



**STATE OF MAINE
DEPARTMENT OF PUBLIC SAFETY
MAINE STATE POLICE**

**Colonel William Ross
CHIEF**

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DEPUTY CHIEF**

**TESTIMONY OF MATTHEW RUEL
DIRECTOR, STATE BUREAU OF IDENTIFICATION**

In Opposition to LD's 739, 848, 1550, 1646, 1789

Members of the Committee:

My name is Matthew Ruel, and I am the Director of the State Bureau of Identification within the Department of Public Safety. I provide this testimony on behalf of the Administration in Opposition to LD's 739, 848, 1550, 1646, 1789. Testimony on all bills has been combined because of the overlap of concerns and issues with the LDs as drafted.

SBI serves as the repository of all criminal history information in the state, and currently provides criminal history for law enforcement and public purposes. We are responsible for providing this information to law enforcement across the country, from the officer roadside all the way through the criminal justice process up to judges making sentencing decisions. This information is also used as part of hiring, certification, and licensing requirements on a state and national level. Many organizations rely on this information to vet potential employees or volunteers that have direct contact with vulnerable populations. SBI completes more than 500,000 public searches annually. Having an accurate, complete, timely criminal history is our mission and a key component in public safety. My purpose in providing this testimony is to point out concerns and challenges I would see in incorporating proposed changes into our work process.

Let me begin with sealing and expungement. We currently have a sealing process in place where we get a sealing order from a court proceeding and make the necessary

changes within our system to limit dissemination of the record for law enforcement purposes. Expungement is something that doesn't currently exist at the repository and would require programming changes just to implement, as well as raise numerous other questions. For example, if something is expunged or deleted its gone. What happens if the person commits new criminal conduct, how would it be used as an enhancement to a crime? Can someone expunge crimes, commit new crimes, and expunge again? Criminal history is used across state lines for charging purposes, if its expunged and can't be used is that what is intended? What about research? If I expunge records how do researchers identify performance on crime statistics and or address recidivism? What about gun checks? Criminal history is used for many checks of people working with vulnerable populations. Is the intent to hide or delete that information from the person looking to hire someone working with those populations? Or is the intention to "expunge" records and move it to a "super confidential file" like some other states do where information is not disseminated, but is maintained and checked against new criminal conduct we receive which "reactivates" the dissemination of all the history? Is the intent here to really expunge? In many states, as I have seen here in Maine, there is a tendency to say expunge when really the intent is to seal.

For consistency and to avoid confusion I believe that following along with the court review process that is already in statute is the best process to follow as it is already established between the courts and SBI.

Some proposed LDs imply that SBI would be responsible for sealing or expunging "all" records (within SBI or local agencies). I think it needs to be clear that SBI could only address history that is maintainable by SBI. I have no control over local record systems or the courts records and would not be able to do anything to seal or expunge history in those systems (and we wouldn't even know if there was a record). Further, SBI doesn't have anything to do with civil offenses and would not be able to address those records.

Any reference to time requirements for action on SBI's part is also concerning. Many older records may be in archives, not in our possession, or possibly destroyed. They also may be in a format that is not easily reviewed by staff or need further legal review to make a determination.

As I have indicated in prior legislative sessions, how do I identify old records of drug crimes when they may have been classified as schedule Z drugs and would take a legal review of case reports to make a sealing/expungement decision? Any action on these cases will require a hand search of records and a legal review process (outside of SBI's ability) to make a decision. There are also going to be numerous records that may have been destroyed as part of record retention policies.

When a person has been convicted of committing a crime this reflects the culmination of acts by the three branches of our government. The Legislature has enacted a law criminalizing certain conduct. The Executive has collected evidence the individual

has committed conduct that was in violation of that law. The Judiciary has determined that the facts alleged met the burden of proof and has entered a judgment of guilty. The proceedings occur in open court for all to scrutinize so that the public can be sure justice has been done without favor. When we start shielding those results, we must be mindful that we are covering up the results of a process that is foundational to our democracy. For these reasons and many others, the Administration is in opposition of these LDs.