



Rachel Talbot Ross
Senator, District 28

THE MAINE SENATE
132nd Legislature

3 State House Station
Augusta, Maine 04333

**Testimony of Senator Rachel Talbot Ross
In Support of LD 1911, “An Act to Automatically Seal Criminal History Record
Information for Certain Crimes”**

January 8, 2026

Chairwoman Carney, Chairwoman Kuhn, and esteemed members of the Judiciary Committee, I am Senator Rachel Talbot Ross. I represent Senate District 28, which includes part of Portland, part of the Casco Bay Islands, and includes the University of Southern Maine Campus. I am proud to be the sponsor of LD 1911, **An Act to Automatically Seal Criminal History Record Information for Certain Crimes**. LD 1911 is a carry-over bill from the First Session of the 132nd Legislative Session. As you will hear during my testimony, the time in between the First and Second Sessions has been extremely beneficial, allowing me to take the time to work with stakeholders. The amendment before you is based on the work with numerous parties.

Before I outline the amendment, it is important to understand the genesis of how we arrived at the amendment before you.

As you are aware, The Criminal Records Review Committee was created to review the issues involved in clearing or sealing arrest and conviction records and to explore various options for assisting those who have been convicted of crimes and serving their sentences to become constructive members of the community. As you will hear today, after people who have served their time or have simply experienced an arrest, the resulting record can follow them throughout their daily lives, creating additional, sometimes lifelong, barriers. Whether this means being unable to rent or obtain decent housing, or not being considered for quality employment or higher education in an effort to provide for their family, an old arrest or conviction record can be an albatross around people’s necks. Individuals who have paid their debt to society should not continue to be penalized.

The original draft of LD 1911 is based on the merger of two recommendations from the Criminal Records Review Committee - namely, a proposal to automate record sealing for cannabis offenses that are no longer considered crimes, and another proposal to expand the types of low-level offenses that are eligible for record sealing generally. After further discussions with multiple stakeholders on LD 1911, we have made a series of changes to ensure a more effective and implementable policy for all parties involved in the process.



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These changes have been made based on discussions with stakeholders in Maine and on the experiences of other states that have implemented Clean Slate policies.

To date, thirteen states and Washington, D.C., have passed Clean Slate legislation. These states are very different from one another, and span the political spectrum from Oklahoma, Utah, and Virginia to California, New York, and Connecticut. Yet, each of these states, like Maine, is taking an individualized approach to Clean Slate legislation, ensuring the legislation works effectively within its unique political, cultural, and administrative contexts.

To start, the bill identifies and expands the number of offenses eligible for record sealing generally. As you are aware, criminal records in Maine never truly go away. The terminology and process used is **record sealing, not expungement**. Other states will sometimes *expunge* eligible records, which erases them from databases or even physically destroys them, treating them as if they never existed. In Maine, these records are sealed and put on a shelf, so to speak. Access to sealed records is restricted. In this amendment, law enforcement and court officials are permitted to access records when appropriate, whereas background check companies are not.

The offenses that have been added for eligibility for sealing include most Class D & E misdemeanors, as well as certain drug-related felonies. These offenses are listed as “eligible criminal convictions” in paragraph 5 of the definitions section. This language is directly from Appendix L of CRRC’s 2024 final report, which included draft legislative proposals.

Where this CRRC proposal and this amendment begin to differ is based on the feedback received and the need to exclude certain offenses from automation. Automation is a process that requires things to work at a large scale using computers and coding. While the CRRC proposal might allow for individual review of marginal cases, the automated process is necessarily limited to offenses that should clearly be sealed as a matter of public policy.

Looking at paragraph 5 of definitions, starting with subparagraph A, we begin to see things that should NOT be sealed in any automated process. This language already excluded sex offenses. But in subparagraph B(1) for instance, you will see that all “offenses against the family” of Title 17A, Chapter 23 have been excluded from automated sealing and it is very explicit that such offenses are not eligible. The original CRRC proposal was more nuanced. With the remaining



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exclusions you see here, any assault, domestic violence, sex offense, or adjacent activity is explicitly excluded and would not be eligible for automated sealing.

