Women's Reentry Center

American Furniture Master's Institute  
Wood Shop  
NCCER Core Curriculum  
Culinary Arts/Catering\*  
ServSafe  
Welding Level 5 Stainless Steel  
Horticultural Apprenticeship

### Coming Soon

Culinary Arts/Line Cook Apprenticeship  
Warehouse/Material Handling\*  
Animal Trainer/Service Dog Apprenticeship  
Industrial Sewing Machine Operator  
Apprenticeship

## Maine State Prison

Master Gardener  
Bee Keeping  
NCCER Core Curriculum  
Yoga Teacher Training  
Veteran Therapy Dog Training  
Food Preservation  
Institutional Food Service Cook  
Welding  
ServSafe  
Upholstery  
Machine Shop  
Tool Crib  
Finishing Shop  
American Furniture Master's Institute  
Industries/Wood Shop  
Auto Mechanics/ASE

### Coming Soon

Custodial Services Apprenticeship  
Warehouse Material Handler\*  
Apprenticeship  
Animal Trainer/Service Dog Apprenticeship

## The Women's Center

Work Ready  
OSHA Training  
Embroidery  
Upholstery  
Digital Design  
Garment Printing

## Down East Correctional Facility

Commercial Driver's License Training\*  
Institutional Food Service Cook\*  
Warehouse and Material Handling\*

\*WCCC Partnership

## Bolduc Correctional Facility

Auto Mechanics  
ServSafe  
Work Ready  
Agriculture  
Dog Training (Little Angels)  
Plate Shop  
Show room  
Warehouse/Material Handling  
Welding

### Coming Soon

Institutional Food Service Cook  
Apprenticeship  
Agriculture Apprenticeship  
Custodial Services Apprenticeship  
Professional Logger Apprenticeship/CLP  
Animal Trainer/Service Dog Apprenticeship

## Maine Correctional Center

Service Dog Training  
NCCER Core Curriculum  
Recovery Coach  
Upholstery  
Print Shop  
Agricultural Grow Room  
OSHA 10  
OSHA 30  
ServSafe  
Institutional Food Service/Cook  
Apprenticeship  
Work Ready

### Coming Soon

Animal Trainer/Service Dog Apprenticeship  
Warehouse Material Handler Apprenticeship

## Programs Subject to Change

Version 4/23 CC

**CRIMINAL RECORDS REVIEW COMMITTEE**  
**Proposed Recommendations for Review and Voting**

**A. Establish a permanent Criminal Records Review Committee**

1. Establish a permanent commission based on the Criminal Records Review Committee.

Staff notes: This recommendation was included in the CRRC’s 2024 interim report and was implicit in recommendations submitted by Senator Bailey and Michael Kebede. A copy of LD 2252, the bill to implement this recommendation, is attached along with the majority Judiciary Committee amendment that was adopted by both the House and Senate. The bill remained on the Special Appropriations Table when the Legislature adjourned.

**B. Issues for further study**

2. Either this Committee (if it is allowed to continue) or another committee to be formed, should look at the Model Collateral Consequences Act to examine what parts should be adopted in Maine, and how it should be amended to fit Maine law and practice. *Senator Bailey*

Staff note: Compare recommendation 23 (proposing adoption of the Model Law)

3. Require the Criminal Records Review Commission (or other entity) to study how to extend automatic sealing to non-juvenile crimes. *Michael Kebede*

Staff note: Compare recommendation 16 (adopt automatic record sealing now)

4. Requiring the Criminal Records Review Commission (or other entity) to study funding pathways for expanding the automatic criminal records sealing system. *Michael Kebede*
5. Require further consideration of whether Class A and B crimes should be eligible for sealing. *Foster Bates*

**C. Amendments to the post-judgment motion to seal process under current law**

***Decriminalized conduct***

6. Allow sealing of convictions for conduct that has been decriminalized in the State over the last 10 years. *Tim Moore*

Staff note: Compare recommendation 17 (automatic sealing of decriminalized conduct)

***Drug crimes***

7. Allow sealing of convictions for drug possession crimes. *Tess Parks*

Further explanation (Tess Parks): This recommendation would allow an individual to petition the court to have their criminal history record information related to drug possession convictions sealed under [Title 17-A, section 1107-A](#). All statutory prerequisites for sealing criminal history record information, as outlined in Title 15 Chapter 310-A, must be met to petition the court for records sealing. The intent in this recommendation was derived from [LD 848](#), which was introduced in the 131st Maine Legislature, First Special Session. This bill sought to allow a person convicted of the unlawful possession of scheduled drugs to petition the court where the person was convicted to expunge all records of the crime 5 years after the completion of the person’s sentence.

**CRIMINAL RECORDS REVIEW COMMITTEE**  
**Proposed Recommendations for Review and Voting**

8. Allow sealing of convictions for all felony (Class A, B, or C) drug offenses other than Class A Aggravated Trafficking convictions or convictions alleging the use of a firearm. *Matt Morgan*  
***Crimes committed by victims of sex trafficking or sexual exploitation***
9. Allow sealing of convictions for all non-violent crimes committed by victims and survivors of sexual exploitation and sex trafficking. *Tim Moore*
10. Allow sealing of convictions for any crime committed by a victim of sex trafficking or sexual exploitation if the crimes were committed as a substantial result of the trafficking or exploitation, regardless of the time since the convictions were imposed. *Andrea Mancuso, Michael Kebede, Melissa Martin and Amanda Comeau*

Staff note: The attached draft legislation to implement this proposed recommendation also:

- Allows sealing of all convictions for the former crime of engaging in prostitution (thus including convictions for both Class E and Class D variants of this former offense)
- Provides additional details about the conduct of hearings (which would not be required) on such motions and the types of evidence that presumptively demonstrates the moving party was a victim of sex trafficking or sexual exploitation. Subsequent conviction of a new crime would not result in unsealing a previously sealed conviction of a victim of sex trafficking or sexual exploitation.
- Also requires businesses that assemble and sell criminal records to update their records to remove records of sealed or pardoned offenses. It also requires these businesses to review the accuracy of any records disputed by the individual who is the subject of the record and to delete any criminal records that have been sealed or pardoned. An individual may recover damages or a \$1,000 penalty for violations of the law.

Staff note: Compare recommendation 22 (to establish a process for reversing convictions for criminal offenses committed by victims of sex trafficking or sexual exploitation)

***Class D crimes***

11. Allow sealing of convictions for most Class D crimes except the Class D crimes that would have been ineligible for sealing under [LD 1459](#) from the 130th Legislature: (a) sexual assaults in Title 17-A, chapter 11; (b) sexual exploitation of minors in Title 17-A, chapter 12; (c) aggravated sex trafficking, sex trafficking and patronizing prostitution of a minor or a person with a mental disability;<sup>1</sup> (d) stalking and domestic violence stalking; (e) crimes against family or household members unless 20 years have passed since entry of the judgment of conviction; (f) any crime involving domestic violence, unless the sentence has been commuted; (g) violation of a condition of release while on bail for a charge involving a crime against a family or household member unless 20 years have passed since entry of the judgment of conviction; (h) violation of a protection order; and (i) cruelty to animals. *Tess Parks and Michael Kebede*

Further explanation (Tess Parks): All statutory prerequisites for sealing criminal history record information, as outlined in Title 15 Chapter 310-A, must be met to petition the court for records sealing. The intent and language in this recommendation was derived from [LD 1459](#), which was introduced in the 130th Maine Legislature, First Special Session.

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<sup>1</sup> The language describing these crimes has changed over time from “patronizing prostitution” to “commercial sexual exploitation”; in addition, some of these offenses may no longer be Class D crimes (but could have been in the past).

**CRIMINAL RECORDS REVIEW COMMITTEE**  
**Proposed Recommendations for Review and Voting**

***Time period before motion may be filed***

12. Amend the waiting period before a person may file a post-judgment motion to seal convictions for Class E, D, and C crimes as follows: “(a) [Eliminate the waiting period] if an individual remained case plan compliant and/or completed evidence-base rehabilitation, treatment programs, vocation training, or a College Education, in which an associate or bachelor’s degree or higher was achieved. (b) If an individual was not case plan compliant, however, remained disciplinary free for the last three (3) years of imprisonment, a request for a waiver can be submitted to the court and/or Attorney General Office to waive the waiting period of eighteen (18) months to have a criminal record sealed. (c) If an individual was not case plan compliant and received disciplinary infractions during the last 3 years of imprisonment, a waiting period of eighteen (18) months shall be required before a waiver can be submitted to the court for a request to Seal a criminal record.” *Foster Bates*

Staff note: This recommendation appears to include recommendation for expanding the list of crimes eligible for sealing through the post-judgment motion to seal process to include all Class D and C crimes. If so, the CRRC may wish to vote on that proposal as part of or separately from this recommendation.

13. Allow sealing of criminal records upon successful completion or graduation from approved behavioral health treatment programs, including treatment courts. *Hannah Longley*

***Assistance filing post-judgment motions to seal:***

14. Report out legislation or establish a mechanism, whichever is more practicable, requiring the Maine Public Defender System to pay attorneys for assisting people in submitting a petition for sealing criminal records under Chapter 310-A of Title 15. *Michael Kebede*
15. Give individuals who have engaged in mental health treatment programs while within correctional facilities the option to apply for record sealing through recognized behavioral health providers. *Hannah Longley*

**D. Automatic sealing processes:**

16. Make the sealing process automatic (*i.e.*, Clean Slate law). *Matt Morgan & Speaker Talbot Ross*

Staff note: Compare recommendations 3 and 4 (proposing further study of automatic sealing of non-juvenile crimes and of potential funding pathways for automatic record sealing)

17. Automatically seal all convictions for violations of the criminal code that have since been decriminalized. *Michael Kebede*

Staff note: Compare recommendation 6 (expanding the post-judgment motion to seal process to apply to convictions for conduct that has since been decriminalized)

18. Automatically seal or expunge criminal records for all marijuana convictions. *Foster Bates*

19. Create an automated notice process for notifying individuals who may be able to seal their conviction records under current law: SBI would be required to examine criminal history record

**CRIMINAL RECORDS REVIEW COMMITTEE**  
**Proposed Recommendations for Review and Voting**

information monthly to identify criminal convictions that may be eligible for sealing under current law—*i.e.*, (a) the conviction was for an eligible crime; (b) the required waiting period has elapsed since the individual was released from incarceration or probation or, if neither was imposed, the required waiting period has elapsed since the conviction was entered (SBI may not know whether fines, community service, restitution or other sentencing obligations have been satisfied); and (c) the individual has not been convicted of another crime, had a charge dismissed due to deferred disposition, and there are no pending charges (unless the crime to be sealed is engaging in prostitution). SBI would notify each identified individual by mail to the last known address on file with SBI that the individual may be eligible to file a post-judgment motion to seal and include a list of the requirements for a successful post-judgment motion to seal, a copy of the relevant court form to file the post-judgment motion and notice that while the individual may hire an attorney, an attorney is not required to file a post-judgment motion to seal. *Speaker Talbot Ross*

20. Establish an automatic sealing process that applies prospectively—*i.e.*, only convictions entered after a specific date are eligible for automatic sealing. *Speaker Talbot Ross*

Further explanation (Speaker Talbot Ross): It may make sense to require courts issuing judgments of conviction after the law’s effective date to include in the judgment a statement whether the conviction is eligible for automatic sealing in the future if all other requirements are met (*e.g.*, the waiting period, no subsequent convictions or pending charges, etc.).

21. Extend automatic sealing of juvenile records to all crimes committed by juveniles. *Michael Kebede*

**E. Records relief for victims of sex trafficking or sexual exploitation**

22. Adopt new Title 15, Chapter 305-C, which establishes a process for victims of sex trafficking and sexual exploitation to file a post-judgment motion to have their convictions reversed if they demonstrate, by a preponderance of the evidence, that they experienced sex trafficking or sexual exploitation and the conduct for which they were convicted was a substantial result of the sex trafficking or sexual exploitation. If the court grants the motion, it must specify which court records and criminal justice agency records should be corrected to reflect reversal of the conviction(s). *Andrea Mancuso, Michael Kebede, Melissa Martin and Amanda Comeau*

Staff note: The draft legislation to implement this proposed recommendation is attached.

Staff note: Compare recommendation 10 (extending post-judgment motion to seal process to cover convictions for crimes committed by victims of sex trafficking or sexual exploitation)

**F. Collateral Consequences**

23. Adopt the Model Collateral Consequences of Conviction Act with regard to explaining to defendants the full scope of what a plea agreement of guilty would entail beyond the obvious possible incarceration and/or fines. *Tim Moore*

Staff note: Compare recommendation 2 (proposing further study of the Model Law)

**CRIMINAL RECORDS REVIEW COMMITTEE**  
**Proposed Recommendations for Review and Voting**

24. Reduce the number of crimes and/or periods of time that disqualify an individual from seeking employment as a Direct Access Worker under Title 22, Chapter 1681, the Maine Background Check Center Act (and the Maine Background Check Center Rule <sup>2</sup>). *Tess Parks*

Further explanation (Tess Parks): This recommendation proposes enacting legislation that would reduce the number of crimes that disqualify individuals from gaining employment as a Direct Access Worker. The goal of this recommendation is to reduce overly restrictive employment barriers to direct care employment, while maintaining protections for individuals receiving direct care services. Some crimes that should be considered for removal include: aggravated cultivating of marijuana (17-A §1105-D), refusing to submit to arrest or detention (17-A §751-B), and eluding/passing a roadblock (29-A §2414), etc.

25. Amend the laws ([Title 5, chapter 341](#)) governing when most state occupational licensing agencies may consider past criminal convictions of a licensee or of an applicant for licensure by (a) reducing the lookback period from 3 years to 6 months after the individual’s final discharge, if any, from a correctional facility; (b) allow a licensee to petition for reinstatement upon release from a correctional facility if the conviction was not committed while the individual was licensed and performing under that license; and (c) do not allow a licensee to petition for reinstatement until 2 years after release from a correctional facility if the conviction was committed while the individual was licensed and performing under that license. *Foster Bates*

Staff note: Foster Bates’s attached list of proposed recommendations includes draft language amending 5 M.R.S. §5303(1) to implement this proposed recommendation (see his item #1).

26. Amend the laws ([Title 5, chapter 341](#)) governing when certain state licensing agencies (primarily health care related licensing agencies) may consider past criminal convictions of a licensee or of an applicant for licensure by reducing the current 10-year lookback period to a 2-year lookback period if the person’s conduct was not directly or indirectly related to the person’s licensure. *Foster Bates*

Staff note: Foster Bates’s attached list of proposed recommendations includes draft language amending 5 M.R.S. §5303(2) to implement this proposed recommendation (see his item #2).

**G. Additional Recommendations:**

27. Propose legislation to further define “plea agreement” in [16 M.R.S. §703\(2\)\(G\)](#) as follows:  
“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 where the defendant pleads guilty and is convicted of a criminal offense in exchange for the dismissal.”  
*Matt Morgan*

Staff note: 16 M.R.S. §703(2) is the statutory definition of “confidential criminal history record information” for purposes of the Criminal History Record Information Act. The definition includes a list of different types of information that is confidential, including

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<sup>2</sup> The most recent version of the Maine Background Check Center Rule, 10-144 C.M.R. ch. 60 (Oct. 2018), is available at <https://www.maine.gov/sos/cec/rules/10/144/144c060.docx> and was attached to Courtney Gary-Allen’s testimony at the CRRC meeting on October 8, 2024 (the rule begins on page 166 of the [combined PDF of the Oct. 8 meeting materials](#)). The table of disqualifying crimes begins on page 10 of the rule (page 178 of the meeting materials PDF). An excerpt from the MBCC rule, including only the table of disqualifying offenses, is attached.

**CRIMINAL RECORDS REVIEW COMMITTEE**  
**Proposed Recommendations for Review and Voting**

current paragraph 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.” Matt Morgan’s email containing this recommendation explains why he is requesting this change—briefly summarized, his proposal would clarify under paragraph G that criminal history record information about a criminal charge that has been finally dismissed by the court or prosecutor is confidential unless the defendant pled guilty to a criminal offense as part of a plea agreement. If the defendant admits a civil violation but does not plead guilty to a crime as part of an agreement with the prosecutor, however, the criminal history record information about the dismissed criminal charge is confidential.

28. Adopt legislation to establish a process for awarding a “certificate of rehabilitation” to individuals who have successfully completed or graduated from approved behavioral health or mental health treatment programs. *Hannah Longley*

Further explanation (Hannah Longley): As an alternative to full record sealing, individuals may have the opportunity to apply for a Certificate of Rehabilitation, a model utilized in various states. Such certificates serve as an official acknowledgment of rehabilitation and can be used to demonstrate reform and readiness for reintegration. This option may be particularly beneficial in cases where sealing is not feasible, but evidence of rehabilitation is warranted.

Proposed Rec. #1

This bill to create a permanent CRRC was based on a recommendation in the CRRC's 2024 Interim Report. A majority committee amendment from the Judiciary Committee (Attached) was adopted in both the House and the Senate but the bill remained on the Special Appropriations Table when the Legislature adjourned.



# 131st MAINE LEGISLATURE

## SECOND REGULAR SESSION-2024

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Legislative Document

No. 2252

H.P. 1444

House of Representatives, March 5, 2024

### An Act to Establish the Criminal Records Review Commission

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Reported by Representative MOONEN of Portland for the Joint Standing Committee on Judiciary pursuant to Resolve 2023, chapter 103, section 7.

Reference to the Committee on Judiciary suggested and ordered printed pursuant to Joint Rule 218.

Handwritten signature of Robert B. Hunt in cursive.

ROBERT B. HUNT  
Clerk

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

2 Sec. 1. 5 MRSA §12004-I, sub-§52-D is enacted to read:

3 52-D.

4	<u>Judiciary:</u>	<u>Criminal Records Review Commission</u>	<u>Legislative Per</u>	<u>16 MRSA</u>
5	<u>Criminal</u>		<u>Diem and</u>	<u>§901</u>
6	<u>Records</u>		<u>Expenses for</u>	
7			<u>Legislators</u>	

8 Sec. 2. 16 MRSA c. 11 is enacted to read:

9 CHAPTER 11

10 CRIMINAL RECORDS REVIEW COMMISSION

11 §901. Establishment

12 The Criminal Records Review Commission, established by Title 5, section 12004-I,  
13 subsection 52-D and referred to in this chapter as "the commission," is established for the  
14 purpose of conducting a continuing review of laws, rules and procedures related to criminal  
15 history record information and reporting to the Legislature its findings and  
16 recommendations on an annual basis.

