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Date: (Filing No. H-)

JUDICIARY

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
129TH LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT “ ” to H.P. 569, L.D. 764, Bill, “An Act To Limit the Dissemination of Certain Criminal Records”

Amend the bill by striking out the title and substituting the following:

'Resolve, To Create the Criminal Records Review Committee'

Amend the bill by striking out everything after the title and inserting the following:

'Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the definition of appropriate access to criminal records is evolving as society changes its thinking with regard to sentencing, punishment, rehabilitation and fresh starts; and

Whereas, the treatment of convictions for conduct that is no longer criminal is subject to reevaluation; and

Whereas, the separation of powers concept enshrined in the Constitution of Maine limits the options available for reducing access to criminal records; and

Whereas, the Criminal Records Review Committee is established in this resolve to develop a proposed policy on the appropriate access to criminal records; and

Whereas, the work of the committee must be initiated before the 90-day period expires in order that the work may be completed and a report submitted in time for submission to the next legislative session; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore, be it

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

COMMITTEE AMENDMENT

1 **Sec. 2. Review committee membership. Resolved:** That, notwithstanding
2 Joint Rule 353, the review committee consists of 15 members appointed as follows:

3 1. Two members of the Senate appointed by the President of the Senate, including
4 one member from each of the 2 parties holding the largest number of seats in the
5 Legislature;

6 2. Three members of the House of Representatives appointed by the Speaker of the
7 House of Representatives, including at least one member from each of the 2 parties
8 holding the largest number of seats in the Legislature;

9 3. The Attorney General or the Attorney General's designee;

10 4. The Commissioner of Public Safety or the commissioner's designee;

11 5. The President of the Maine Prosecutors Association or the president's designee;

12 6. The President of the Maine Association of Criminal Defense Lawyers or the
13 president's designee;

14 7. The President of the Maine Sheriffs' Association or the president's designee;

15 8. A representative of a civil rights organization whose primary mission includes the
16 advancement of racial justice, appointed by the President of the Senate;

17 9. A representative of a nonprofit organization whose mission includes advocating
18 for victims and survivors of domestic violence or sexual assault, appointed by the
19 President of the Senate;

20 10. A representative of a civil liberties organization whose primary mission is the
21 protection of civil liberties, appointed by the Speaker of the House of Representatives;
22 and

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

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

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

31 **Sec. 4. Appointments; convening of review committee. Resolved:** That all
32 appointments must be made no later than 30 days following the effective date of this
33 resolve. The appointing authorities shall notify the Executive Director of the Legislative
34 Council once all appointments have been completed. After appointment of all members,
35 the chairs shall call and convene the first meeting of the review committee. If 30 days or
36 more after the effective date of this resolve a majority of but not all appointments have
37 been made, the chairs may request authority and the Legislative Council may grant
38 authority for the review committee to meet and conduct its business.

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

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

3 2. Consider whether the following convictions should be subject to different
4 treatment:

5 A. Convictions for conduct that has been decriminalized in this State over the last 10
6 years and conduct that is currently under consideration for decriminalization; and

7 B. Convictions for conduct that was committed by victims and survivors of sexual
8 exploitation and sex trafficking;

9 3. Consider whether there is a time limit after which some or all criminal records
10 should not be publicly available;

11 4. Invite comments and suggestions from interested parties, including but not limited
12 to victim advocates and prison and correctional reform organizations;

13 5. Review existing information about the harms and benefits of making criminal
14 records confidential;

15 6. Invite comments and suggestions concerning the procedures and processes to limit
16 public accessibility of criminal records;

17 7. Consider who, if anyone, should continue to have access to criminal records that
18 are not publicly available; and

19 8. Develop options to manage criminal records.

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

23 **Sec. 7. Report. Resolved:** That, no later than December 4, 2019, the review
24 committee shall submit to the Joint Standing Committee on Judiciary a report that
25 includes its findings and recommendations, including suggested legislation, for
26 presentation to the Second Regular Session of the 129th Legislature.

27 **Sec. 8. Outside funding. Resolved:** That the review committee shall seek
28 funding contributions to fully fund the costs of the study. All funding is subject to
29 approval by the Legislative Council in accordance with its policies. If sufficient
30 contributions to fund the study have not been received within 30 days after the effective
31 date of this resolve, no meetings are authorized and no expenses of any kind may be
32 incurred or reimbursed.

33 **Sec. 9. Appropriations and allocations. Resolved:** That the following
34 appropriations and allocations are made.

35 **LEGISLATURE**

36 **Study Commissions - Funding 0444**

37 Initiative: Allocates funds for the one-time costs to the Legislature of the Criminal
38 Records Review Committee.

	2019-20	2020-21
OTHER SPECIAL REVENUE FUNDS		
Personal Services	\$1,100	\$0
All Other	\$1,650	\$0
OTHER SPECIAL REVENUE FUNDS TOTAL	\$2,750	\$0

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.'

SUMMARY

This amendment strikes the bill and replaces it with a resolve that establishes the Criminal Records Review Committee, consisting of 15 members, including a member representing the judicial branch if one is designated by the Chief Justice of the Supreme Judicial Court.

The review committee is directed to look at all issues concerning limiting public availability of criminal records and to provide recommendations to the Joint Standing Committee on Judiciary by December 4, 2019. The review committee's funding must come from outside sources. The amendment also adds an appropriations and allocations section.

FISCAL NOTE REQUIRED

(See attached)