Overall, the eligible offenses outlined here stem directly from the recommendations of the Criminal Records Review Committee. Expanding access and eligibility for record sealing would put Maine on par with the practices in other New England states by allowing these offenses to be sealed after a specific period of time following someone being held accountable for a past mistake.

The next section, 2402, sets out appropriate waiting periods based on Maine's existing practices and available data. The waiting periods are also informed by national research on recidivism, which suggests that it is appropriate to seal records 2-3 years after serving a sentence for a misdemeanor, and 5-7 years after serving a sentence for a felony. To create effective data points for automation, this bill uses available court data from the date of sentencing (rather than the completion of a sentence) and increases the waiting period accordingly.

For instance, with misdemeanors, which carry a maximum sentence of one year, the existing waiting period is increased from 4 years to 5 years.

Some low-level drug-related felonies will be eligible for sealing after longer waiting periods appropriate to those offenses. Class C felonies with a maximum sentence of 5 years will have a 10-year waiting period. Class B felonies, with the maximum sentence of 10 years, will have a 15-year waiting period.

AND OF COURSE - let us not forget that almost half of criminal cases result in a non-conviction. It is essential to note that non-convictions in Maine still appear on individuals' background checks. It is amazing to think that someone could be disqualified from meaningful employment or good housing, even though they have never been found guilty of wrongdoing by a court of law. This legislation will appropriately seal these non-convictions 6 months after disposition of the case.

A person would NOT be eligible for record sealing if they have had any subsequent convictions in this state, or have any pending charges during the waiting period.



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The fidelity of court data is also the key point to the final provision here. Working with stakeholders, we have identified that one of the unique administrative concerns is the ability to track restitution owed to victims through the courts. While the Judicial Branch has reliable data on whether an order of restitution has been issued in a case, the data is far less reliable regarding whether that restitution has been satisfied. As you will see in this part of the amendment, cases that include an order of restitution will not qualify for their records to be sealed under Clean Slate. This is a small but significant number - approximately 7% of convictions or 3 ½- 4% of all criminal cases involve such an order.

The remainder of the bill, sections 2403 and 2404, set out the process by which automated record sealing will occur.

Several changes in language have been made after meetings with the Judicial Branch. We have adjusted the timeline to enable the Judicial Branch more time to implement this legislation appropriately. As this Committee is aware, the Judicial Branch is currently updating its software system to streamline court records. That update is expected to be complete by 2027. That is why Clean Slate automated record sealing is set to begin in 2028 in this amended bill, and deadlines for record sealing are staggered over several years after as the law is fully implemented.

It was initially thought that there may be a need to manually review records or paper files as part of a clean slate process. This is a common misconception that almost all states share initially, but it could not be further from the truth.

This bill outlines a process for managing electronic records, mimicking existing court rules for the Electronic Court System. These rules have been in effect since 2020, and in particular, Rules 9 through 11 govern record sealing, as well as public access to records. The Judicial Branch can utilize their existing “presumptive sealing” approach as part of the Clean Slate process.

Here, the Judicial Branch can put an electronic flag on any record, and presumptively seal the access to the general public and background check companies. Should the public inquire about the details of a particular historical case, via the press or any interested party - the court can then do an individual review under its rules to determine if any information from the case can be released in compliance with the clean slate law.



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This is a process that will save tremendous resources of time and money, while delivering record relief to hundreds of thousands of Mainers.

There are a few final points I want to make about this legislation.

What is abundantly clear is that any commutation or pardon is a power exclusively reserved to the executive. However, the criminal record itself, after the completion of the sentence, is not a punishment requiring commutation.

Instead, a record of a past conviction is a collateral consequence - a public indicator of a past that we deem worthy of judgment and scrutiny. The legislature has purview over the public policy regarding these records - specifically, when and how these indicators can be removed from background checks. Maine's existing record sealing was the starting point for this legislation, and this bill will expand upon the grace offered to Mainers who are held accountable for a past mistake and do everything the court has required of them.