17 §902. Membership; terms; chair; vacancies; quorum

18 1. Membership. The commission consists of the following members:

19 A. Two members of the Senate, appointed by the President of the Senate, including  
20 one member from each of the 2 parties holding the largest number of seats in the  
21 Legislature;

22 B. Two members of the House of Representatives, appointed by the Speaker of the  
23 House of Representatives, including one member from each of the 2 parties holding  
24 the largest number of seats in the Legislature;

25 C. The Attorney General or the Attorney General's designee;

26 D. The Commissioner of Health and Human Services or the commissioner's designee;

27 E. The Commissioner of Public Safety or the commissioner's designee;

28 F. The Commissioner of Corrections or the commissioner's designee;

29 G. The chair of the Right To Know Advisory Committee, established in Title 1, section  
30 411, or the chair's designee;

31 H. The president of an organization representing the interests of prosecutors in the  
32 State, or the president's designee, appointed by the President of the Senate;

33 I. The president of an organization representing criminal defense lawyers in the State,  
34 or the president's designee, appointed by the President of the Senate;

35 J. A representative of a civil rights organization whose primary mission includes the  
36 advancement of racial justice, appointed by the President of the Senate;

- 1 K. A representative of an organization that provides legal assistance on immigration,  
2 appointed by the President of the Senate;
- 3 L. A representative of an organization whose primary mission is to address issues  
4 related to poverty, appointed by the President of the Senate;
- 5 M. A representative of a statewide nonprofit organization whose mission includes  
6 advocating for victims and survivors of domestic violence, appointed by the President  
7 of the Senate;
- 8 N. A representative of a substance use disorder treatment or recovery community,  
9 appointed by the President of the Senate;
- 10 O. A representative of an adult and juvenile prisoners' rights organization, appointed  
11 by the President of the Senate;
- 12 P. A representative of newspaper and other press interests, appointed by the President  
13 of the Senate;
- 14 Q. The president of an organization representing county sheriffs, or the president's  
15 designee, appointed by the Speaker of the House of Representatives;
- 16 R. The president of an organization representing municipal police chiefs, or the  
17 president's designee, appointed by the Speaker of the House of Representatives;
- 18 S. A representative of broadcasting interests, appointed by the Speaker of the House  
19 of Representatives;
- 20 T. A representative of a statewide nonprofit organization whose mission includes  
21 advocating for victims and survivors of sexual assault, appointed by the Speaker of the  
22 House of Representatives;
- 23 U. A representative of an organization that provides free civil legal assistance to  
24 citizens of the State with low incomes, appointed by the Speaker of the House of  
25 Representatives;
- 26 V. A representative of a mental health advocacy organization, appointed by the  
27 Speaker of the House of Representatives;
- 28 W. A representative of a civil liberties organization whose primary mission is the  
29 protection of civil liberties, appointed by the Speaker of the House of Representatives;
- 30 X. A representative of a nonprofit organization whose primary mission is to advocate  
31 for victims and survivors of sexual exploitation and sex trafficking, appointed by the  
32 Speaker of the House of Representatives;
- 33 Y. A representative of an organization involved in advocating for juvenile justice  
34 reform, appointed by the Speaker of the House of Representatives; and
- 35 Z. A representative of a public records access advocacy organization, appointed by the  
36 Speaker of the House of Representatives.
- 37 The commission shall invite the Chief Justice of the Supreme Judicial Court to designate a  
38 member of the judicial branch to serve as a member of the commission.
- 39 2. Terms. Members of the commission who are Legislators serve during the term of  
40 office for which they were elected. Other members of the commission serve for a term of

1 2 years and may be reappointed. Members may serve beyond their designated terms until  
2 their successors are appointed.

3 3. Chair. The first-named Senate member is the Senate chair and the first-named House  
4 member is the House chair of the commission.

5 4. Vacancies. In the event of a vacancy on the commission, the member's unexpired  
6 term must be filled through appointment by the appointing authority for the vacant seat.

7 5. Quorum. A quorum of the commission consists of 15 members.

8 **§903. Duties and powers**

9 1. Review of laws, rules and procedures. The commission shall review laws, rules  
10 and procedures pertaining to criminal history record information in this State, including but  
11 not limited to:

12 A. Procedures within the Department of Public Safety regarding the collection,  
13 maintenance and dissemination of criminal history record information;

14 B. The criteria and eligibility for sealing criminal history record information;

15 C. Public access to criminal history record information; and

16 D. The expungement, sealing and vacating of criminal history record information.

17 2. Recommendations; legislation. The commission may submit to the Legislature, at  
18 the start of each regular session, changes in the laws related to criminal history record  
19 information that the commission determines appropriate. The commission may also make  
20 recommendations to the Department of Public Safety, the Chief Justice of the Supreme  
21 Judicial Court, the judicial branch's advisory committee on the Maine Rules of Unified  
22 Criminal Procedure and any other organization or committee whose affairs pertain to the  
23 use, maintenance or dissemination of criminal history record information.

24 **§904. Consultation; outside funding**

25 1. Consultation. At the commission's discretion, the commission may seek the advice  
26 of consultants or experts, including representatives of the executive and judicial branches  
27 of State Government and representatives of public interest organizations, in fields related  
28 to its duties.

29 2. Outside funding. The commission may seek funding contributions to partially or  
30 fully fund the costs of the commission. All funding is subject to approval by the Legislative  
31 Council in accordance with its policies.

32 **SUMMARY**

33 This bill implements a recommendation of the Criminal Records Review Committee  
34 established pursuant to Resolve 2023, chapter 103. The bill establishes the Criminal  
35 Records Review Commission. The commission members include Legislators, Executive  
36 Department commissioners or their designees and leaders and representatives from various  
37 organizations. The commission's duties include reviewing laws, rules and procedures  
38 pertaining to criminal history record information in this State. The commission may submit  
39 legislation to the Legislature at the start of each regular session and may also make  
40 recommendations to the Department of Public Safety, the Chief Justice of the Supreme  
41 Judicial Court, the judicial branch's advisory committee on the Maine Rules of Unified

1 Criminal Procedure and any other organization or committee whose affairs pertain to the  
2 use, maintenance or dissemination of criminal history record information. The commission  
3 may consult with outside experts in fields related to its duties and may seek funding to  
4 partially or fully fund its costs. Members, other than legislative members, are not entitled  
5 to receive a legislative per diem or reimbursement of expenses.

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Date: (Filing No. H- )

**JUDICIARY**

Reproduced and distributed under the direction of the Clerk of the House.

**STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
131ST LEGISLATURE  
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT “ ” to H.P. 1444, L.D. 2252, “An Act to Establish the Criminal Records Review Commission”

Amend the bill in section 2 in c. 11 in §904 in subsection 2 in the 2nd line (page 3, line 30 in L.D.) by inserting after the following: "commission" the following: 'including staffing'

Amend the bill by inserting after section 2 the following:

**Sec. 3. Appropriations and allocations.** The following appropriations and allocations are made.

**LEGISLATURE  
Legislature 0081**

Initiative: Appropriates funds for the ongoing costs of Legislators serving on the Criminal Records Review Commission.

<b>GENERAL FUND</b>	<b>2023-24</b>	<b>2024-25</b>
Personal Services	\$0	\$1,100
All Other	\$0	\$2,400
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>\$3,500</b>

**Sec. 4. Effective date.** This Act takes effect January 1, 2025.'

Amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

**SUMMARY**

This amendment adds to the bill an effective date of January 1, 2025. The amendment also adds an appropriations and allocations section and clarifies that costs associated with

**COMMITTEE AMENDMENT**

6

COMMITTEE AMENDMENT “ ” to H.P. 1444, L.D. 2252

1 staffing the Criminal Records Review Commission may be partially or fully funded by  
2 outside funding.

3

**FISCAL NOTE REQUIRED**

4

**(See attached)**



Senator Bailey

Stocco, Janet

**From:** Donna Bailey <dabaileyaw@gmail.com>  
**Sent:** Thursday, October 31, 2024 2:50 PM  
**To:** Stocco, Janet  
**Cc:** Murphy, Elias; Paddon, Sophia  
**Subject:** Re: Submitting proposed recommendations for CRRC consideration (deadline Fri. 11/1/24)

Proposed Rec. # 2

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Some people who received this message don't often get email from dabaileyaw@gmail.com. [Learn why this is important](#)

**This message originates from outside the Maine Legislature.**

Recommendation:

That either this Committee (if it is allowed to continue) or another committee to be formed, look at the Model Collateral Consequences Act to examine what parts should be adopted in Maine, and how it should be amended to fit Maine law and practice.

Thank you.

Donna

On Thu, Oct 17, 2024 at 9:03 AM Stocco, Janet <[Janet.Stocco@legislature.maine.gov](mailto:Janet.Stocco@legislature.maine.gov)> wrote:

Dear Members of the Criminal Records Review Committee,

The next (and final) meeting of the CRRC will be held on Tuesday, November 19, 2024. During that meeting, CRRC members will discuss and vote on the recommendations that to make in the final report to the Maine Legislature. To facilitate the voting process, CRRC Chairs Senator Bailey and Speaker Talbot Ross request that CRRC members submit their suggested recommendations to CRRC staff in advance of the meeting.

- **Deadline for submitting proposed recommendations:** Please submit your proposed recommendations via email to CRRC staff (Janet Stocco, Sophie Paddon and Eli Murphy) by **Friday, November 1<sup>st</sup> at 5:00 p.m.** Our email addresses are available on the [CRRC website](#) (see the bottom of the page) or you can simply reply to this email (we have blind copied all committee members to prevent inadvertent committee discussions over email).
- **Topics for Proposed Recommendations.** As a reminder, [Resolve 2023, chapter 103](#) charged the CRRC with the following duties:

1. *Review activities in other states that address the expungement, sealing, vacating of and otherwise limiting public access to criminal records;*



Proposed recs. ##  
5, 12, 18, 25, 26

Foster Bates

# MAINE STATE PRISON BRANCH OF THE



# N.A.A.C.P.



807 CUSHING ROAD WARREN, ME 04864-4600

*Foster Bates President*  
*Daniel Fortune Executive Secretary*

*Jeffrey Taylor Vice President*  
*Shaun Tuttle Treasurer*

**Madam Chair Senator Bailey, Madame Speaker Rep. Talbot-Ross**

And

**Honorable Members of the Criminal Records Review Committee**

This Committee has a daunting and difficult task to complete. Juggling public safety with fairness and reasonableness to bring forth meaningful legislation that will protect the public, while reducing the State's 32% recidivism rate, (23% for men and 9% for women). Although, Maine's recidivism rate is considerably low compared to the Nation's average of 65%. There are a host of factors that has contributed to Maine's 32% recidivism rate; the lack jobs and housing are two major contributing factors. In the most recent report by Prison Policy Initiative, **"the unemployment rate for formerly incarcerated people is over 27.3%, which is much higher than the overall unemployment rate"** of 5% ascribed to the general public of their peers. The 27.3% unemployment rate for formerly incarcerated people is significantly higher than the years during the Great Depression, and during the COVID pandemic, which was at 15%, respectfully. According to the BOP (Bureau of Prisons), approximately 60% of formerly incarcerated people cannot obtain employment within a year to four years after their release, that's six out of every 10 people without employment, a staggering statistic of concern. Nonetheless, as abysmal as those numbers indicate, a mere 37% out of 50, 000 formerly incarcerated people did manage to find employment within a year to four years post-release. The biggest contributor to the high unemployment rate for a formerly incarcerated individual is a criminal record that leads to the unwillingness of an employer to hire them. Prior research has suggested that employers discriminate against people with a criminal record or a prior arrest, even if they claim they do not. 50% of employers will not even callback a person once they learn of a criminal record or prior arrest. For these reasons, it's incumbent upon this committee to put forth meaningful legislation to Seal the criminal records of formerly incarcerated individuals. A person's past criminal history should not be used as a barrier to prohibit a successful reintegration back into society, especially when a Seal criminal record is has a prominent role in the reintegration process. **"There should be some point in time after which ex-offenders should not be handicapped in finding employment. The question is when, precisely, should this occur?"** (Blumstein and Nakamura, 2009).

Suggested Recommendations Submitted by the Maine State Prison Branch of the NAACP

Proposed rec. #25

1. **License Reduction from Three-year limits to six (6) months.** Except as set forth in this subsection and subsection 2, the procedures outlined in sections 5301 and 5302 for the consideration of prior criminal conviction as an element of fitness to practice a licensed profession, trade or occupation shall apply within six (6) months of the applicant's or licensee's final discharge, if any, from a correctional facility. If the licensure did not have or play any role in the individual's conviction, or if the crime was not committed while the individual was in the performance of duty, while working or operation under a licensure, the licensee shall be eligible to apply for reinstatement upon release from a correctional facility. If the licensure did have or play a role of any proportion or any connection with or assisted with an act to commit a crime while the licensee was in the performance of duty while working or operating under a licensure, shall waiting a period of the 2-years before eligibility for reinstatement or reapplying for a license. Beyond eighteen months, an ex-offender applicants or licensees with no additional convictions are to be considered in the same manner as applicants or licensees possessing no prior criminal record for the purposes of licensing decisions. There is no time limitation for consideration of an applicant's or licensee's conduct which gave rise to the criminal conviction if that conduct is otherwise a ground for disciplinary action against a licensee. [PL 1989, c. 84, §3 (NEW).]

Note - Statute attached ↗

Proposed rec. #26

2. **License Reduction from Ten-year limits down to 2-years.** Only in the case, if the licensure did not have a direct or indirect involvement in the connection with a crime or a criminal conviction of a crime. For applicants to and licensees and registrants of the Board of Licensure in Medicine, the Board of Osteopathic Licensure, the Board of Dental Practice, the State Board of Examiners of Psychologists, the State Board of Social Worker Licensure, the State Board of Nursing, the Board of Chiropractic Licensure, the Board of Trustees of the Maine Criminal Justice Academy, the State Board of Examiners in Physical Therapy, the State Board of Alcohol and Drug Counselors, the Board of Respiratory Care Practitioners, the Board of Counseling Professionals Licensure, the Board of Occupational Therapy Practice, the Board of Speech, Audiology and Hearing, the Radiologic Technology Board of Examiners, the Nursing Home Administrators Licensing Board, the Board of Licensure of Podiatric Medicine, the Board of Complementary Health Care Providers, the Maine Board of Pharmacy and the Emergency Medical Services' Board, for applicants to and licensees of the Department of Agriculture, Conservation and Forestry for growing, processing and transporting hemp and for applicants for massage therapy licensure or licensed massage therapists, the following apply. A. The procedures outlined in sections 5301 and 5302 for the consideration of prior criminal conviction as an element of fitness to practice a licensed profession, trade or occupation apply within 10 years of the applicant's or licensee's final discharge, if any, from the correctional system. [PL 1995, c. 625, Pt. A, §12 (RPR).] B. **Beyond the 2-years period**, ex-offender applicants or licensees with no additional convictions must be considered in the same manner as applicants or licensees possessing no prior criminal record for the purposes of licensing decisions. [PL 1995, c. 625, Pt. A, §12 (RPR).] C. There is no time limitation for consideration of a

registrant's, an applicant's or licensee's conducts that gave rise to the criminal conviction if that conduct is otherwise a ground for disciplinary action. [PL 1995, c. 625, Pt. A, §12 (RPR).]

proposed rec. #12

3. **No Time Limitations for all Class E, D, & C crimes:** (a) If an individual remained case plan complaint and/or completed evidence-based rehabilitation, treatment programs, vocation training, or a College Education, in which an Associate or Bachelor's degree or higher was achieved. (b) If an individual was not case plan compliant, however, remained disciplinary free for the last three (3) years of imprisonment, a request for a waiver can be submitted to the court and/or Attorney General Office to waive the waiting period of eighteen (18) months to have a criminal record sealed. (c) If an individual was not case plan complaint and received disciplinary infractions during the last 3 years of imprisonment, a waiting period of eighteen (18) months shall be required before a waiver can be submitted to the court for a request to Seal a criminal record.

proposed rec. #18

4. **All Marijuana Convictions:** Automatic Seal or Expungement of criminal record.

proposed rec. #5

5. **Class A & B crimes:** Class A and B crimes should be considered for a seal criminal record review. It's unfair not to consider an individual who has spent, in all likelihood, ten (10) or more years in prisons for a Class A or Class B conviction. The MSP NAACP believes more conversation is needed regarding this concern. Other states have begun the process to seal and/or expunge felony convictions.

Beginning in 2023, California's [SB731](#) authorizes petition-based sealing of felony records after sentence completion and a four-year conviction-free period, except for those requiring sex offender registration (California Legislative Information, 2021-2022). In Arizona, [HB2080](#) allows people to petition sealing of misdemeanor and most felony convictions after waiting periods ranging from two to ten years, plus an additional five years for prior felony convictions. First-time felony offenses, excluding those involving firearms, are automatically expunged upon completion of the term of probation, unconditional release from prison, and payment of fines (Legiscan, 2019). In 2020, New Mexico passed a [Criminal Record Expungement Act](#) recognizing that "justice will be served by an order to expunge" (New Mexico Legislature, 2019). West Virginia [SB152](#) offers eligible felony conviction expungement after five years.

Cultural shifts in treating justice-impacted people with dignity create opportunities for them for a second chance after prison. In 2022, Oregon governor Kate Brown granted clemency to 1147 people during her recent term, including 144 convicted of violent crimes. Brown sees clemency as "a tool for criminal justice reform and as an act of grace" that is preferable to incarceration for people who demonstrate their rehabilitation and accountability (Waldroupe, 2022). In keeping with this cultural change, OregonLaws notes in their detail of the revised statute, "Oregon expungement law has seen some dramatic changes in the past few years. Senate Bill 397 [amendment 137.225] took effect January 1, 2022. It reduces most set aside timelines and has a profound effect on overall eligibility" (Lohkre Law 2023, as cited in Oregon Laws, 2022), and it creates a pathway for expungement of felony records.

#### **Oregon [ORS 137.225](#) Order Setting Aside Conviction or Record of Criminal Charge**

The Oregon legislation allows that "any person convicted of an offense who has fully complied with and performed the sentence of the court for the offense—may apply to the court where the conviction was entered for entry of an order setting aside the conviction" (OregonLaws, 2022).

The following highlights these changes.

A person in Oregon is eligible to file a motion under the following criteria:

- For a Class B felony, seven years from the date of conviction or the release of the person from imprisonment for the conviction sought to be set aside, whichever is later.
- For a Class C felony, five years from the date of conviction or the release of the person from imprisonment for the conviction sought to be set aside, whichever is later.
- For a Class A misdemeanor, three years from the date of conviction or the release of the person from imprisonment for the conviction sought to be set aside, whichever is later.
- For a Class B or Class C misdemeanor, a violation or the finding of a person in contempt of court, one year from the date of conviction or finding or the release of the person from imprisonment for the conviction or finding sought to be set aside, whichever is later.

The expungement process requires that the prosecuting attorney provide a hearing date notification to the victim, who may provide a statement. Upon consideration of all factors of eligibility, the court will grant the motion "by clear and convincing evidence" that the person's conduct and situation do not create a risk to public safety. A granted petition of expungement includes eliminating the official arrest, citation, and charge records.