The last point I want to make about this legislation, and I want to be very clear about it, is that even though these records will leave the public eye - law enforcement will still have necessary access to the records of people who have been convicted of a crime. Criminal records will be sealed, not expunged or destroyed.

I understand very well that there is nothing "automatic" about the process of automating record sealing. This is why I have devoted considerable time to learning and collaborating with stakeholders to develop the most effective policy possible. I am grateful to the business community, recovery groups, the Judicial branch, experts at The Clean Slate Initiative and Code for America, District Attorneys, and domestic violence victim advocates for their openness and willingness to work with me on this legislation.

Thank you for your time and consideration of LD 1911. I hope you join me in passing this important legislation.

Rachel Talbot Ross
Senate District 28
Part of Portland, Part of the Casco Bay Islands and the University of Southern Maine Campus

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

Sec. 1. 4 MRSA §17, sub-§17, ¶C, as amended by PL 2021, c. 684, §2, is further amended to read:

C. The statement on proposed legislation prepared by the State Court Administrator must be considered in the preparation of the fiscal note included in a committee amendment or other amendment if the legislation or amendment has a fiscal impact on the judicial system, as determined by the State Court Administrator; and

Sec. 2. 4 MRSA §17, sub-§18, ¶B, as enacted by PL 2021, c. 684, §3, is amended by amending subparagraph (8) to read:

(8) Provide a mechanism for the retention of all information submitted to or communicated by or within the system; and

Sec. 3. 4 MRSA §17, sub-§19 is enacted to read:

19. Review for automatic sealing of criminal history record information. Establish and maintain a process by which the Judicial Branch must perform its obligations to assist with the automatic sealing of criminal history record information for eligible criminal convictions as provided under Title 15, section 2403.

Sec. 4. 15 MRSA c. 313 is enacted to read:

CHAPTER 313

AUTOMATIC SEALING OF CERTAIN CRIMINAL HISTORY RECORD INFORMATION

§2401. Definitions

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

1. Bureau. "Bureau" means the Department of Public Safety, Bureau of State Police, State Bureau of Identification.

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

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

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

5. Eligible criminal conviction. "Eligible criminal conviction" means:

A. 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;

B. A conviction for a current or former Class D crime, except:

(1) A conviction for a current or former Class D crime under Title 17-A, chapter 11, 12 or 23;

(2) A conviction for a current or former Class D crime under Title 17-A, section 852, 853 or 855;

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- (3) A conviction for assault under Title 17-A, section 207
- (4) A conviction for stalking under Title 17-A, section 210-A or domestic violence stalking under Title 17-A, section 210-C;
- (5) A violation of a protective order, as specified in section 321, subsection 6; Title 5, section 4659, subsection 1; Title 17-A, section 506-B; Title 19-A, former section 4011, subsection 3; Title 19-A, former section 4012, subsection 5; or Title 19-A, section 4113, subsection 1;
- (6) A conviction for cruelty to animals under Title 17, section 1031;
- (7) A conviction for a crime against a family or household member, as defined in Title 19-A, former section 4002, subsection 4, regardless of whether the relationship was an element of that crime, ; or
- (8) A conviction for the crime of violation of a condition of release, pursuant to section 1092 while the defendant is released on preconviction or post-conviction bail.

C. Unlawful possession of scheduled drugs under Title 17-A, section 1107-A or Title 17-A, former section 1107;

D. A conviction for any other crime under Title 17-A, chapter 45 not otherwise specified in paragraph C, except for a conviction for a Class A crime or a conviction for a crime that involved the use of a firearm; and

6. Sealed Record. "Sealed Record" means the criminal history record information relating to a specific eligible criminal conviction or eligible non-conviction that is sealed under §2403.

§2402. Prerequisites for automatic sealing of criminal history record information

Criminal history record information relating to one or more specific criminal convictions shall be sealed under this chapter only if:

1. Eligible criminal conviction. The criminal conviction is:

- A. An eligible criminal conviction that is a Class D or Class E crime and 5 years have passed since the date of conviction; or
- B. An eligible criminal conviction that is a Class C crime and 10 years have passed since the date of conviction
- C. An eligible criminal conviction that is a Class B crime and 15 years have passed since the date of conviction, or;

2. Eligible non-conviction. The criminal charge did not result in a conviction, and the case has been closed for at least 6 months. This includes, but is not limited to:

- A. A charge that was dismissed by the court;
- B. A charge that resulted in an acquittal;
- C. A charge that was not formally charged by the prosecuting authority or was declined for prosecution; or
- D. A charge that was subject to a deferred disposition and was dismissed following successful completion of the deferral agreement.

3. Other convictions in this State. The person has not been convicted of a 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 of the person's most recent eligible criminal conviction up until the time of the sealing order; and

4. Pending criminal charges. The person who is the subject of the criminal history record information does not have any pending criminal charges in this State.

5. Order of Restitution. The eligible criminal conviction does not contain a court order of restitution.

§2403. Automatic sealing of criminal history record information

Criminal history record information for an eligible non-conviction or eligible criminal conviction must be sealed in accordance with this section if the eligible non-conviction or eligible criminal conviction and the conduct of the person who is the subject of the criminal history record information satisfy the requirements of section 2402.

1. Monthly examination of records. Beginning January 1, 2028, the Judicial Branch shall utilize computerized processes to examine electronic case records at least once per month and electronically compile a list of criminal history record information that meets the requirements of section 2402. Criminal history information that becomes eligible for sealing under section 2402 shall be included in the monthly list compiled by the Judicial Branch no later than 90 days after such record becomes eligible for sealing under section 2402.

2. Presumptive Sealing. The Judicial Branch shall then seal electronic case records containing eligible non-conviction or eligible criminal conviction history, subject to court rules of electronic court records access.

3. Notice to bureau. Upon sealing of electronic case records, the Judicial Branch shall issue a sealing order and shall electronically transmit notice of the order to the bureau. Within 14 days of receipt, the bureau shall update its records to reflect that the criminal history record information related to the eligible criminal conviction or eligible non-conviction is sealed and that its dissemination is governed by section 2265, provided that section 2265.6 (Licensing agencies) shall not apply to records sealed under this section, and a criminal justice agency may not disseminate the sealed record information to professional licensing agencies described in section 2265.6.

4. Cooperation. The Department of Public Safety, Bureau of State Police; Department of Corrections; judicial branch; and criminal justice agencies that collect, maintain or disseminate criminal history record information shall cooperate with the Judicial Branch and assist it with carrying out the purposes and duties of this section.

5. Electronic Methods. Wherever practicable, the Judicial Branch, Department of Public Safety, Bureau of State Police, Department of Corrections, criminal justice agencies that collect, maintain or disseminate criminal history record information and that courts shall utilize automated and computerized methods to effectuate the procedures in this section.

§2404. Phased sealing of historic criminal history record information

A. Records created before January 1, 2028 but on or after January 1, 2020. The Judicial Branch shall review and process criminal history record information created during this period in accordance with the eligibility requirements of section 2402. Once a list of eligible records has been determined, implementing agencies shall act as follows:

1. The Judicial Branch shall seal electronic case records containing eligible non-conviction or eligible criminal conviction history, subject to court rules of electronic court records access.
2. Upon issuing a sealing order, the court shall electronically transmit notice of the order to the Bureau of State Police.

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3. The Judicial Branch and the bureau shall, by July 31, 2029, update their records by removing public access to eligible criminal history record information stored in electronic databases used for background checks. Updated records must reflect that the criminal history record information is sealed and that its dissemination is governed by section 2265. Corresponding physical records shall be handled on a case-by-case basis, with verification that each record corresponds to a sealed or expunged electronic record before any information is released.
4. The Department of Public Safety, Bureau of State Police; Department of Corrections; and all criminal justice agencies that collect, maintain, or disseminate criminal history record information shall cooperate with the Judicial Branch and assist it in carrying out the purposes and duties of this section.