Oregon has a timeline between three to seven years for eligibility and no allowance for Class A felonies such as first degree assault, kidnapping, and arson; Class B with firearm; or most sex offenses (Zuanich Law, 2023).

#### **Michigan HB4984 Expands Clean Slate Laws**

Michigan's Clean Slate law sets all eligibility time requirements at five years and caps felony convictions at three (except for assaults, which have a cap of two) and excludes people serving life imprisonment sentences, sex offenses, more than one conviction for domestic violence, human trafficking, and second-degree child abuse. A proven track record of public safety exists alongside 50 years of Michigan expungement law with only 0.6% of *violent* conviction expungement recipients reconvicted within two years and 0.8% within five years (Prescott and Starr, 2020b).

Enacted in October 2020, only 6.5% of eligible candidates sought to obtain relief within five years of eligibility (Prescott and Starr, 2020b). The Michigan Attorney General has a [website](#) explaining eligibility criteria and how to obtain an expungement, including a procedural checklist for each category of criminal record.

In Michigan, a person convicted of a single felony may request the convicting court to expunge the conviction five years after completion of a sentence or probation or parole, whichever is later, and if the applicant has no more than two prior misdemeanor convictions. Multiple charges in a single case are counted as separate convictions.

Eligibility for expungement under Michigan's program is dependent upon the following criteria:

- A person convicted of one or more criminal offenses, but not more than a total of three felony offenses, may apply to have all of his or her convictions from this state set aside.
- An applicant may not have more than a total of two convictions for an assaultive crime set aside under this act during his or her lifetime.
- An applicant may not have more than one felony conviction for the same offense set aside under this section if the offense is punishable by more than 10 years imprisonment.
- Ineligibility includes sex offenses, life imprisonment, more than one conviction for domestic violence, human trafficking, and second-degree child abuse.

Michigan's expungement laws have been active for over fifty years and provide an excellent case study to measure long-term outcomes of expungement. A Harvard Law Review study included data from 1983 to 2011 of tens of thousands of individuals who earned expungement relief, and the study's researchers note that Michigan State Police acknowledged a 75% success rate in applications (Prescott and Starr, 2020b). Eligibility begins five years after sentencing or release, whichever is later, and includes violent felonies. The results of Prescott and Starr's (2020b) analysis show:

For all crimes, including minor and nonviolent crimes:

- 1.8% of recipients are reconvicted within two years
- 4.2% are reconvicted within five years

For violent crimes:

- 0.6% of recipients are reconvicted within five years
- 1% are reconvicted for felonies

The Prescott and Starr (2020b) study revealed that the risk of reoffending is significantly lower than the crime risk posed by the population of all Michigan adults. The risk between a five year and ten-year waiting period is minimal, indicating to policymakers that a five-year waiting period is long enough to assess public safety. Of note is that only 0.8% of people with an expunged violent felony are reconvicted of a violent crime within five years.

The study concludes that it is reasonable to believe that expungement *reduces* crime. A criminal record increases criminogenic factors like poverty, unemployment, stigma, homelessness, and social isolation, which are associated with recidivism risk. Expungement alleviates the degree of exposure to these risks, therefore increasing public safety.

Expungement recipients quickly exhibit much better employment outcomes—even after accounting for the recipient's employment history and broader economic trends. Within a year of expungement, recipients' average quarterly wages rise by about 23%. They conclude that there are potential causal-inference challenges on this front; however, "our data provide good reason to believe that at least most of this gain is caused by expungement" (Prescott and Starr, 2020a).

### **Connecticut Public Act No. 21-32 Clean Slate Law**

Connecticut recognizes the detrimental effects of criminal records on social integration. On January 1, 2023, its Public Act No. 21-32 Clean Slate Law worked to eliminate barriers that undermine successful reentry through automatic expungement of some cannabis and other convictions after the payment of fees, a completed sentence, and seven to ten years without a criminal conviction. A petition process is available for other misdemeanor and felony convictions with a seven- or ten-year waiting period, respectively.

**"Expungement opponents have never offered any empirical evidence that expungement somehow undermines public safety, and the logic underlying this theory crumbles under even a little bit of scrutiny."** (Prescott & Starr, 2020a, p. 6)

### **The Impact of Background Checks on the Need for Expungement**

According to an article about background checks in the *National Institute of Justice Journal*, published by the U.S. Department of Justice to inform justice policy and practice through evidence-based knowledge, "There should be some point in time after which ex-offenders should not be handicapped in finding employment. The question is when, precisely, should this occur?" (Blumstein and Nakamura, 2009). The empirical data included burglary and aggravated assault and "provides the criminal justice community with the first scientific method for estimating how long is 'long enough' for someone with a prior record to remain arrest-free before they should be considered 'redeemed'" (Blumstein and Nakamura, 2009). One such example of 'long enough' determined by Blumstein and Nakamura's (2009) survey indicated that a population of individuals previously convicted of aggravated assault achieved the same arrest-

rate as the general population of same-aged individuals 4.3 years after their initial arrest. Notably, as time progressed beyond that point of convergence, previously-arrested individuals achieved increasingly lower arrest rates when compared to their peers in the general population. Therefore, following a certain period of good behavior, the population of individuals with arrest records, even for violent felonies, become a lesser threat to public safety than the general population. Consequently, the State should implement earned redemptive policies which reflect that reality.

A 2022 randomized control trial published in the *Journal of Experimental Criminology* found that “the offer to expunge the criminal record following participation in rehabilitation programs reduces both crime count and crime harm” (Bland, et al., 2023). The Bland (2023) literature review confirmed that conviction histories are compelling antecedents to future criminal activity, poor self-image, and social ostracization. The Pathfinder treatment study included 341 low-level offenders with indictable offenses (assault, drug possession) with a result of a 3.5% reduction in crime harm in the control group in comparison to the treatment group, which showed a 38.3% reduction (Bland, et al., 2023).

#### References

- Bland, M., Barak, A., Sumit, K. (2023). *Criminal records versus rehabilitation and expungement: a randomised controlled trial*. *Journal of Experimental Criminology*. Accessed from <https://link.springer.com/article/10.1007/s11292-023-09557-x>
- Blumstein, A., & Nakamura, K. (2009). ‘Redemption’ in an era of widespread criminal background checks. *National Institute of Justice Journal*, 263. Accessed From <https://www.ojp.gov/pdffiles1/nij/226872.pdf>
- OregonLaws. (2022). ORS 137.225 Order setting aside conviction or record of criminal charge. Accessed from [https://oregon.public.law/statutes/ors\\_137.225](https://oregon.public.law/statutes/ors_137.225)
- Prescott, J., & Starr, S. (2020a). *The power of a clean slate: Empirical evidence from Michigan shows expungement can help people with criminal records without threatening public safety*. The Cato Institute. Accessed from <https://www.cato.org/regulation/summer-2020/power-clean-slate#:~:text=A%20few%20states%20now%20provide,new%20bipartisan%20turn%20favoring%20expungement.>
- Prescott, J., & Starr, S. (2020b). Expungement of criminal convictions: An empirical study. *Harvard Law Review*, 133(8). 2460-2555. Accessed from [https://harvardlawreview.org/wp-content/uploads/2020/06/2460-2555\\_Online-1.pdf](https://harvardlawreview.org/wp-content/uploads/2020/06/2460-2555_Online-1.pdf)
- State of Connecticut. (2023). Clean slate and cannabis erasure. Ct.gov. Accessed from [https://portal.ct.gov/cleanslate/Clean-Slate-Eligibility?languag=&language=en\\_US](https://portal.ct.gov/cleanslate/Clean-Slate-Eligibility?languag=&language=en_US)
- Zuanich Law. (2023). What crimes cannot be expunged in Oregon. Zuanich Law PLLC. Accessed from <https://www.zuanichlaw.com/what-convictions-cannot-be-expunged-in-oregon#:~:text=You%20cannot%20expunge%20the%20following%20Class%20A%20misdeemeanors%20in%20Oregon,child%20abuse%20under%20Oregon%20law>

Respectfully submitted,

Foster Bates, MSP NAACP President

On this Date of November 1, 2024

Attachment: Related to Foster Bates' first and second recommendations (see section 5302)

CHAPTER 341

OCCUPATIONAL LICENSE DISQUALIFICATION ON BASIS OF CRIMINAL RECORD

PROPOSED RECS ##  
25 + 26

**§5301. Eligibility for occupational license, registration or permit**

**1. Effect of criminal history record information respecting certain convictions.** Subject to subsection 2 and sections 5302 and 5303, in determining eligibility for the granting of any occupational license, registration or permit issued by the State, the appropriate State licensing agency may take into consideration criminal history record information from Maine or elsewhere relating to certain convictions which have not been set aside or for which a full and free pardon has not been granted, but the existence of such information shall not operate as an automatic bar to being licensed, registered or permitted to practice any profession, trade or occupation.

[PL 1989, c. 84, §1 (AMD).]

**2. Criminal history record information which may be considered.** A licensing agency may use in connection with an application for an occupational license, registration or permit criminal history record information pertaining to the following:

A. Convictions for which incarceration for less than one year may be imposed and which involve dishonesty or false statement; [PL 1977, c. 287, §1 (RPR).]

B. Convictions for which incarceration for less than one year may be imposed and which directly relate to the trade or occupation for which the license or permit is sought; [PL 1977, c. 287, §1 (RPR).]

C. Convictions for which no incarceration can be imposed and which directly relate to the trade or occupation for which the license or permit is sought; [PL 1989, c. 84, §1 (AMD).]

D. Convictions for which incarceration for one year or more may be imposed; or [PL 1989, c. 84, §1 (AMD).]

E. Convictions for which incarceration for less than one year may be imposed and that involve sexual misconduct by an applicant for massage therapy licensure or a licensed massage therapist or an applicant or licensee of the Board of Licensure in Medicine, the Board of Osteopathic Licensure, the Board of Dental Practice, the State Board of Examiners of Psychologists, the State Board of Social Worker Licensure, the Board of Chiropractic Licensure, the State Board of Examiners in Physical Therapy, the State Board of Alcohol and Drug Counselors, the Board of Respiratory Care Practitioners, the Board of Counseling Professionals Licensure, the Board of Occupational Therapy Practice, the Board of Speech, Audiology and Hearing, the Radiologic Technology Board of Examiners, the Nursing Home Administrators Licensing Board, the Board of Licensure of Podiatric Medicine, the Board of Complementary Health Care Providers, the Maine Board of Pharmacy, the Board of Trustees of the Maine Criminal Justice Academy, the State Board of Nursing and the Emergency Medical Services' Board. [PL 2011, c. 286, Pt. O, §1 (AMD); PL 2015, c. 429, §23 (REV).]

[PL 2011, c. 286, Pt. O, §1 (AMD); PL 2015, c. 429, §23 (REV).]

SECTION HISTORY

PL 1975, c. 150 (NEW). PL 1977, c. 287, §1 (RPR). PL 1989, c. 84, §1 (AMD). PL 1993, c. 600, §§B20-22 (AMD). PL 1995, c. 131, §1 (AMD). PL 1995, c. 162, §1 (AMD). PL 1995, c. 625, §A11 (AMD). PL 2005, c. 347, §A1 (AMD). PL 2007, c. 369, Pt. A, §1 (AMD). PL 2007, c. 369, Pt. C, §5 (AFF). PL 2011, c. 286, Pt. O, §1 (AMD). PL 2015, c. 429, §23 (REV).

**§5302. Denial, suspension, revocation or other discipline of licensees because of criminal record**

**1. Reasons for disciplinary action.** Licensing agencies may refuse to grant or renew, or may suspend, revoke or take other disciplinary action against any occupational license, registration or permit on the basis of the criminal history record information relating to convictions denominated in section 5301, subsection 2, but only if the licensing agency determines that the applicant, licensee, registrant or permit holder so convicted has not been sufficiently rehabilitated to warrant the public trust. The applicant, licensee, registrant or permit holder shall bear the burden of proof that there exists sufficient rehabilitation to warrant the public trust.  
[PL 1989, c. 84, §2 (AMD).]

**2. Reasons to be stated in writing.** The licensing agency shall explicitly state in writing the reasons for a decision which prohibits the applicant, licensee, registrant or permit holder from practicing the profession, trade or occupation if that decision is based in whole or in part on conviction of any crime described in section 5301, subsection 2.  
[PL 1989, c. 84, §2 (AMD).]

**SECTION HISTORY**

PL 1975, c. 150 (NEW). PL 1977, c. 287, §§2,3 (AMD). PL 1989, c. 84, §2 (AMD).

**§5303. Time limit on consideration of prior criminal conviction**

**1. Three-year limits.** Except as set forth in this subsection and subsection 2, the procedures outlined in sections 5301 and 5302 for the consideration of prior criminal conviction as an element of fitness to practice a licensed profession, trade or occupation shall apply within 3 years of the applicant's or licensee's final discharge, if any, from the correctional system. Beyond the 3-year period, ex-offender applicants or licensees with no additional convictions are to be considered in the same manner as applicants or licensees possessing no prior criminal record for the purposes of licensing decisions. There is no time limitation for consideration of an applicant's or licensee's conduct which gave rise to the criminal conviction if that conduct is otherwise a ground for disciplinary action against a licensee.  
[PL 1989, c. 84, §3 (NEW).]

**2. Ten-year limits.** For applicants to and licensees and registrants of the Board of Licensure in Medicine, the Board of Osteopathic Licensure, the Board of Dental Practice, the State Board of Examiners of Psychologists, the State Board of Social Worker Licensure, the State Board of Nursing, the Board of Chiropractic Licensure, the Board of Trustees of the Maine Criminal Justice Academy, the State Board of Examiners in Physical Therapy, the State Board of Alcohol and Drug Counselors, the Board of Respiratory Care Practitioners, the Board of Counseling Professionals Licensure, the Board of Occupational Therapy Practice, the Board of Speech, Audiology and Hearing, the Radiologic Technology Board of Examiners, the Nursing Home Administrators Licensing Board, the Board of Licensure of Podiatric Medicine, the Board of Complementary Health Care Providers, the Maine Board of Pharmacy and the Emergency Medical Services' Board, for applicants to and licensees of the Department of Agriculture, Conservation and Forestry for growing, processing and transporting hemp and for applicants for massage therapy licensure or licensed massage therapists, the following apply.

A. The procedures outlined in sections 5301 and 5302 for the consideration of prior criminal conviction as an element of fitness to practice a licensed profession, trade or occupation apply within 10 years of the applicant's or licensee's final discharge, if any, from the correctional system.  
[PL 1995, c. 625, Pt. A, §12 (RPR).]

B. Beyond the 10-year period, ex-offender applicants or licensees with no additional convictions must be considered in the same manner as applicants or licensees possessing no prior criminal record for the purposes of licensing decisions. [PL 1995, c. 625, Pt. A, §12 (RPR).]

C. There is no time limitation for consideration of a registrant's, an applicant's or licensee's conduct that gave rise to the criminal conviction if that conduct is otherwise a ground for disciplinary action.  
[PL 1995, c. 625, Pt. A, §12 (RPR).]

#25

#26

18

[PL 2021, c. 761, §1 (AMD).]

**SECTION HISTORY**

PL 1975, c. 150 (NEW). PL 1989, c. 84, §3 (RPR). PL 1993, c. 600, §§B20-22 (AMD). PL 1995, c. 131, §2 (AMD). PL 1995, c. 162, §2 (AMD). PL 1995, c. 625, §A12 (AMD). PL 2005, c. 347, §A2 (AMD). PL 2007, c. 369, Pt. A, §2 (AMD). PL 2007, c. 369, Pt. C, §5 (AFF). PL 2015, c. 429, §23 (REV). PL 2017, c. 288, Pt. A, §12 (AMD). PL 2021, c. 761, §1 (AMD).

**§5304. Appeals**

Any person who is aggrieved by the decision of any licensing agency in possible violation of this chapter may file a statement of complaint with the District Court designated in chapter 375. [PL 1999, c. 547, Pt. B, §14 (AMD); PL 1999, c. 547, Pt. B, §80 (AFF).]

**SECTION HISTORY**

PL 1975, c. 150 (NEW). PL 1987, c. 402, §A54 (AMD). PL 1999, c. 547, §B14 (AMD). PL 1999, c. 547, §B80 (AFF).

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AMERICAN CIVIL LIBERTIES UNION

Maine

Proposed recs. ##  
3, 4, 11, 14, 17

Michael Kebede

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### Overview

The American Civil Liberties Union of Maine recommends that the Criminal Records Review Commission (CRRC) adopt the six ideas below. These recommendations are all designed to ensure that more people with criminal records stand a chance at fully reintegrating into society. They are also designed to expand the virtues of certain quarters of the existing system into other quarters of the records sealing system (e.g., expanding automatic sealing of some juvenile crimes to other juvenile crimes, and to some adult crimes). As the CRRC has learned from numerous presenters, importing legal concepts and systems wholesale from other jurisdictions can pose a challenge to the responsible state agencies. These recommendations all take that insight to heart, and all build on parts of the Maine criminal legal system that already exist in practice and in statute.

### Recommendations

Proposed rec. #

#17

1. Report out legislation automatically sealing all convictions for violations of the criminal code that have since been decriminalized.

#11

2. Report out legislation extending the petition-based system for sealing criminal records in Chapter 310-A of Title 15 to Class D crimes, incorporating the exceptions in LD 1459 from the 130<sup>th</sup> Legislative Session. *A copy of this bill is attached to Tess Parks' proposals*

#21

3. Report out legislation extending automatic sealing of juvenile records to all crimes committed by juveniles.

#3

4. Report out legislation or establish a mechanism, whichever is more practicable, requiring the Criminal Records Review Commission to study how to extend automatic sealing to non-juvenile crimes.

#4

5. Report out legislation or establish a mechanism, whichever is more practicable, requiring the Criminal Records Review Commission to study funding pathways for expanding the automatic criminal records sealing system.

#14

6. Report out legislation or establish a mechanism, whichever is more practicable, requiring the Maine Public Defender System to pay attorneys for assisting people in submitting a petition for sealing criminal records under Chapter 310-A of Title 15.



Proposed recs. ##  
13, 15, 28

Hannah Longley

Stocco, Janet

From: Hannah Longley <hannahl@namimaine.org>  
Sent: Friday, November 1, 2024 12:19 PM  
To: Stocco, Janet  
Subject: RE: Submitting proposed recommendations for CRRC consideration (deadline Fri. 11/1/24)

Follow Up Flag: Follow up  
Flag Status: Flagged

This message originates from outside the Maine Legislature.

Good afternoon,  
Please see the recommendations below!

Listed below are the recommendations for NAMI Maine. By adopting these recommendations, the Committee will support a more equitable approach to justice, reinforce the importance of behavioral health in rehabilitation, and promote a system that incentivizes personal reform while balancing public safety needs.

1. **Sealing of Criminal Records upon Completion of Behavioral Health Treatment Programs**

It is recommended that criminal records be sealed upon successful completion or graduation from approved behavioral health treatment programs, including treatment courts. This approach acknowledges the rehabilitative work of individuals who have committed to their recovery and allows them to reintegrate into society without the burden of a criminal record, which often poses barriers to employment, housing, and other critical opportunities. By sealing records, we support their ongoing mental health, reduce recidivism, and encourage more individuals to seek necessary treatment without fear of long-term consequences.

Proposed rec. # 13

2. **Application to Seal Records for Individuals in Correctional Facility Treatment Programs**

For individuals who have engaged in mental health treatment programs while within correctional facilities, it is recommended that they be given the option to apply for record sealing through recognized behavioral health providers. This process acknowledges their dedication to rehabilitation and provides a path to reduce the stigma of incarceration, enabling them to better transition into their communities.

Proposed rec. # 15

o **Alternative Option: Certificate of Rehabilitation**

As an alternative to full record sealing, individuals may have the opportunity to apply for a Certificate of Rehabilitation, a model utilized in various states. Such certificates serve as an official acknowledgment of rehabilitation and can be used to demonstrate reform and readiness for reintegration. This option may be particularly beneficial in cases where sealing is not feasible, but evidence of rehabilitation is warranted.

Proposed rec. # 28

Please let me know if you need anything else from me or have any questions!  
thanks, Hannah

Hannah Longley, LCSW (she/her)  
Director of Advocacy and Crisis Interventions  
52 Water St., Hallowell, ME 04347  
800-464-5767, EXT. 2319

Support NAMI Maine's Mission: [Donate](#) - NAMI Maine - Mental Health Programs & Support



proposed rec. # 9

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.

1. **Administration of criminal justice.** "Administration of criminal justice" has the same meaning as in Title 16, section 703, subsection 1.

2. **Another jurisdiction.** "Another jurisdiction" has the same meaning as in Title 17-A, section 2, subsection 3-B.

3. **Criminal history record information.** "Criminal history record information" has the same meaning as in Title 16, section 703, subsection 3.

4. **Criminal justice agency.** "Criminal justice agency" has the same meaning as in Title 16, section 703, subsection 4.

5. **Dissemination.** "Dissemination" has the same meaning as in Title 16, section 703, subsection 6.

6. **Eligible criminal conviction.** Except for motions under sections 2262-A or 2262-B, "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. For motions under section 2262-A, "eligible criminal conviction" means a criminal conviction for engaging in prostitution under Title 17-A, former section 853-A. For motions under section 2262-B, "eligible criminal conviction" means a conviction for any current or former crime.

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.

8. **Sexual exploitation.** "Sexual exploitation" means engaging in the exchange of sex for money or resources because of a person's history of trauma, adverse childhood experiences, substance use disorder or other circumstances of victimization, exploitation or oppression.

9. **Sex trafficking.** "Sex trafficking" means promoting sexual exploitation by compelling a person to enter into, engage in or remain in sexual exploitation, promoting the sexual exploitation of a person less than 18 years of age or promoting the sexual exploitation of a person who suffers from a mental disability that is reasonably apparent or known to the actor and that in fact renders the other person substantially incapable of appraising the nature of the conduct involved.

§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:

1. **Eligible criminal conviction.** The criminal conviction is an eligible criminal conviction;

**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;

**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;

**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;

**5. Pending criminal charges.** The person does not have any presently pending criminal charges in this State or in another jurisdiction; and

**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.

**§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:

**1. Eligible criminal conviction.** The criminal conviction is an eligible criminal conviction;

**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

**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.

**§2262-B. Sealing criminal history record information of victims of sex trafficking or sexual exploitation**

Criminal record information relating to a criminal conviction shall be sealed under this chapter if the person filing the motion establishes:

1. The person has been a victim of sex trafficking or sexual exploitation; and

2. The commission of the crime for which the person was convicted was a substantial result of sex trafficking or sexual exploitation.

A motion under this section may be filed at any time after the criminal conviction is entered.

**§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 or 2262-B. The written motion must briefly address each of the statutory prerequisites.

**§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. If multiple motions are filed, the court shall consolidate the motions to one location.

**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.

**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.

**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.

For motions filed under section 2262-B, The person filing the motion and any witnesses may participate remotely, unless the court finds that the person filing the motion or a particular witness resides in this state and interests of justice require in person participation Official documentation of a person's status as a victim of sexual exploitation or sex trafficking is not required. However, if such official documentation is presented, it creates a presumption that the person's participation in an offense was a substantial result of the person's having been a victim of sexual exploitation or sex trafficking. Official documentation includes but is not limited to: (1) a copy of an official record, certification, or eligibility letter from a federal, state, tribal or local proceeding, including an approval notice or an enforcement certification generated from a federal immigration proceeding, that shows the person filing the motion was a victim of sex trafficking or sexual exploitation; (2) an affidavit or sworn testimony from a member of the clergy, a medical professional, a staff member of a victim services organization, or other professional from whom the person filing the motion has sought legal counsel or other assistance in addressing the trauma and other challenges associated with being a victim of sex trafficking or sexual exploitation; or (3) any other evidence the court determines is of sufficient credibility or probative value.

**5. Hearing; order; written findings.** The court shall hold a hearing on a motion filed under this section, except that—for motions filed under 2262-B, the court may grant the motion without a hearing if the representative for the State consents to the motion. 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, or 2262-B~~ 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, or 2262-B~~ 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.

**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.

**7. Subsequent new criminal conviction; automatic loss of eligibility; person's duty to notify.** Except for those records sealed under section 2262-A or 2262-B, nNotwithstanding 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.

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.

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.

**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.

**§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:

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

**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

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;

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

**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

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;

**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;

**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;

**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

**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.

**§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.

**§ 2266-A. Business Screening Services; Data Practices.**

**1. Definitions.**

For purposes of this section:

(a) "Business screening service" means a person regularly engaged in the business of collecting, assembling, evaluating, or disseminating criminal records on individuals for a fee. Business screening service does not include a government entity or the news media.

(b) "Conviction" means any of the following accepted and recorded by the court:

(1) a plea of guilty; or

(2) a verdict of guilty by a jury or a finding of guilty by the court.

(c) "Criminal record" means a record of an arrest, citation, prosecution, criminal proceeding, or conviction.

### 2. Criminal records.

A business screening service must only disseminate a criminal record that reflects the complete and accurate record provided by the source of the data. A complete and accurate record is a record that has:

(1) been updated within 30 days of its receipt; or

(2) been verified with the source of the data within the previous 90 days as being up-to-date.

### 3. Correction and deletion of records.

(a) If the completeness or accuracy of a criminal record maintained by a business screening service is disputed by the individual who is the subject of the record, the screening service shall, without charge, investigate the disputed record. In conducting an investigation, the business screening service shall review and consider all relevant information submitted by the subject of the record with respect to the disputed record to determine whether the record maintained by the screening service accurately reflects the content of the official record, as maintained by the official government custodian.

(b) If, upon investigation, the screening service determines that the record does not accurately reflect the content of the official record, the screening service shall correct the disputed record so as to accurately reflect the content of the official record. If the disputed record is found to be sealed or the subject of a pardon, the business screening service shall promptly delete the record. A business screening service that complies with this subdivision is not in violation of this section.

(c) A business screening service may terminate an investigation of a disputed record if the business screening agency reasonably determines that the dispute is frivolous, which may be based on the failure of the subject of the record to provide sufficient information to investigate the disputed record. Upon making a determination that the dispute is frivolous, the business screening service shall inform the subject of the record of the specific reasons why it has determined that the dispute is frivolous and provide a description of any information required to investigate the disputed record.

(d) The business screening service shall notify the subject of the disputed record of the correction or deletion of the record or of the termination or completion of the investigation related to the record within 30 days of the date when the agency receives notice of the dispute from the subject of the record.

### 3. Deletion of sealed records.

If a business screening service knows that a criminal record has been sealed or is the subject of a pardon, the screening service shall promptly delete the record.

### 4. Date and notice required.

A business screening service that disseminates a criminal record that was collected on or after July 1, 2010, must include the date when the record was collected by the business screening service and a notice that the information may include criminal records that have been sealed or otherwise have become inaccessible to the public since that date.

**5. Remedies; relationship to Fair Credit Reporting Act.**

(a) A business screening service that violates this section is liable to the individual who is the subject of the record for a penalty of \$1,000 or actual damages caused by the violation, whichever is greater, plus costs and disbursements and reasonable attorney fees.

(b) A business screening service in compliance with the applicable provisions of the Fair Credit Reporting Act, United States Code, title 15, section 1681, et seq., is considered to be in compliance with this section. Those entities are subject to the state remedies under this subdivision when their actions would violate this section and federal law.

**6. Service of process; jurisdiction.**

A business screening service that disseminates criminal record information in this state or that obtains a criminal record from a government entity, or a court in this state is deemed to have consented to service of process in this state for purposes of Title 13-B, Chapter 12, sections 1212-A and 1213, or other applicable law and to the jurisdiction of courts in this state for actions involving a violation of this section or for the recovery of remedies under this section.

**§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.

**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.

**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.

**§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.

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.

**§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.



CHAPTER 305-C

POST-CONVICTION REVIEW FOR VICTIMS OF SEX TRAFFICKING AND SEXUAL EXPLOITATION

**§2139. Definitions**

As used in this chapter, the following terms have the following meanings.

1. **Criminal judgment.** "Criminal judgment" means a judgment of conviction of a crime, the orders of adjudication and disposition in a juvenile case and a judgment of not criminally responsible by reason of insanity.
  
2. **Assigned justice or judge.** "Assigned justice or judge" means the Justice or Active Retired Justice of the Supreme Judicial Court, the Justice or Active Retired Justice of the Superior Court or the judge authorized to sit in the Superior Court on post-conviction review cases who is assigned the post-conviction review proceeding when a special assignment has been made. It means any justice, active retired justice or authorized judge attending to the regular criminal calendar when the post-conviction review proceeding is assigned to the regular criminal calendar.
  
3. **Compelling.** "Compelling" includes but is not limited to:
  - A. The use of a drug or intoxicating substance to render a person incapable of controlling that person's conduct or appreciating its nature;
  - B. Withholding or threatening to withhold a scheduled drug or alcohol from a drug-dependent or alcohol-dependent person. "Drug-dependent or alcohol-dependent person" means a person who is using scheduled drugs or alcohol and who is in a state of psychic or physical dependence, or both, arising from the use of the drugs or alcohol on a continuing basis;
  - C. Making material false statements, misstatements or omissions;
  - D. Withholding, destroying or confiscating an actual or purported passport or other immigration document or other actual or purported government identification document with the intent to impair a person's freedom of movement;
  - E. Requiring the sexual exploitation of a person to retire, repay or service an actual or purported debt; and
  - F. Using force or engaging in any scheme, plan or pattern to instill in a person a fear that, if the person does not engage or continue to engage in sexual exploitation, the actor or another person will:
    - (1) Cause physical injury or death to a person;
    - (2) Cause damage to property, other than property of the actor;
    - (3) Engage in other conduct constituting a Class A, Class B or Class C crime or criminal restraint;
    - (4) Accuse some person of a crime or cause criminal charges or deportation proceedings to be instituted against some person;

(5) Expose a secret or publicize an asserted fact, regardless of veracity, tending to subject some person, except the actor, to hatred, contempt or ridicule;

(6) Testify or provide information or withhold testimony or information regarding another person's legal claim or defense;

(7) Use a position as a public servant to perform some act related to that person's official duties or fail or refuse to perform an official duty in a manner that adversely affects some other person; or

(8) Perform any other act that would not in itself materially benefit the actor but that is calculated to harm the person being compelled with respect to that person's health, safety or immigration status.

**4. Sentence.** "Sentence" means the punishment imposed in a criminal proceeding or the disposition imposed in a juvenile proceeding.

**5. Sex Trafficking.** "Sex trafficking" means promoting sexual exploitation by compelling a person to enter into, engage in or remain in sexual exploitation, promoting the sexual exploitation of a person less than 18 years of age or promoting the sexual exploitation of a person who suffers from a mental disability that is reasonably apparent or known to the actor and that in fact renders the other person substantially incapable of appraising the nature of the conduct involved.

**6. Sexual Exploitation.** "Sexual exploitation" means engaging in the exchange of sex for money or resources because of a person's history of trauma, adverse childhood experiences, substance use disorder or other circumstances of victimization, exploitation or oppression.

#### **§2140. Purpose**

This chapter recognizes that victims of sex trafficking or sexual exploitation may commit a variety of criminal acts that are a substantial result of manipulation, intimidation or compulsion by their trafficker. Victims of sex trafficking or sexual exploitation who committed crimes under such circumstances did not have the requisite culpability. Therefore, sustaining a conviction further contributes to the harm and trauma experienced by these crime victims. This chapter provides a mechanism for reversal of the criminal judgment and should be liberally construed to effectuate this purpose.

#### **§2141. Jurisdiction and venue**

**1. Jurisdiction.** Jurisdiction shall be in the Superior Court.

**2. Supreme Court Justice or authorized Judge of the District Court.** A single Justice of the Supreme Judicial Court, an Active Retired Justice of the Supreme Judicial Court or a judge authorized to sit in the Superior Court on post-conviction review cases has and shall exercise jurisdiction and has and shall exercise all of the powers, duties and authority necessary for exercising the same jurisdiction as the Superior Court relative to a proceeding under this chapter.

**3. Venue.** Venue must be in the county in which the criminal judgment was entered. Venue may be transferred by the assigned justice or judge at that assigned justice's or judge's discretion, except that, if multiple post-conviction review motions are filed, they shall be consolidated to one location and assigned a single justice or judge.

#### **§2129. Petition and procedure**

1. **Motion; persons who may file.** A person for whom one or more criminal convictions in which a final criminal judgment has been entered were the substantial result of the person's sexual exploitation or being subjected to sex trafficking may file a written motion in the underlying criminal proceeding seeking to have the criminal judgment reversed and to correct the court records and related criminal justice agency records. The same motion may also be filed on behalf of such a person by an attorney for the State or by the court. The court shall not assess fees for the filing or service of a motion under this chapter.
2. **Timing for filing.** A motion under this section for post-conviction review to reverse the criminal judgment and correct the record may be filed at any time after a final criminal judgment has been entered.
3. **Service of the motion.** The assigned justice or judge shall determine upon whom and how service of the motion is to be made and enter an appropriate order. The order shall direct the appropriate representative for the State to make all reasonable attempts to notify all crime victims in the underlying matter about the motion.
4. **Representation of the State.** The prosecutorial office that represented the State in the underlying criminal proceeding shall represent the State for the purposes of this chapter. If underlying matters involving multiple prosecutorial offices are consolidated to a single location, a different prosecutorial office may represent the State on any matter where there is agreement between the two prosecutorial offices.
5. **Counsel.** If the court finds that the person who files the motion under section 2192 or on whose behalf the motion is filed is indigent, the court may appoint counsel for the person at any time during the proceedings.
6. **Evidence.** The Maine Rules of Evidence do not apply to the hearing on the motion filed under this chapter, and evidence presented at the hearing by the participants may include testimony, affidavits and other reliable hearsay evidence as permitted by the court. The person filing the motion and any witnesses may participate remotely in any proceeding under this chapter, unless the court finds that the person filing the motion or a particular witness resides in this state and interests of justice require in person participation. Official documentation of a person's status as a victim of sexual exploitation or sex trafficking is not required. However, if such official documentation is presented, it creates a presumption that the person's participation in an offense was a substantial result of the person's having been a victim of sexual exploitation or sex trafficking. Official documentation includes but is not limited to: (1) a copy of an official record, certification, or eligibility letter from a federal, state, tribal or local proceeding, including an approval notice or an enforcement certification generated from a federal immigration proceeding, that shows the person filing the motion was a victim of sex trafficking or sexual exploitation; (2) an affidavit or sworn testimony from a member of the clergy, a medical professional, a staff member of a victim services organization, or other professional from whom the person filing the motion has sought legal counsel or other assistance in addressing the trauma and other challenges associated with being a victim of sex trafficking or sexual exploitation; or (3) any other evidence the court determines is of sufficient credibility or probative value.
7. **Hearing on motion.** The assigned justice or judge shall hold a hearing on the motion, except that the court may grant a motion for relief under this chapter without hearing if: (1) the representative of the State consents to the motion; (2) no objection to the relief requested has

been filed by a victim or victim's representative; and (3) at least 60 days have elapsed since service of the motion on the representative of the State and all reasonable attempts by the State to notify all victims have concluded.

8. **Procedure in proceedings pursuant to this chapter.** In all respects not covered by statute, the procedure in proceedings under this chapter is as the Supreme Judicial Court provides by rule.

**§2142. Relief**

At the conclusion of the hearing, if the court finds that the person who filed the motion has established by a preponderance of the evidence that the person has experienced sex trafficking or sexual exploitation and that the commission of the crime for which the person is seeking relief under this chapter was a substantial result of the sex trafficking or sexual exploitation, the court shall issue a written order vacating the conviction and may take such additional steps as the court determines appropriate in the circumstances. A copy of the court's written order granting or denying the motion must be provided to the person. If the court grants the motion following the hearing in subsection 5, it shall additionally determine what court records and related criminal justice records require correction and shall enter a written order specifying the corrections to be made in the court records and the records of each of the appropriate criminal justice agencies.

**§2143. Review of final judgment**

A final judgment entered under this chapter may be reviewed by the Supreme Judicial Court sitting as the Law Court.

**1. Appeal by petitioner.** A petitioner aggrieved by the final judgment may 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.

**2. Appeal by State.** The State aggrieved by the final judgment may appeal as of right and no certificate of approval by the Attorney General is required. The time for taking the appeal and the manner and any conditions for the taking of an appeal are as the Supreme Judicial Court provides by rule.



Proposed recs.##  
6, 9, 23

Tim Moore

Stocco, Janet

**From:** Tim Moore <tmoore@mab.org>  
**Sent:** Thursday, October 31, 2024 12:17 PM  
**To:** Stocco, Janet; Paddon, Sophia; Murphy, Elias  
**Subject:** RE: Submitting proposed recommendations for CRRC consideration (deadline Fri. 11/1/24)

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Some people who received this message don't often get email from tmoore@mab.org. [Learn why this is important](#)

**This message originates from outside the Maine Legislature.**

Janet, Sophie and Eli-

Thanks for the opportunity to weigh in-in advance of the CRRC Meeting on 11/19

Representing broadcast interests and advocating for the preservation of the First Amendment's right to public access to records of criminal proceedings, I am wary of sweeping reforms that, while well-intentioned, may have the effect undermining the public's right to know.

That said, there are some recommendations that seem to be reasonable and of societal benefit without threatening to restrict a fundamental right to transparency:

Proposed rec. #:

- #6** 1) Convictions for conduct that has been decriminalized in the State over the last 10 years. I would not include conduct under "consideration for decriminalization" until it becomes statute
- #9** 2) Convictions for conduct that was committed by victims and survivors of sexual exploitation and sex trafficking—with the stipulation that such convictions must be non-violent in nature.
- #23** 3) I support the recommendation that the Legislature adopt the Model Collateral Consequences of Conviction Act with regard to explaining to defendants the full scope of what a plea agreement of guilty would entail beyond the obvious possible incarceration and/or fines.

Thanks  
Tim

**Tim Moore**  
**President/CEO**  
**Maine Association of Broadcasters**  
**NEW ADDRESS!**  
**91 Auburn Street**  
**Suite J #1150**  
**Portland, ME 04103**

tmoore@mab.org

207-620-4891



**From:** Stocco, Janet <Janet.Stocco@legislature.maine.gov>  
**Sent:** Tuesday, October 29, 2024 3:48 PM



Proposed recs. ## 8, 16, 27

Matt Morgan

Stocco, Janet

**From:** Matt Morgan <MMorgan@McKeeMorgan.com>  
**Sent:** Monday, October 28, 2024 3:47 PM  
**To:** Stocco, Janet  
**Cc:** Avery, Kent; McCollett, Amy; Murphy, Elias; Paddon, Sophia  
**Subject:** RE: SBI Information about Pled Other Charges  
**Attachments:** Dismissal Example MDM 10.28.24.pdf  
  
**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

This message originates from outside the Maine Legislature.

Janet,

I have finally found the time to review Attorney Avery's response and wanted to follow up.

The JB branch has a dismissal form. It has a series of options, but one of those options is "Defendant has pled to other charges." I'm attaching a redacted copy of one from a recent case.

The example I brought up at our last meeting is when a prosecutor and a defense attorney (if the defendant is represented) select "Defendant has pled to other charges" when the Defendant in fact admitted a civil violation only and did not "plead" to another criminal "charge." 6 M.R.S. 703(G), which AAG Avery references, states that "Confidential criminal history record information" means criminal history record information of the following types: 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.**"

Defendants do not "plead" to civil infractions (defendants "admit" civil infractions). Any "plea agreement" that only results in a civil adjudication in exchange for a dismissal of a criminal charge is really just a dismissal of all criminal charges and should not result in publicly available criminal history information. It is my understanding that if Box 1 is checked, regardless the outcome, then then SBI is reporting the dismissed conduct as publicly available criminal history information.

Please include the following email and request as one of my recommendations for the CRRC to consider:

\* Propose legislation to further define "plea agreement" in 6 M.R.S. Sec. 703(2)(G) as follows: "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 where the defendant pleads guilty and is convicted of a criminal offense in exchange for the dismissal."  
#27

Thanks,

Matt

Matthew D. Morgan  
 Attorney at Law  
 McKee Morgan, LLC, P.A.  
 133 State Street

MAINE JUDICIAL BRANCH

STATE OF MAINE

V.

Superior Court  District Court

Unified Criminal Docket

County: Cumberland

Location (Town): Portland

Docket No.: \_\_\_\_\_

Defendant \_\_\_\_\_

**DISMISSAL**

M.R.U. Crim. P. 48(a)

Pursuant to Rule 48(a) of the Maine Rules of Unified Criminal Procedure the  District Attorney for Prosecutorial District 2  Attorney General of the State of Maine hereby dismisses the indictment, information, complaint or count(s) Ct 2 thereof against the defendant for the following reasons:

- 1)  Defendant has pled to other charges: Ct 2 - Nolo Contendere  
(docket number(s) and count(s))
- 2)  Defendant has been indicted on this or a substituted charge: \_\_\_\_\_  
(docket number(s) and count(s))
- 3)  Witness unavailable.
- 4)  Insufficient evidence.
- 5)  Defendant is a juvenile.
- 6)  De Minimis.
- 7)  The Court has found Defendant not competent to stand trial and has ordered that all charges against Defendant in this matter are dismissed.
- 8)  Defendant has complied with all conditions of the Deferred Disposition Agreement.
- 9)  Defendant will be prosecuted in federal court.
- 10)  Other \_\_\_\_\_

Date (mm/dd/yyyy): 8/8/24

[Signature] 3929  
 (Asst.) District Attorney  Attorney General

**TO BE COMPLETED IF DISMISSED DURING TRIAL:**

I, \_\_\_\_\_, defendant, consent to the filing of the foregoing dismissal.

Date (mm/dd/yyyy): \_\_\_\_\_

► \_\_\_\_\_  
Defendant

**ADA Notice:** The Maine Judicial Branch complies with the Americans with Disabilities Act (ADA). If you need a reasonable accommodation contact the Court Access Coordinator, [accessibility@courts.maine.gov](mailto:accessibility@courts.maine.gov), or a court clerk.  
**Language Services:** For language assistance and interpreters, contact a court clerk or [interpreters@courts.maine.gov](mailto:interpreters@courts.maine.gov).

**Stocco, Janet**

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**From:** Matt Morgan <MMorgan@McKeeMorgan.com>  
**Sent:** Monday, October 28, 2024 4:06 PM  
**To:** Stocco, Janet  
**Cc:** Murphy, Elias; Paddon, Sophia  
**Subject:** RE: Submitting proposed recommendations for CRRC consideration (deadline Fri. 11/1/24)

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

**This message originates from outside the Maine Legislature.**

Janet,

In addition to the email I sent moments ago, I also make the following recommendation:

- #8
1. We propose legislation expanding the existing sealing law (15 M.R.S. Sec. 2261 et seq.) to include felony drug offenses as eligible convictions other than Class A Aggravated Trafficking convictions or convictions alleging the use of a firearm.

We heard considerable public input about the effect of felony convictions and have received evidence of other states that allow for felony convictions to be sealed.

- #16
2. We make the sealing process automatic.

This avoids disparities where only wealthy defendants are able to take advantage of the law through attorneys.

Thanks,  
Matt

Matthew D. Morgan  
Attorney at Law  
McKee Morgan, LLC, P.A.  
133 State Street  
Augusta, Maine 04330  
207-620-8294

[www.McKeeMorgan.com](http://www.McKeeMorgan.com)

McKee Morgan – The Story: <https://youtu.be/yHZFqbCKuFw>

**MCKEE MORGAN**

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Please note my new email address, [MMorgan@McKeeMorgan.com](mailto:MMorgan@McKeeMorgan.com)





Proposed Recommendations to the Criminal Records Review Committee

Recommendations that the Maine Legislature enact:

1. **Add convictions for Class D crimes to the list of eligible convictions for which a person can submit a motion to seal criminal history record information related to the conviction with exceptions, such as:**
  - a. Class D crimes involving sexual assaults (Title 17-A, Chapter 11);
  - b. Class D crimes involving the sexual exploitation of minors (Title 17-A, Chapter 12)
  - c. Class D and Class E crimes of aggravated sex trafficking, sex trafficking and patronizing prostitution of a minor or a person with a mental disability;
  - d. Stalking and domestic violence stalking;
  - e. A crime against a family or household member before 20 years have passed since entry of the judgment of conviction;
  - f. Any crime involving domestic violence, unless the sentence has been commuted;
  - g. A conviction for a violation of a condition of release for a charge that involves a crime against a family or household member before 20 years have passed since entry of the judgment of conviction;
  - h. A conviction for a violation of a protective order and;
  - i. A conviction for cruelty to animals.

This recommendation would reintroduce legislation that would expand the list of eligible crimes that allow an individual to petition the court to have their criminal history record information convictions sealed to include Class D crimes, with a number of exceptions. All statutory prerequisites for sealing criminal history record information, as outlined in Title 15 Chapter 310-A, must be met to petition the court for records sealing. The intent and language in this recommendation was derived from LD 1459, which was introduced in the 130th Maine Legislature, First Special Session.

2. **Add convictions for drug possession crimes to the list of eligible criminal convictions for which a person can submit a motion to seal criminal history record information related to the conviction.**

See 17-A M.R.S. § 1107-A, attached. This recommendation would allow an individual to petition the court to have their criminal history record information related to drug possession convictions sealed under Title 17-A, section 1107-A. All statutory prerequisites for sealing criminal history record

proposed rec. # 11

See LD 1459, attached

proposed rec. # 7



information, as outlined in Title 15 Chapter 310-A, must be met to petition the court for records sealing. The intent in this recommendation was derived from LD 848, which was introduced in the 131st Maine Legislature, First Special Session. This bill sought to allow a person convicted of the unlawful possession of scheduled drugs to petition the court where the person was convicted to expunge all records of the crime 5 years after the completion of the person's sentence.

- 3. Reduce the number of crimes and/or periods of time that disqualify an individual from seeking employment as a Direct Access Worker, as directed by MRS Title 22, Chapter 1691: Maine Background Check Center Act.**

Proposed  
Rec. # 24

See MBCC  
Rule list of  
Crimes attached

This recommendation proposes enacting legislation that would reduce the number of crimes that disqualify individuals from gaining employment as a Direct Access Worker. The goal of this recommendation is to reduce overly restrictive employment barriers to direct care employment, while maintaining protections for individuals receiving direct care services. Some crimes that should be considered for removal include: aggravated cultivating of marijuana (17-A §1105-D.), refusing to submit to arrest or detention (17-A §751-B.), and eluding/passing a roadblock (29-A §2414.), etc.

proposed rec. #11



# 130th MAINE LEGISLATURE

## FIRST SPECIAL SESSION-2021

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Legislative Document

No. 1459

H.P. 1075

House of Representatives, April 12, 2021

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**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**

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Received by the Clerk of the House on April 8, 2021. Referred to the Committee on Judiciary pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

*Robert B. Hunt*

ROBERT B. HUNT

Clerk

Presented by Representative TALBOT ROSS of Portland.

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

2 Sec. 1. 15 MRSA c. 310-A is enacted to read:

3 CHAPTER 310-A

4 POST-JUDGMENT MOTION BY PERSON SEEKING TO SATISFY THE  
5 PREREQUISITES FOR OBTAINING SPECIAL RESTRICTIONS ON  
6 DISSEMINATION AND USE OF CRIMINAL HISTORY RECORD  
7 INFORMATION FOR CERTAIN CRIMINAL CONVICTIONS

8 §2261. Definitions

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

11 1. Administration of criminal justice. "Administration of criminal justice" has the  
12 same meaning as in Title 16, section 703, subsection 1.

13 2. Another jurisdiction. "Another jurisdiction" has the same meaning as in Title  
14 17-A, section 2, subsection 3-B.

15 3. Criminal history record information. "Criminal history record information" has  
16 the same meaning as in Title 16, section 703, subsection 3.

17 4. Criminal justice agency. "Criminal justice agency" has the same meaning as in  
18 Title 16, section 703, subsection 4.

19 5. Dissemination. "Dissemination" has the same meaning as in Title 16, section 703,  
20 subsection 6.

21 6. Eligible criminal conviction. "Eligible criminal conviction" means a conviction  
22 for a current or former Class D or Class E crime, except:

23 A. A conviction for a current or former Class D crime under Title 17-A, chapter 11 or  
24 12 or Title 17-A, section 852, 853 or 855;

25 B. A conviction for stalking under Title 17-A, section 210-A or 210-C;

26 C. Unless a sentence has been commuted, any conviction involving a crime of  
27 domestic violence or any crime involving domestic violence, as defined in section  
28 1003, subsection 3-A;

29 D. If 20 years have not yet passed since the judgment of conviction was entered, a  
30 crime against a family or household member, as defined in Title 19-A, section 4002,  
31 subsection 4, regardless of whether the relationship was an element of that crime;

32 E. If 20 years have not yet passed since the judgment of conviction was entered, a  
33 violation of a condition of release, pursuant to section 1092, committed while the  
34 defendant is released on preconviction or post-conviction bail for a charge that involves  
35 a crime against a family or household member, as defined in Title 19-A, section 4002,  
36 subsection 4, regardless of whether the relationship was an element of that crime;

types  
of  
Class D  
crimes

(X)

1 F. A violation of a protective order, as specified in section 321, subsection 6; Title 5,  
2 section 4659, subsection 2; Title 17-A, section 506-B; Title 19-A, section 4011,  
3 subsection 3; or Title 19-A, section 4012, subsection 5; and

4 G. A conviction for cruelty to animals under Title 17, section 1031.

5 **§2262. Statutory prerequisites for obtaining special restrictions on dissemination and**  
6 **use of criminal history record information for a criminal conviction**

7 The special restrictions on dissemination and use of criminal history record information  
8 for a criminal conviction specified in section 2265 apply only if:

9 **1. Eligible criminal conviction.** The criminal conviction is an eligible criminal  
10 conviction;

11 **2. Time since sentence fully satisfied.** At least 4 years have passed since the person  
12 has fully satisfied each of the sentencing alternatives imposed for the eligible criminal  
13 conviction;

14 **3. Other state convictions.** The person has not been convicted of another criminal  
15 violation in this State and has not had a criminal charge dismissed as a result of a deferred  
16 disposition pursuant to Title 17-A, former chapter 54-F or Title 17-A, chapter 67,  
17 subchapter 4 between the time at which the person fully satisfied each of the sentencing  
18 alternatives imposed for the most recent eligible criminal conviction and the filing of the  
19 motion under this chapter;

20 **4. Convictions in another jurisdiction.** The person has no criminal convictions from  
21 another jurisdiction between the time at which the person fully satisfied each of the  
22 sentencing alternatives imposed for the most recent eligible criminal conviction and the  
23 filing of the motion under this chapter; and

24 **5. Pending criminal charges.** The person has no presently pending criminal charges  
25 in this State or in another jurisdiction.

26 **§2263. Motion; persons who may file**

27 A person may file a written motion in the underlying criminal proceeding seeking a  
28 court determination that the person satisfies the statutory prerequisites specified in section  
29 2262 for obtaining the special restrictions on dissemination and use of criminal history  
30 record information relating to a criminal conviction as specified in section 2265. The  
31 written motion must briefly address each of the statutory prerequisites.

32 **§2264. Motion and hearing; process**

33 **1. Filing motion.** A motion filed pursuant to section 2263 must be filed in the  
34 underlying criminal proceeding. After a motion has been filed, the clerk shall set the  
35 motion for hearing.

36 **2. Counsel.** The person filing a motion pursuant to section 2263 has the right to  
37 employ counsel but is not entitled to assignment of counsel at state expense.

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

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

4           **5. Hearing; certification of results.** The judge or justice shall hold a hearing on the  
5 motion under this section. At the conclusion of the hearing, if the court determines that the  
6 person who filed the motion has established by a preponderance of the evidence each of  
7 the statutory prerequisites specified in section 2262, the court shall find the person entitled  
8 to the special restrictions on dissemination and use of the criminal history record  
9 information relating to the criminal conviction as specified in section 2265 and shall issue  
10 a written order certifying this determination. If, at the conclusion of the hearing, the court  
11 determines that the person has not established one or more of the statutory prerequisites  
12 specified in section 2262, the court shall deny the motion and issue a written order  
13 certifying this determination. The order must contain written findings of fact supporting  
14 the court's determination. A copy of the court's written order must be provided to the person  
15 and the prosecutorial office that represented the State pursuant to subsection 3.

16           **6. Notice to State Bureau of Identification.** If the court determines pursuant to  
17 subsection 5 that a person has established by a preponderance of the evidence each of the  
18 statutory prerequisites specified in section 2262, a copy of the court's written order  
19 certifying its determination must be provided to the Department of Public Safety, Bureau  
20 of State Police, State Bureau of Identification for all criminal offenses deemed retainable  
21 pursuant to Title 25, section 1547. The State Bureau of Identification upon receipt of the  
22 order shall promptly amend its records relating to the person's eligible criminal conviction  
23 to reflect that future dissemination of this criminal history record information must be  
24 pursuant to section 2265 rather than pursuant to Title 16, section 704. The State Bureau of  
25 Identification shall send notification of compliance with that requirement to the person's  
26 last known address.

27           **7. Subsequent new criminal conviction; automatic loss of eligibility; person's duty**  
28 **to notify.** Notwithstanding that a person has been determined by a court pursuant to  
29 subsection 5 to be entitled to the special restrictions on dissemination and use of criminal  
30 history record information relating to a criminal conviction specified in section 2265, if at  
31 any time subsequent to the court's determination the person is convicted of a new crime in  
32 this State or in another jurisdiction, the new conviction extinguishes that entitlement. In  
33 the event of a new criminal conviction, the person shall promptly file a written notice in  
34 the underlying criminal proceeding of the person's disqualification from entitlement  
35 identifying the new conviction, including the jurisdiction, court and docket number of the  
36 criminal proceeding. If the person fails to file the required written notice and the court  
37 learns of the existence of the new criminal conviction, the court shall notify the person of  
38 its apparent existence and offer the person an opportunity at a hearing to contest the fact of  
39 a new conviction. If a hearing is requested by the person, the court shall, after giving notice  
40 to the person and the appropriate prosecutorial office, hold a hearing. At the hearing, the  
41 person has the burden of proving by clear and convincing evidence that the person does not  
42 have the new conviction. At the conclusion of the hearing, if the court determines that the  
43 person has not satisfied the burden of proof, it shall find that the person has been convicted  
44 of the new crime and as a consequence is no longer entitled to the special restrictions on  
45 dissemination and use of the criminal history record information relating to the criminal  
46 conviction as specified in section 2265 and shall issue a written order certifying this

1 determination. If, at the conclusion of the hearing, the court determines that the person has  
2 satisfied the burden of proof, it shall find that the person has not been convicted of the new  
3 crime and issue a written order certifying this determination. The order must contain  
4 written findings of fact supporting the court's determination. A copy of the court's written  
5 order must be provided to the person and the prosecutorial office that represented the State.

6 **8. Notice to State Bureau of Identification of new crime.** If the court determines  
7 under subsection 7 that a person has been convicted of a new crime and as a consequence  
8 is no longer eligible for the special restrictions on dissemination and use of the criminal  
9 history record information relating to the criminal conviction as specified in section 2265,  
10 a copy of the court's written order certifying its determination must be provided to the  
11 Department of Public Safety, Bureau of State Police, State Bureau of Identification. The  
12 State Bureau of Identification upon receipt of the order shall promptly amend its records  
13 relating to the person's criminal conviction to reflect that dissemination of this criminal  
14 history record information is pursuant to Title 16, section 704 rather than pursuant to  
15 section 2265. The State Bureau of Identification shall send notification of compliance with  
16 that requirement to the person's last known address.

17 **§2265. Special restrictions on dissemination and use of criminal history record**  
18 **information relating to criminal conviction**

19 Notwithstanding Title 16, section 704, the criminal history record information relating  
20 to a criminal conviction for which the court has determined the person is entitled to special  
21 restrictions on dissemination and use is confidential and may not be disseminated by a  
22 criminal justice agency, whether directly or through any intermediary, except:

23 **1. Subject of conviction.** To the person who is the subject of the criminal conviction  
24 or that person's designee;

25 **2. Criminal justice agency.** To a criminal justice agency for the purpose of the  
26 administration of criminal justice and criminal justice agency employment.

27 For the purposes of this subsection, dissemination to a criminal justice agency for the  
28 purpose of the administration of criminal justice includes dissemination and use of the  
29 criminal history record information relating to the eligible criminal conviction by an  
30 attorney for the State or for another jurisdiction as part of a prosecution of the person for a  
31 new crime, including use in a charging instrument or other public court document and in  
32 open court;

33 **3. Secretary of State.** To the Secretary of State to ensure compliance with federal  
34 motor vehicle law;

35 **4. Victims.** To the victim or victims of the crime related to the conviction or:

36 A. If the victim is a minor, to the parent or parents, guardian or legal custodian of the  
37 victim; or

38 B. If the victim cannot act on the victim's own behalf due to death, age, physical or  
39 mental disease or disorder or intellectual disability or autism or other reason, to an  
40 immediate family member, guardian, legal custodian or attorney representing the  
41 victim;

1           **5. Office of Securities.** To the Department of Professional and Financial Regulation,  
2 Office of Securities to ensure compliance with securities laws pursuant to Title 32, section  
3 16412, subsection 4, paragraph C;

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

8           **7. Pursuant to court order.** In accordance with an order issued on a finding of good  
9 cause by a court of competent jurisdiction. Good cause includes a finding that access to  
10 the criminal history record information may be necessary for the determination of any issue  
11 before the court.

12           **§2266. Limited disclosure of eligible criminal conviction**

13           A person who has a criminal conviction eligible for the special restrictions on  
14 dissemination and use of criminal history record information under section 2265 for which  
15 the court has determined the person is entitled to special restrictions on dissemination may  
16 respond to inquiries from other than criminal justice agencies by not disclosing its existence  
17 without being subject to any sanctions.

18           **§2267. Unlawful dissemination**

19           A person who intentionally disseminates criminal history record information relating  
20 to a criminal conviction in violation of section 2265 knowing it to be in violation is guilty  
21 of unlawful dissemination as provided in Title 16, section 707.

22           **§2268. Review of determination of eligibility; review of determination of subsequent**  
23 **criminal conviction**

24           A final judgment entered under section 2264, subsection 5 or 7 may be reviewed by  
25 the Supreme Judicial Court.

26           **1. Appeal by the person.** A person aggrieved by the final judgment under section  
27 2264, subsection 5 or 7 may not appeal as of right. The time for taking the appeal and the  
28 manner and any conditions for the taking of the appeal are as the Supreme Judicial Court  
29 provides by rule.

30           **2. Appeal by the State.** If the State is aggrieved by the final judgment under section  
31 2264, subsection 5 or 7, it may appeal as of right, and a certificate of approval by the  
32 Attorney General is not required. The time for taking the appeal and the manner and any  
33 conditions for the taking of the appeal are as the Supreme Judicial Court provides by rule.

34           **Sec. 2. 16 MRSA §707, sub-§1,** as amended by PL 2015, c. 354, §2, is further  
35 amended to read:

36           **1. Offense.** A person other than a person receiving confidential criminal history record  
37 information pursuant to section 2265, subsection 4 is guilty of unlawful dissemination of  
38 confidential criminal history record information if the person intentionally disseminates  
39 confidential criminal history record information knowing it to be in violation of any of the  
40 provisions of this chapter or if the person intentionally disseminates criminal history record  
41 information relating to a criminal conviction in violation of Title 15, section 2255 2265  
42 knowing it to be in violation.

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## SUMMARY

This bill replaces the special process to seal certain criminal records, found in the Maine Revised Statutes, Title 15, chapter 310, that was repealed by its own terms on October 1, 2019.

The bill uses the same process to seal criminal records of an eligible criminal conviction as in the repealed law. The bill defines "eligible criminal conviction" to include all current and former Class D and Class E crimes except for:

1. Class D crimes contained in Title 17-A, chapter 11, Sexual Assaults;
2. Class D crimes contained in Title 17-A, chapter 12, Sexual Exploitation of Minors;
3. The Class D and Class E crimes of aggravated sex trafficking, sex trafficking and patronizing prostitution of a minor or a person with a mental disability;
4. Stalking and domestic violence stalking;
5. Any crime involving domestic violence, unless the sentence has been commuted;
6. A crime against a family or household member before 20 years have passed since entry of the judgment of conviction;
7. A conviction for a violation of a condition of release for a charge that involves a crime against a family or household member before 20 years have passed since entry of the judgment of conviction;
8. A conviction for a violation of a protective order under Title 5, section 4659, subsection 2; Title 15, section 321, subsection 6; Title 17-A, section 506-B; Title 19-A, section 4011, subsection 3; or Title 19-A, section 4012, subsection 5; and
9. A conviction for cruelty to animals.

A person with an eligible criminal conviction may file a motion for the special restrictions on dissemination and use of criminal history record information for an eligible criminal conviction if at least 4 years have passed since the person fully satisfied each of the sentencing alternatives imposed for the conviction; the person has not been convicted of another criminal violation in this State, and has not had a criminal charge dismissed as a result of a deferred disposition, since satisfying the sentencing alternatives; the person has no criminal convictions in another jurisdiction since satisfying the sentencing alternatives; and the person has no presently pending criminal charges in this State or in another jurisdiction.

The court must hold a hearing on the motion and, if the court determines all the requirements have been met, the court must find the person entitled to the special restrictions on dissemination and issue a written order certifying the determination. A copy of the order must be provided to the person and the prosecutorial office that prosecuted the person. The order must also be provided to the Department of Public Safety, Bureau of State Police, State Bureau of Identification, which must promptly amend its records relating to the eligible criminal conviction.

If the person is convicted of a crime after the court's order, the new conviction extinguishes the entitlement. The person is required to file notice of the new conviction, but if the person does not do so, the court is required to notify the person of the new conviction and offer an opportunity for a hearing to contest the fact of the new conviction.

1 If the court determines that there is a new criminal conviction, the court must issue an order  
2 that the person is no longer eligible to have the criminal record sealed. That order must be  
3 submitted to the State Bureau of Identification.

4 When a person's records are subject to the special restrictions on dissemination and  
5 use, the criminal history record information is confidential and may not be disseminated by  
6 a criminal justice agency to anyone except the following for limited purposes: the person;  
7 a criminal justice agency; the Secretary of State; victims; the Department of Professional  
8 and Financial Regulation, Office of Securities; and financial institutions. The criminal  
9 history record information may also be disseminated pursuant to court order.

10 A person whose criminal conviction is covered by the special restrictions on  
11 dissemination and use may respond to inquiries from other than criminal justice agencies  
12 by not disclosing its existence without being subject to any sanctions.

13 The State may appeal as of right an order to seal a record; the person may appeal, but  
14 not as of right, when the court does not order the record sealed.

**§1107-A. Unlawful possession of scheduled drugs**

1. Except as provided in subsection 2, a person is guilty of unlawful possession of a scheduled drug if the person intentionally or knowingly possesses what that person knows or believes to be a scheduled drug, which is in fact a scheduled drug, and the drug is:

A. A schedule W drug and at the time of the offense the person had one or more convictions for violating this chapter or for engaging in substantially similar conduct to that of the Maine offenses under this chapter in another jurisdiction and the drug is:

- (1) Cocaine and the quantity possessed is more than 14 grams;
- (2) Cocaine in the form of cocaine base and the quantity possessed is more than 4 grams; or
- (3) Methamphetamine and the quantity possessed is more than 14 grams.

Section 9-A governs the use of prior convictions when determining a sentence, except that, for the purposes of this paragraph, the date of a prior conviction may precede the commission of the offense by more than 10 years.

Violation of this paragraph is a Class B crime; [PL 2015, c. 308, §1 (AMD).]

B. Except as provided in paragraph B-1, a schedule W drug and the drug contains:

- (1) Heroin (diacetylmorphine) and the amount possessed is more than 200 milligrams;
- (2) Cocaine and the amount possessed is more than 2 grams;
- (3) Cocaine in the form of cocaine base and the amount possessed is more than 2 grams;
- (4) Oxycodone and the amount possessed is more than 200 milligrams;
- (5) Hydrocodone and the amount possessed is more than 200 milligrams;
- (6) Hydromorphone and the amount possessed is more than 200 milligrams;
- (7) Methamphetamine and the amount possessed is more than 200 milligrams; or
- (8) Fentanyl powder and the amount possessed is more than 200 milligrams.

Violation of this paragraph is a Class C crime; [PL 2015, c. 496, §6 (RPR).]

B-1. A schedule W drug and that drug contains any of the following and at the time of the offense the person had one or more convictions for violating section 1103, 1105-A, 1105-C, 1105-E, 1106 or section 1124 or for engaging in substantially similar conduct in another jurisdiction:

- (1) Heroin (diacetylmorphine);
- (2) Cocaine;
- (3) Cocaine in the form of cocaine base;
- (4) Oxycodone;
- (5) Hydrocodone;
- (6) Hydromorphone;
- (7) Methamphetamine; or
- (8) Fentanyl powder.

Violation of this paragraph is a Class C crime; [PL 2015, c. 496, §7 (NEW).]

C. A schedule W drug, except as provided in paragraphs A, B and B-1. Violation of this paragraph is a Class D crime; [PL 2015, c. 496, §8 (AMD).]

D. A schedule X drug. Violation of this paragraph is a Class D crime; [PL 2001, c. 383, §127 (NEW); PL 2001, c. 383, §156 (AFF).]

E. A schedule Y drug. Violation of this paragraph is a Class E crime; or [PL 2001, c. 383, §127 (NEW); PL 2001, c. 383, §156 (AFF).]

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

- (1) For possession of over 2 1/2 ounces to 8 ounces of marijuana, a Class E crime;
- (2) For possession of over 8 ounces to 16 ounces of marijuana, a Class D crime;
- (3) For possession of over one pound to 20 pounds of marijuana, a Class C crime; and
- (4) For possession of over 20 pounds of marijuana, a Class B crime. [PL 2009, c. 67, §2 (AMD).]

[PL 2015, c. 496, §§6-8 (AMD).]

2. A person is not guilty of unlawful possession of a scheduled drug if the conduct that constitutes the possession is expressly:

A. Authorized by Title 22, Title 28-B or Title 32; or [PL 2017, c. 409, Pt. B, §5 (AMD).]

B. Made a civil violation by Title 22 or Title 28-B. [PL 2017, c. 409, Pt. B, §5 (AMD).]  
[PL 2017, c. 409, Pt. B, §5 (AMD).]

3. It is an affirmative defense to prosecution under this section that:

A. The substance possessed is hemp; or [PL 2019, c. 12, Pt. B, §8 (AMD).]

B. The substance possessed is a methamphetamine precursor drug and was possessed by the defendant for a legitimate medical purpose. [PL 2005, c. 430, §4 (NEW); PL 2005, c. 430, §10 (AFF).]

[PL 2019, c. 12, Pt. B, §8 (AMD).]

4. It is an affirmative defense to prosecution under subsection 1, paragraph B, subparagraphs (4) to (6); subsection 1, paragraph B-1, subparagraphs (4) to (6); and paragraphs C to F that the person possessed a valid prescription for the scheduled drug or controlled substance that is the basis for the charge and that, at all times, the person intended the drug to be used only for legitimate medical use in conformity with the instructions provided by the prescriber and dispenser.

[PL 2015, c. 496, §9 (AMD).]

5. It is an affirmative defense to prosecution under this section that the substance furnished is:

A. Hemp. [PL 2021, c. 434, §2 (AMD).]

B. [PL 2021, c. 434, §2 (RP).]

[PL 2021, c. 434, §2 (AMD).]

6. Unlawful possession of a scheduled drug does not include possession of a residual amount of any scheduled drug that is contained in one or more hypodermic apparatuses.

[PL 2021, c. 434, §3 (NEW).]

#### SECTION HISTORY

PL 2001, c. 383, §127 (NEW). PL 2001, c. 383, §156 (AFF). PL 2003, c. 61, §7 (AMD). PL 2005, c. 252, §1 (AMD). PL 2005, c. 430, §4 (AMD). PL 2005, c. 430, §10 (AFF). PL 2005, c. 442, §1 (AMD). PL 2007, c. 55, §2 (AMD). PL 2007, c. 346, Pt. B, §2 (AMD). PL 2007, c. 476, §43 (AMD). PL 2009, c. 67, §2 (AMD). PL 2011, c. 464, §19 (AMD). PL 2015, c. 308, §§1, 2 (AMD). PL 2015, c. 346, §6 (AMD). PL 2015, c. 496, §§6-9 (AMD). PL 2017, c. 409, Pt. B, §5 (AMD). PL 2019, c. 12, Pt. B, §§8, 9 (AMD). PL 2021, c. 434, §§2, 3 (AMD).

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**STATE OF MAINE**

**MAINE BACKGROUND CHECK CENTER RULE**

**10-144 CODE OF MAINE RULES  
CHAPTER 60**



**Department of Health and Human Services  
Division of Licensing and Certification  
11 State House Station  
Augusta, Maine 04333-0011**

**Effective Date:  
October 17, 2018**

comprehensive background check has already been conducted through the MBCC or an approved alternate vendor.

**I. Disqualifying offenses.** An individual with a disqualifying offense, including a disqualifying criminal conviction; substantiated complaint of abuse, neglect, or misappropriation of funds; or listing on a fraud or Sex Offender Registry as described below may not work as a direct access worker during the disqualification period.

1. **Reports received from the Maine State Bureau of Identification (SBI).** Unless specified otherwise in the licensing rule specific to the employer's work, pursuant to 22 M.R.S. §9054(11), the Table of Disqualifying Crimes below lists disqualifying criminal offenses by the class of crime (A-E) and the length of time following the conviction that a direct access worker may not be employed as a direct access worker:

proposed  
rec. # 24

Table of Disqualifying Crimes			
Criminal Offense	Disqualification Periods		
	30 Years	10 Years	5 Years
<b>OFFENSES OF GENERAL APPLICABILITY (Attempt, Solicitation, and Conspiracy)</b>			
Criminal conspiracy		A, B, C	
Criminal attempt	A	B, C	
Aggravated attempted murder	A		
Criminal solicitation		A, B, C	
<b>OFFENSES AGAINST THE PERSON</b>			
Murder	A		
Felony murder	A		
Manslaughter		A, C	
Aiding or soliciting suicide			D
Assault		C	
Domestic violence assault		C	
Aggravated assault	A, B		
Elevated aggravated assault	A		
Elevated aggravated assault on a pregnant person	A		
Domestic violence criminal threatening		C	
Terrorizing		C	
Stalking		B, C	
Reckless conduct domestic violence		C	
Aggravated reckless conduct		B	
Violation of a protection order			C
Illegal sale and use of fetuses			C
Causing denial of rights of a mentally ill person			C
Causing unwarranted hospitalization of a person			E
<b>SEX ASSAULTS</b>			
Gross sexual assault	A	B, C	

Criminal Offense	Disqualification Periods		
	30 Years	10 Years	5 Years
Sexual abuse of a minor		C	D, E
Unlawful sexual contact	A	B, C	D, E
Visual sexual aggression against child		C	D
Contact with a child under 14 in a restricted zone		C	D
Sexual misconduct with a child under 14 years of age		C	D
Solicitation of a child to commit a prohibited act		C	D
Unlawful sexual touching			D
Failing to register as a sex offender		B, C	D
<b>SEXUAL EXPLOITATION OF MINORS</b>			
Sexual exploitation of minor	A	B	
Dissemination of sexually explicit material	A	B, C	
Possession of sexually explicit material		B, C	D
<b>KIDNAPPING AND CRIMINAL RESTRAINT</b>			
Kidnapping	A, B		
Criminal restraint		C	
Criminal restraint by parent		C	
Causing unwarranted hospitalizations.		C	
<b>THEFT</b>			
Theft by unauthorized taking or transfer		B	C
Theft by deception		B	C
Insurance deception		B	C
Theft by extortion			C
Theft of lost, mislaid or mistakenly delivered property		B	C
Theft of services		B	C
Theft by misapplication of property		B	C
Receiving stolen property		B	C
Unauthorized use of property		B	C
Organized retail theft			C
<b>BURGLARY</b>			
Burglary			A, B, C
Burglary of motor vehicle			C
<b>FALSIFICATION IN OFFICIAL MATTERS</b>			
Tampering with a witness, informant, juror or victim		B, C	
Falsifying physical evidence			D
Tampering with public records or information			D
<b>OFFENSES AGAINST THE FAMILY</b>			
Abandonment of child		C	
Endangering the welfare of a child		C	
Endangering welfare of dependent person		C	
Incest		C	D

Criminal Offense	Disqualification Periods		
	30 Years	10 Years	5 Years
<b>ROBBERY</b>			
Robbery		A, B	
<b>FORGERY AND RELATED OFFENSES</b>			
Aggravated forgery		B	
Forgery		B, C	
Negotiating a worthless instrument		B, C	
<b>OFFENSES AGAINST PUBLIC ADMINISTRATION</b>			
* Refusing to submit to arrest or detention			D
Assault on an officer/firefighter			C
Unlawful interference with law enforcement dogs			C, D
Assault on an emergency medical care provider		C	
Unlawful interference with law enforcement horses			C, D
Hindering apprehension or prosecution			B, C
Obstructing criminal prosecution			C
Escape			B, C
<b>ARSON AND OTHER PROPERTY DESTRUCTION</b>			
Arson	A		
Causing a catastrophe	A		
Aggravated criminal mischief		C	
<b>SEX TRAFFICKING, PROSTITUTION AND PUBLIC INDECENCY</b>			
Aggravated sex trafficking	B		
Sex trafficking		C	
Patronizing prostitution of minor/person with mental disability		C	D
<b>FRAUD</b>			
Act or omission with the intent to defraud		C	
Misuse of entrusted property	B, C		
Misuse of identification			D
<b>CRIMINAL USE OF EXPLOSIVES AND RELATED CRIMES</b>			
Criminal use of explosives		C	
Criminal use of disabling chemicals			D
Criminal use of electronic weapon			D
<b>DRUGS</b>			
Unlawful trafficking in scheduled drugs		B	C, D
Trafficking in or furnishing counterfeit drugs			C
Aggravated trafficking of scheduled drugs		A, B	C
Aggravated trafficking or furnishing of counterfeit drugs		B	
Aggravated furnishing of scheduled drugs		B	C
* Aggravated cultivating of marijuana		A, B	C
Aggravated unlawful operation of a meth laboratory		A	

Criminal Offense	Disqualification Periods		
	30 Years	10 Years	5 Years
Unlawfully furnishing scheduled drugs			C
Unlawful operation of a methamphetamine laboratory		B	
<b>MOTOR VEHICLES</b>			
* Eluding/passing a roadblock		B	C
Operating under the influence resulting in injury/death	B	C	
Leaving the scene of accident with injury/death		C	
Operating after suspension-accident with death		B	

2. Comparable convictions for similar crimes in this and other jurisdictions result in disqualification as in the Table above.
3. A disqualifying offense includes any act that results in the direct access worker being listed on any of the following lists or registries at the time of application or thereafter. If there is a difference in length between the disqualification periods in the table above and a list or registry or between registries, and one of them results in a current disqualification, then whichever results in the current disqualification will control. Lists prohibiting employment include the following:
  - a. National Sex Offender Public Website;
  - b. Maine Sex Offender Registry;
  - c. Maine Registry of Certified Nursing Assistants and Direct Care Workers annotated list;
  - d. Federal Office of the Inspector General exclusion list;
  - e. MaineCare exclusion list; or
  - f. The exclusion list of any other applicable registries.

## J. Reports

1. The MBCC or the approved alternate vendor shall issue background check reports in accordance with 22 M.R.S. §§ 9054 (9) and (10).
2. Content of the Background Check Report: The content of the Background Check Report must include notice that the individual submitted for a background check has: (a) no disqualifying offenses; or (b) has a disqualifying offense(s); or (c) a criminal charge without disposition that upon final disposition may result in a disqualifying offense. The background check report must include information specific to the individual along with information about the source and type of offense sufficient to allow the individual named in the report to challenge the information.

Proposed recs. ### 16, 19, 20

Speaker Talbot Ross

Stocco, Janet

From: Stocco, Janet  
Sent: Monday, October 7, 2024 6:31 PM  
To: TalbotRoss, Rachel  
Cc: Austin, Sarah; Rumpf, Sasha; 'Bill Brown'  
Subject: Our phone discussion today

Dear Speaker Talbot Ross,

I enjoyed speaking with you today. As promised, here is a recap of the proposed recommendations for the CRRC that we discussed by phone today.

As I understand it, you hope that these proposals will address some of the potential constitutional separation of powers concerns discussed by Derek Langhauser. It may make sense to ask Derek Langhauser to weigh in on these potential recommendations between tomorrow's CRRC meeting and the final CRRC meeting in November, if folks are interested. I don't know if he would be comfortable weighing in, but we are happy to ask him if you direct us to do so.

1. Create **automatic record sealing process for future convictions (not retroactive)**. Persons newly convicted of crimes after the effective date of the new law would be eligible for automatic sealing of their new criminal convictions if they meet all of the requirements of the new law

a. *The CRRC should identify:*

- i. *What types of crimes should be eligible for sealing* (note: this would not include any conduct that has been decriminalized, because the proposal would not apply to convictions that occurred before the new law's effective date)
- ii. *What other requirements should apply?*
  - A waiting period during which the person is not convicted of any new offenses in this State or another state? If so, how long?
  - No pending criminal charges when the record is automatically sealed?
  - Should the conviction be unsealed if the person is convicted of a new crime in the future?
  - May the person answer "no" if asked about this criminal conviction by non-criminal-justice-agencies?

Proposed rec. # 20

b. *Other considerations:* should the courts be required to enter a finding in the record in all new criminal cases that, as long as the person is not convicted of any offense after this conviction, then this conviction will be eligible for automatic sealing under the law? (The goal is to avoid requiring law courts to scour through conviction records when implementing this new automatic sealing process. There will still be a fiscal impact, but hopefully not as high a fiscal impact as past automatic sealing proposals).

2. Create an **automated notice process to notify persons who may be eligible for sealing of their records under current law**

- a. Similar to LD 2269 from last session, SBI would be required to examine criminal history record information each month to identify any criminal conviction records that may be eligible for sealing under current law—these requirements are:
  - i. The conviction is an eligible criminal conviction under current law (Class E crime, certain Class D marijuana offenses or Class E engaging in prostitution)

Proposed rec. # 19

- ii. At least four years (or one year if the person was convicted of engaging in prostitution) have passed since the person fully satisfied each sentencing alternative
    - Note: SBI may not know whether someone has completed each sentencing alternative, for example, whether someone has paid restitution, paid their fines or finished their community service. But, SBI might know if someone has been released from a sentence of incarceration (should probably double check this point) and would know how long it has been since the conviction was entered if the person was not sentenced to incarceration. The key is that SBI will not be telling the person “you qualify for sealing” but instead would be saying “you may qualify for sealing”
  - iii. The person has not been convicted of any other crimes or had a charge dismissed due to deferred disposition since the person fully satisfied each sentencing alternative (the types of new convictions that disqualify one from sealing are different for engaging in prostitution offenses, but SBI will have the list of the crimes to check for)
    - Same Note as for (ii) above
    - SBI may not have full information about convictions in other states, which can also disqualify someone for sealing. It may make sense to ask Amy McCollett at the CRRC meeting what information SBI has.
  - iv. The person does not have any pending criminal charges (this requirement does not apply to engaging in prostitution offenses)
- b. SBI would then notify each of individual (by mail to the last known address on file with SBI) and include the following information:
- i. That the person may be eligible to file a post-judgment motion to seal – this notice should lay out all of the requirements for a post-judgment motion to seal and ask the person to carefully review whether they think they meet these requirements (could make a notice that is similar to the information currently on the Judicial Branch website).
  - ii. A copy of the court form to file the post-judgment motion
  - iii. That an attorney is not required to file the motion (but they can of course be represented by an attorney if they choose)

I hope that I have accurately captured your thoughts,

Janet

Janet A. Stocco, Esq.  
 Legislative Analyst  
 Office of Policy and Legal Analysis  
 Maine State Legislature  
 Office Tel.: (207) 287-1670

Also: Make sealing process automatic – i.e. clean slate legislation. proposed rec. #16

## **Testimony to the Criminal Records Review Committee**

October 21st, 2024

Chair Bailey, Speaker Talbot Ross, and Members of the Criminal Records Review Committee,

My name is Samantha Genest. I gave my testimony in front of the committee on October 8th, 2024 and I wanted to send a clarifying statement regarding a question I received following my testimony.

I was asked whether I had made an attempt to clear my record and I informed the committee that I had consulted a lawyer this summer who told me I could clear my record in 2027.

In reflection, I thought it was important to note that my criminal record is in New Hampshire. While it is frustrating and disheartening to face continual rejection, after learning about the criminal record laws in Maine I'm grateful that my charges were in NH and that I have the opportunity to seal my record in time.

To face a lifetime of a criminal record, save for the slim chance of getting a pardon from the Governor, would be an extremely defeating reality.

I hope this statement serves to aid in helping to get these laws changed in the state of Maine, allowing people to prove that they have indeed turned their lives around and giving them the opportunity to make greater contributions to our society.

Thank you for your time.

Sincerely,  
Samantha Genest  
Portland, ME

**Stocco, Janet**

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**From:** Rendo <rendotheartist@yahoo.com>  
**Sent:** Wednesday, November 13, 2024 12:01 PM  
**To:** Criminal Records Review Committee  
**Subject:** Criminal Records Review Study Public Comment

**This message originates from outside the Maine Legislature.**

*RE: Consider whether there is a time limit after which some or all criminal records should not be publicly available*

Consider my case:

I am a 78 year old veteran. I plead guilty to sexual contact with a minor in 1982 and spent 2 1/2 yrs. in prison, plus 2 yrs probation and required sexual offense therapy. Twenty three years later, with no further offenses or other violations, I was swept up in the new legislation to register as a sex offender. Prior to registration, I was involved with my community and had a business. Afterwards, I closed my business when hearing three men were killed by an "offender hunter".

Since SORNA was put in place, some sex offenders have been allowed not to register, as part of their plea. However, I have been required to register, pay a yearly fine and send photographs for over eighteen years and am required to do this for life.

Countries like Canada, consider a sex offender with no re-offenses for ten years, to be "socially rehabilitated".

I am asking for the sealing of my records, so that I can die in peace. I have been diagnosed with Prostate Cancer and I have a heart disease. I feel that I am no danger to society and children. As part of your review, I request you also consider new guidelines for dealing with end of life reporting requirements.

Thank you for your time on this matter.

Warren Doe, PO Box 213, Mount Vernon, Maine 04360



November 18, 2024

**Introduction:**

My name is Melissa Martin and I am submitting comments today on behalf of the Maine Coalition Against Sexual Assault (MECASA), the organization which represents and serves Maine’s sexual violence prevention and response programs as well as Maine’s Children’s Advocacy Centers. MECASA initiates and advocates for victim-centered public policy; provides expert training, technical assistance, and resources for providers and partners; and funds the service providers in your communities.

MECASA is committed to exploring ways that the criminal justice system can better support *everyone* who has experienced sexual harm. Our commitment to survivors is core to our mission, and yet we have long understood that people who cause sexual harm and people who experience sexual harm are not two distinct groups. For example, many people who are incarcerated for causing sexual harm have experienced sexual harm at other times in their lives, earning them the dual societal labels of both “victim” and “offender.” Incarceration is also a risk factor for both experiencing and perpetrating future harm.

While we do not believe that a history of sexual violence negates responsibility for causing harm, it is because of these dualities that we have consistently testified against measures that treat all sexual harm equally, including mandatory minimums for sexual crimes. We also continue to support survivors in accessing systems beyond the criminal justice system, such as civil legal remedies, clinical mental healthcare, community-based support groups, advocacy, and restorative justice.

**I. Areas of Support for Proposed Recommendations.**

MECASA supports the follow recommendations: 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 14, 17, 18, 19, 22, 23, and 24.

1. Establish a permanent commission based on the Criminal Records Review Committee.

#### Issues for further study

2. Either this Committee (if it is allowed to continue) or another committee to be formed, should look at the Model Collateral Consequences Act to examine what parts should be adopted in Maine and how it should be amended to fit Maine law and practice. Senator Bailey
3. Require the Criminal Records Review Commission (or other entity) to study how to extend automatic sealing to non-juvenile crimes. Michael Kebede
4. Requiring the Criminal Records Review Commission (or other entity) to study funding pathways for expanding the automatic criminal records sealing system. Michael Kebede
5. Require further consideration of whether Class A and B crimes should be eligible for sealing. Foster Bates

#### Amendments to the post-judgment motion to seal process under current law

6. Allow sealing of convictions for conduct that has been decriminalized in the State over the last 10 years. Tim Moore
7. Allow sealing of convictions for drug possession crimes. Tess Parks
8. Allow sealing of convictions for all felony (Class A, B, or C) drug offenses other than Class A Aggravated Trafficking convictions or convictions alleging the use of a firearm. Matt Morgan
9. Allow sealing of convictions for all non-violent crimes committed by victims and survivors of sexual exploitation and sex trafficking. Tim Moore
10. Allow sealing of convictions for any crime committed by a victim of sex trafficking or sexual exploitation if the crimes were committed as a substantial result of the trafficking or exploitation, regardless of the time since the convictions were imposed. Andrea Mancuso, Michael Kebede, Melissa Martin and Amanda Comeau

#### Assistance filing post-judgment motions to seal:

14. Report out legislation or establish a mechanism, whichever is more practicable, requiring the Maine Public Defender System to pay attorneys for assisting people in submitting a petition for sealing criminal records under Chapter 310-A of Title 15. Michael Kebede

#### Automatic sealing processes:

17. Automatically seal all convictions for violations of the criminal code that have since been decriminalized. Michael Kebede
18. Automatically seal or expunge criminal records for all marijuana convictions. Foster Bates
19. Create an automated notice process for notifying individuals who may be able to seal their conviction records under current law: SBI would be required to examine criminal history record monthly to identify criminal convictions that may be eligible for sealing under current law—*i.e.*, (a) the conviction was for an eligible crime; (b) the required waiting period has elapsed since the individual was released from incarceration or probation or, if neither was imposed, the required waiting period has elapsed since the conviction was

entered (SBI may not know whether fines, community service, restitution or other sentencing obligations have been satisfied); and (c) the individual has not been convicted of another crime, had a charge dismissed due to deferred disposition, and there are no pending charges (unless the crime to be sealed is engaging in prostitution). SBI would notify each identified individual by mail to the last known address on file with SBI that the individual may be eligible to file a post-judgment motion to seal and include a list of the requirements for a successful post-judgment motion to seal, a copy of the relevant court form to file the post-judgment motion and notice that while the individual may hire an attorney, an attorney is not required to file a post-judgment motion to seal. Speaker Talbot Ross

22. Adopt new Title 15, Chapter 305-C, which establishes a process for victims of sex trafficking and sexual exploitation to file a post-judgment motion to have their convictions reversed if they demonstrate, by a preponderance of the evidence, that they experienced sex trafficking or sexual exploitation and the conduct for which they were convicted was a substantial result of the sex trafficking or sexual exploitation. If the court grants the motion, it must specify which court records and criminal justice agency records should be corrected to reflect reversal of the conviction(s). Andrea Mancuso, Michael Kebede, Melissa Martin and Amanda Comeau
23. Adopt the Model Collateral Consequences of Conviction Act with regard to explaining to defendants the full scope of what a plea agreement of guilty would entail beyond the obvious possible incarceration and/or fines. Tim Moore
24. Reduce the number of crimes and/or periods of time that disqualify an individual from seeking employment as a Direct Access Worker under Title 22, Chapter 1681, the Maine Background Check Center Act (and the Maine Background Check Center Rule 2). Tess Parks

We support these recommendations because they align with a variety of goals that are important to many survivors of sexual harm. We discuss three points in more detail below.

#### **A. Survivors of Trafficking and Exploitation:**

MECASA strongly supports record sealing for survivors of exploitation and trafficking. Many survivors of trafficking and exploitation experienced harm, trauma, or significant health issues prior to their trafficking or exploitation. For example,

- 83% experienced poverty.
- 96% experienced abuse (physical, sexual, emotional).
- 93% experienced substance abuse and mental health challenges.<sup>1</sup>

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<sup>1</sup> <https://polarisproject.org/national-survivor-study/>

In addition, we know that survivors of trafficking and exploitation disproportionately end up in the criminal justice system. Roughly 40% of respondents reported some kind of criminal record as a result of their trafficking experience.<sup>2</sup> Of those who had a criminal record, 90 percent reported that some or all of their records were related directly to their exploitation.<sup>3</sup> Charges that are commonly associated with trafficking include theft, drug possession, and prostitution, all of which can be the direct result of force or coercion by a trafficker. Maine is in the minority of states without specific trafficking related records relief.<sup>4</sup> As we know, this can impact trafficking survivors' ability to maintain employment, access housing, and get visitation or parental rights in family court.<sup>5</sup> **Because it is an injustice to be penalized for victimization, MECASA supports this Commission immediately developing and recommending broad record sealing for survivors of exploitation and trafficking. We strongly believe this should be a top priority for the upcoming legislative session.**

#### **B. Convictions Related to Substance Use:**

Another critical issue for MECASA is convictions related to substance use. This is true for two reasons—first, those who use substances are at increased risk of experiencing sexual harm.<sup>6</sup> Second, those who have experienced sexual harm are more likely to use...substances.<sup>7</sup> More broadly, “[sexual] violence has a reciprocal relationship with substance abuse, poverty, sex work, incarceration, mental health and other health risks. People in such situations are not only at a higher risk for sexual assault given their perceived vulnerability, but also are more likely to have

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<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

<sup>4</sup> Of those who had a criminal record, 90 percent reported that some or all of their records were related directly to their exploitation.

<sup>5</sup> *Id.*

<sup>6</sup> Pennsylvania Coalition Against Rape, Substance Use and Sexual Violence: Building Prevention and Intervention Responses, [https://www.pcar.org/sites/default/files/pages-pdf/substance\\_use\\_and\\_sexual\\_violence.pdf](https://www.pcar.org/sites/default/files/pages-pdf/substance_use_and_sexual_violence.pdf); see also Jane Liebschutz, M.D., M.P.H., Jacqueline B. Savetsky, M.P.H., Richard Saitz, M.D., M.P.H., Nicholas J. Horton, Sc.D., Christine Lloyd-Travaglini, M.P.H., and Jeffrey H. Samet, M.D., M.A., M.P.H., *The relationship between sexual and physical abuse and substance abuse consequences*, available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4861063/>

<sup>7</sup> Sarah E. Ullman, Katherine Lorenz, Anne Kirkner, and Erin O’Callaghan, *Postassault Substance Use and Coping: A Qualitative Study of Sexual Assault Survivors and Informal Support Provider*, available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6290351/>

been sexually assaulted in the past.”<sup>8</sup> For example, the lifetime risk for violent victimization for homeless women with severe mental illness is 97%, meaning that those who do not experience sexual harm are a very small minority.<sup>9</sup> Similarly, in a study of male survivors sexually abused as children, over 80% had a history of substance abuse.<sup>10</sup>

These overlaps are brutally clear within the criminal justice system. One study found that 90% of incarcerated women have a drug or alcohol-related history.<sup>11</sup> **As a result of this data, MECASA strongly supports expanded criminal records relief for substance related crimes.**

### **C. Expanded Information At Time of Conviction**

MECASA also strongly supports the adoption of the Model Collateral Consequences Act because it will allow those charged with crimes to have better and more accurate information before a conviction is entered.

## **II. Areas of Concern**

MECASA writes to offer concern about the following recommendations: 11, 12, and 16. These recommendations raise two major proposals (1) automatic record sealing and (2) expanding record sealing to most crimes and with a more limited waiting period.

This summer MECASA undertook a review of the use of deferred dispositions in the criminal justice system in Maine. One common outcome that sexual assault support advocates identified was cases that were charged as sexual assault crimes originally that were offered a deferred disposition with the option to receive a Class D assault conviction upon successful completion. At least one case involved a teacher who had sex with a student. If the recommendations above were to be implemented there would be no record of the facts without a judge or the victim having any input or ability to review that decision.

### **A. Automatic Record Sealing**

In general, MECASA favors criminal sealing approaches that either (1) focus on crime types where there are strong public policy reasons to seal an entire set of records, such as sealing for crimes that are no longer illegal (marijuana/cannabis crimes) or crimes supported by strong public policy

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<sup>8</sup> Pennsylvania Coalition Against Rape, Substance Use and Sexual Violence: Building Prevention and Intervention Responses, [https://www.pcar.org/sites/default/files/pages-pdf/substance\\_use\\_and\\_sexual\\_violence.pdf](https://www.pcar.org/sites/default/files/pages-pdf/substance_use_and_sexual_violence.pdf);

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

reasons (stand-alone misdemeanor convictions for young adults with no follow up convictions) OR (2) for more serious crimes processes that are focused on case by case review of the entire case including the factual background of all charges and any other similar incidents of harm caused and the treatment/rehabilitation that the individual participated in. Therefore, except in some limited circumstances, such as the marijuana based and Class E record sealing we have supported in the past, we really hope that this Commission will address ongoing record sealing in a largely individual case review process. This allows victims to participate in the process, increases accountability for those who have caused harm, and allows record sealing to be applied to a much broader set of crimes, such as for violent crimes, while addressing concerns about public safety and recidivism. The current automatic sealing proposals for felony crimes simply do not take into consideration public safety or allow for victim input.

### **B. Expanding Record Sealing to Most Crimes**

Similar to the reasons discussed above, we have concerns about expanding record sealing to almost all crimes, especially without a thorough fact-based process as outlined in the process of trafficking sealing and post conviction review. For sealing of more serious crimes, MECASA supports a case-by-case review that takes into account both the underlying facts and the treatment/rehabilitation of the person seeking record sealing.

### **III. Areas We Support for Further Study**

#### **A. Sealing Based on Behavioral Health Treatment Programs**

MECASA proposes that recommendation 13, which recommends record sealing based on completing a behavioral health treatment programs, be moved to an issue of further study. In general we support this policy on a case by case basis for many crimes, but would need more details about any limitations and requirements.

#### **B. Automatic Sealing for All Juvenile Records.**

MECASA proposes that recommendation 21, which recommends the sealing of all juvenile records, be moved to an issue of further study. Only certain serious actions are currently not sealed, and MECASA believes that the sealing of these records should be discussed further by this Commission as this issue was not discussed in detail during our meetings.

#### **C. Licensing**

MECASA proposes that recommendations 25 and 26 be an area of further study.

#### **D. Certificates of Rehabilitation**

MECASA wants to carefully consider, recommendation 28, the idea of allowing a “Certificate of Rehabilitation” in lieu of or in addition to record sealing. This sort of public support of treatment,

rehabilitation, and de-stigmatization is vitally important. It also aligns with principles of restorative practice and restorative justice that focus on the ability of the person who caused harm to both accept the harm they caused and repair that harm. However, we are also mindful of wanting to make sure that there are guidelines for ensuring that the rehabilitation matches the underlying actions. For example, it may not make sense for a person who has caused multiple incidents of sexual harm to children to get a “Certificate of Rehabilitation” for completing ten sessions of general talk therapy, but that might be appropriate for another person. We recommend this be an area of further study.

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### About Maine’s Sexual Assault Service Providers

One in five Mainers will experience sexual assault at some point in their lifetime.<sup>12</sup> Each year, 14,000 Mainers will experience sexual violence.<sup>13</sup>

Maine’s [sexual violence service providers](#) provide free and confidential services across the state to victims/survivors of sexual harassment and sexual assault and those close to them, as well as to individuals who wish to increase their understanding of the issues. Just some of the services include a 24-hour statewide sexual assault helpline, crisis intervention and information, support groups, in-person accompaniment and advocacy through the medical and legal systems, and school- and community-based prevention education. Services are provided for a victim/survivor regardless of when they experienced sexual violence, and regardless of what type of sexual violence they experienced. Types of sexual violence include, but are not limited to, sexual harassment and gender-based bullying, child sexual abuse, elder sexual abuse, stalking, sex trafficking, and sexual violence within an intimate partner relationship.

*24/7 Confidential*

*Maine Sexual Assault Helpline: [1-800-871-7741](tel:1-800-871-7741)*

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<sup>12</sup> Dumont, R. & Shaler, G. (2015). *Maine Crime Victimization Report: Informing public policy for safer communities*. Muskie School of Public Service, University of Southern Maine.

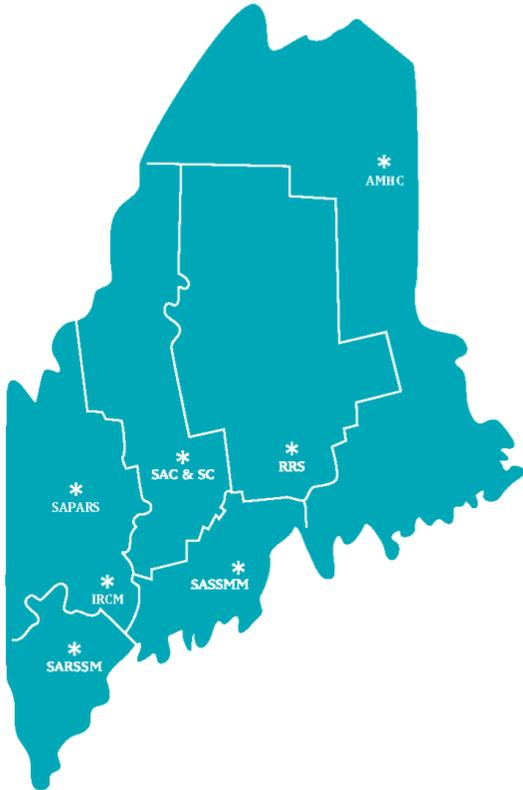
<sup>13</sup> *Ibid.*



# mecasa

MAINE COALITION AGAINST  
SEXUAL ASSAULT

info@mecasa.org | mecasa.org  
207-626-0034



STATEWIDE  
SEXUAL ASSAULT HELPLINE  
1-800-871-7741

Free. Private. 24/7.

## MAINE'S SEXUAL ASSAULT SUPPORT CENTERS

### AMHC Sexual Assault Services (AMHC)

Serving Aroostook, Hancock, & Washington Counties •  
amhcsexualassaultservices.org

### Immigrant Resource Center of Maine

Serving Androscoggin & Cumberland Counties • ircofmaine.org

### Rape Response Services (RRS)

Serving Penobscot & Piscataquis Counties • rrrsonline.org

### Sexual Assault Prevention & Response Services (SAPARS)

Serving Androscoggin, Oxford & Franklin Counties and the towns of  
Bridgton & Harrison • sapars.org

### Sexual Assault Crisis & Support Center (SAC & SC)

Serving Kennebec & Somerset Counties • silentnomore.org

### Sexual Assault Response Services of Southern Maine (SARSSM)

Serving Cumberland & York Counties • sarsonline.org

### Sexual Assault Support Services of Midcoast Maine (SASSMM)

Serving Eastern Cumberland, Sagadahoc, Knox, Waldo & Lincoln  
Counties • sassmm.org

## MORE SEXUAL VIOLENCE SERVICES

Maine TransNet • mainetrans.net • info@mainetransnet.org

Wabanaki Women's Coalition • wabanakiwomenscoalition.org  
207-763-3478

Aroostook Band of Micmacs, Domestic & Sexual Violence  
Advocacy Center • 207-551-3639

Houlton Band of Maliseets, Domestic & Sexual Violence  
Advocacy Center • 207-532-6401

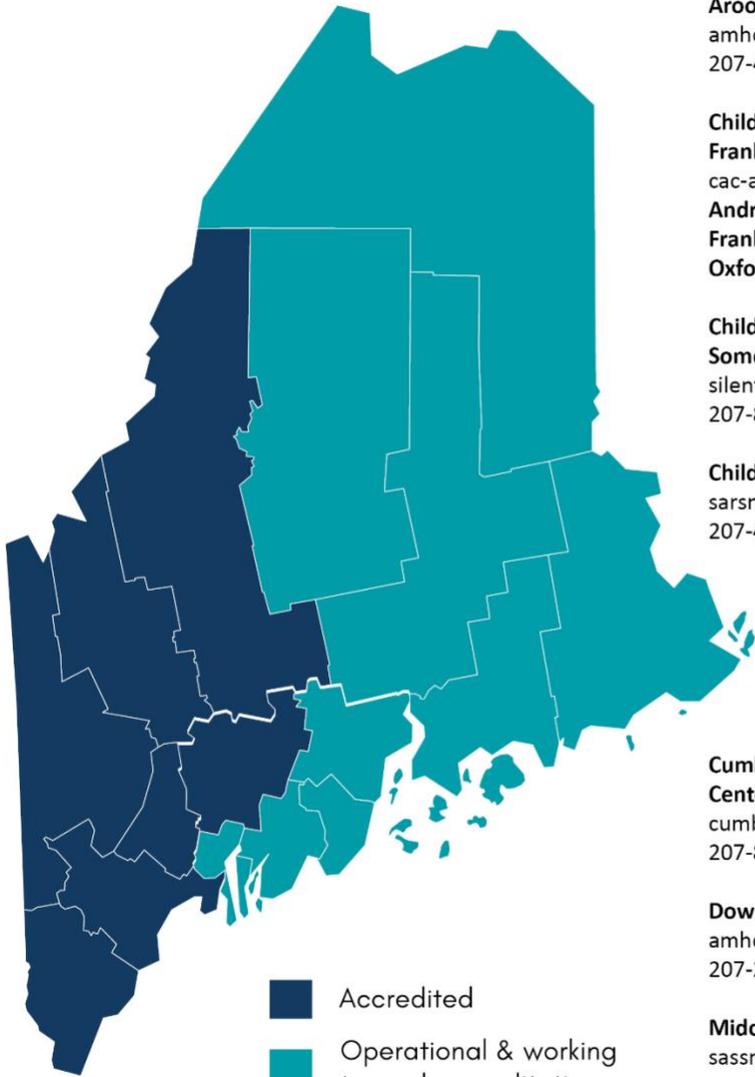
Indian Township Passamaquoddy, Domestic & Sexual  
Violence Advocacy Center • 207-214-1917

Passamaquoddy Peaceful Relations • 1-877-853-2613

Penobscot Indian Nation, Domestic & Sexual Violence  
Advocacy Center • 207-631-4886



# Maine's Children's Advocacy Centers



**Aroostook County Children's Advocacy Center**  
amhcsas.org  
207-472-6134

**Children's Advocacy Center of Androscoggin, Franklin, and Oxford Counties**  
cac-afco.org  
**Androscoggin:** 207-784-0436  
**Franklin:** 207-778-9777  
**Oxford:** 207-739-1228

**Children's Advocacy Center of Kennebec & Somerset Counties**  
silentnomore.org/about-our-cac  
207-861-4491

**Children's Advocacy Center of York County**  
sarsmm.org  
207-459-2380

**Cumberland County Children's Advocacy Center**  
cumberlandcountycac.org  
207-879-6160

**Downeast Children's Advocacy Center**  
amhcsas.org  
207-255-3687

**Midcoast Children's Advocacy Center**  
sassmm.org  
207-522-7162

**Penquis Children's Advocacy Center**  
penquiscac.org  
207-974-2469



Janet T. Mills  
Governor

STATE OF MAINE  
DEPARTMENT OF PROFESSIONAL  
AND FINANCIAL REGULATION  
35 STATE HOUSE STATION  
AUGUSTA, MAINE  
04333-0035

Anne L. Head  
Commissioner

MEMORANDUM

To: Senator Donna Bailey  
Representative Rachel Talbot Ross  
Criminal Records Review Committee  
c/o Janet Stucco [janet.stucco@legislature.maine.gov](mailto:janet.stucco@legislature.maine.gov)

From: Joan Cohen, Deputy Commissioner, Department of Professional and Financial Regulation

Date: November 18, 2024

Subject: Licensing and Criminal History

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Thank you for your hard work on this important subject.

During the course of your meetings, several speakers stated that criminal history is an automatic bar to a professional or occupational license for a certain amount of time depending on the crime and the license sought.

We would like to clarify that criminal history is not an automatic bar to licensure. Maine law (Title 5, Chapter 341) guides the use of criminal history in the context of license eligibility determinations. Importantly, Chapter 341 provides that a criminal conviction *shall not operate as an automatic bar to state licensure*.

Per Maine law, a licensing board *may* take criminal history into account but *only if* the licensing agency determines that the applicant has not been sufficiently rehabilitated to warrant the public trust. *The applicant is always given the opportunity to prove rehabilitation*. While we believe the current process is working well, as evidenced by the overwhelming majority of applicants becoming licensed despite past criminal history, we would be interested to hear about any specific examples of OPOR license applicants being unduly denied licensure based on criminal history.

The licensing boards, commissions, and programs within the Office of Professional and Occupational Regulation (“OPOR”) are charged with the important mission of protecting the public from incompetent, unscrupulous and dishonest practitioners in many professions and occupations. Our license application review process is designed to treat each applicant, in a fair and equitable manner. Maine has been a leader in its efforts to license individuals despite their criminal history. Ultimately, however, it is the legislature’s decision whether to allow, or prohibit, criminal history to be considered as part of a board’s public protection mission.

Below is the law specific to the use of criminal history for licensing purposes.

**§5301. Eligibility for occupational license, registration or permit**

**1. Effect of criminal history record information respecting certain convictions.** Subject to [subsection 2](#) and [sections 5302](#) and [5303](#), in determining eligibility for the granting of any occupational license, registration or permit issued by the State, the appropriate State licensing agency may take into consideration criminal history record information from Maine or elsewhere relating to certain convictions which have not been set aside or for which a full and free pardon has not been granted, *but the existence of such information shall not operate as an automatic bar to being licensed, registered or permitted to practice any profession, trade or occupation.* (emphasis added)

**2. Criminal history record information which may be considered.** A licensing agency may use in connection with an application for an occupational license, registration or permit criminal history record information pertaining to the following:

- A. Convictions for which incarceration for less than one year may be imposed and which involve dishonesty or false statement;
- B. Convictions for which incarceration for less than one year may be imposed and which directly relate to the trade or occupation for which the license or permit is sought;
- C. Convictions for which no incarceration can be imposed and which directly relate to the trade or occupation for which the license or permit is sought;
- D. Convictions for which incarceration for one year or more may be imposed;
- E. Convictions for which incarceration for less than one year may be imposed and that involve sexual misconduct by an applicant for massage therapy licensure or a licensed massage therapist or an applicant or licensee of the Board of Licensure in Medicine, the Board of Osteopathic Licensure, the Board of Dental Practice, the State Board of Examiners of Psychologists, the State Board of Social Worker Licensure, the Board of Chiropractic Licensure, the State Board of Examiners in Physical Therapy, the State Board of Alcohol and Drug Counselors, the Board of Respiratory Care Practitioners, the Board of Counseling Professionals Licensure, the Board of Occupational Therapy Practice, the Board of Speech, Audiology and Hearing, the Radiologic Technology Board of Examiners, the Nursing Home Administrators Licensing Board, the Board of Licensure of Podiatric Medicine, the Board of Complementary Health Care Providers, the Maine Board of Pharmacy, the Board of Trustees of the Maine Criminal Justice Academy, the State Board of Nursing and the Emergency Medical Services' Board.

Additionally, there are time limits on the use of criminal history. For non-health care applicants, a board cannot consider criminal history beyond three years of the applicant's final discharge from the correctional system – unless the crime was directly related to the license and so long as the individual has not reoffended. For health care licensees, a board cannot consider criminal history beyond 10 years of the applicant's final discharge from the correctional system – unless the crime was directly related to the license and so long as the individual has not reoffended.

Below is the law specific to the time limits on the consideration of prior criminal conviction.

**§5303. Time limit on consideration of prior criminal conviction**

**1. Three-year limits.** Except as set forth in this subsection and subsection 2, the procedures outlined in sections 5301 and 5302 for the consideration of prior criminal conviction as an element of fitness to practice a licensed profession, trade or occupation shall

apply within 3 years of the applicant's or licensee's final discharge, if any, from the correctional system. Beyond the 3-year period, ex-offender applicants or licensees with no additional convictions are to be considered in the same manner as applicants or licensees possessing no prior criminal record for the purposes of licensing decisions. There is no time limitation for consideration of an applicant's or licensee's conduct which gave rise to the criminal conviction if that conduct is otherwise a ground for disciplinary action against a licensee.

**2. Ten-year limits.** For applicants to and licensees and registrants of the Board of Licensure in Medicine, the Board of Osteopathic Licensure, the Board of Dental Practice, the State Board of Examiners of Psychologists, the State Board of Social Worker Licensure, the State Board of Nursing, the Board of Chiropractic Licensure, the Board of Trustees of the Maine Criminal Justice Academy, the State Board of Examiners in Physical Therapy, the State Board of Alcohol and Drug Counselors, the Board of Respiratory Care Practitioners, the Board of Counseling Professionals Licensure, the Board of Occupational Therapy Practice, the Board of Speech, Audiology and Hearing, the Radiologic Technology Board of Examiners, the Nursing Home Administrators Licensing Board, the Board of Licensure of Podiatric Medicine, the Board of Complementary Health Care Providers, the Maine Board of Pharmacy and the Emergency Medical Services' Board, for applicants to and licensees of the Department of Agriculture, Conservation and Forestry for growing, processing and transporting hemp and for applicants for massage therapy licensure or licensed massage therapists, the following apply.

A. The procedures outlined in sections 5301 and 5302 for the consideration of prior criminal conviction as an element of fitness to practice a licensed profession, trade or occupation apply within 10 years of the applicant's or licensee's final discharge, if any, from the correctional system.

B. Beyond the 10-year period, ex-offender applicants or licensees with no additional convictions must be considered in the same manner as applicants or licensees possessing no prior criminal record for the purposes of licensing decisions.

C. There is no time limitation for consideration of a registrant's, an applicant's or licensee's conduct that gave rise to the criminal conviction if that conduct is otherwise a ground for disciplinary action.

Thank you for the opportunity to share this information.

November 18, 2024

Dear Senator Bailey, Speaker Talbot-Ross, and members of the Criminal Records Review Committee,

My name is Angela Holmes. I am a resident of Brooks, Maine and am in my final year of the MSW program at the University of Maine in Orono. I am writing to you today to advocate for the expansion of the law regarding sealing criminal records of individuals and creating a pathway for the expungement of criminal records in Maine.

I have heard many firsthand stories from individuals who have experienced incarceration who have faced great barriers upon release in securing employment and housing due to their convictions. They expressed extreme anxiety and stress as their release dates neared, wondering whether they would be able to meet their basic needs of food, shelter, healthcare, and transportation. The discrimination and stigma that these individuals face creates difficulty for them to reintegrate successfully into society, to be able to support and feed themselves and their families, and negatively impacts their substance recovery journey, making it challenging to maintain and sustain.

I am specifically concerned about the mandatory four-year waiting period to become eligible to have your records sealed. Upon release, individuals need to be able to secure housing and gain meaningful employment to be successful and avoid recidivating. Many of these individuals have children and older adult family members that are dependent on them. Some individuals' probation requires being employed. Housing and employment are immediate needs and not something that can be delayed for four years but are often unattainable when landlords and employers become aware of someone's convictions. I ask that you consider removing this waiting period for non-violent offenses.

The Maine Department of Corrections has made great strides in the last decade to rethink and remodel corrections with the goal to "rebuild and transform lives." You see this reflected in the MDOC mission statement, "Making our communities safer by reducing harm through supportive intervention, empowering change and restoring lives." To empower change and restore lives we need to break down some of the barriers faced that prevent this from happening. They have done the time, now we need to allow them to shine. Confidential criminal records will give them the opportunity to do so.

Thank you for your time and the commitment that you have made to this urgent matter.

Sincerely,

Angela Holmes