B. Records created before January 1, 2020 but on or after January 1, 2010. The Judicial Branch shall review and process criminal history record information created during this period in accordance with the eligibility requirements of section 2402. Once a list of eligible records has been determined, implementing agencies shall act as follows:

1. The Judicial Branch shall seal electronic case records containing eligible non-conviction or eligible criminal conviction history, subject to court rules of electronic court records access.
2. Upon issuing a sealing order, the court shall electronically transmit notice of the order to the Bureau of State Police.
3. The Judicial Branch and the bureau shall, by July 31, 2030, update their records by removing public access to eligible criminal history record information stored in electronic databases used for background checks. Updated records must reflect that the criminal history record information is sealed and that its dissemination is governed by section 2265. Corresponding physical records shall be handled on a case-by-case basis, with verification that each record corresponds to a sealed or expunged electronic record before any information is released.
4. The Department of Public Safety, Bureau of State Police; Department of Corrections; and all criminal justice agencies that collect, maintain, or disseminate criminal history record information shall cooperate with the Judicial Branch and assist it in carrying out the purposes and duties of this section.

C. Records created before January 1, 2010 but on or after January 1, 2005. The Judicial Branch shall review and process criminal history record information created during this period in accordance with the eligibility requirements of section 2402. Once a list of eligible records has been determined, implementing agencies shall act as follows:

1. The Judicial Branch shall seal electronic case records containing eligible non-conviction or eligible criminal conviction history, subject to court rules of electronic court records access.
2. Upon issuing a sealing order, the court shall electronically transmit notice of the order to the Bureau of State Police.
3. The Judicial Branch and the bureau shall, by July 31, 2031, update their records by removing public access to eligible criminal history record information stored in electronic databases used for background checks. Updated records must reflect that the criminal history record information is sealed and that its dissemination is governed by section 2265. Corresponding physical records shall be handled on a case-by-case basis, with verification that each record corresponds to a sealed or expunged electronic record before any information is released.

4. The Department of Public Safety, Bureau of State Police; Department of Corrections; and all criminal justice agencies that collect, maintain, or disseminate criminal history record information shall cooperate with the Judicial Branch and assist it in carrying out the purposes and duties of this section.

§2405. Limited disclosure of sealed eligible criminal convictions and eligible non-convictions.

A person whose criminal history record information is the subject of a sealing order under section 2403 may respond to inquiries from persons other than criminal justice agencies and other entities that are authorized to obtain the Sealed Record information under section 2265 by not disclosing the existence of the Sealed Record 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 history record information is the subject of a sealing order does not violate Title 17-A, section 451, 452 or 453 by failing to disclose the Sealed Record.

§2406. Motion to seal criminal history record information

This chapter may not be construed to prevent a person from filing a written motion seeking a court order to seal the person's criminal history record information relating to a specific criminal conviction in accordance with section 2263.

SUMMARY

This bill establishes a system for automatically sealing criminal history record information associated with criminal history records for certain non-convictions and certain crimes, provided that certain conditions are met. Automatic sealing refers to the process established by the bill by which criminal history record information related to qualifying non-convictions and convictions must be sealed and the dissemination of that information limited consistent with the requirements of the Maine Revised Statutes, Title 15, section 2265, without the need to file a petition to seal the information. Under the bill, the Administrative Office of the Courts must routinely examine electronic case records and compile a list of criminal history record information that qualifies for automatic sealing under this legislation and provide that list to the appropriate courts to issue a sealing order.

The bill provides a list of non-convictions and criminal convictions for which automatic sealing may be available. The underlying crimes include all Class E crimes except for sexual offenses; all Class D crimes except for certain crimes, such as certain violent crimes or certain offenses against a family member; and other specified drug crimes.

The bill provides that for an eligible criminal conviction to be automatically sealed, 5 years must have passed since the date of conviction for a Class D or Class E crime. For a Class C crime, 10 years must have passed since the date of conviction, or Class B crime, 15 years must have passed since the date of conviction and the person who is the subject of the criminal history record information must have completed the person's sentence, including any period of supervised release. The criminal history record information is not eligible for sealing if the person who is the subject of the criminal history record information has been convicted of any other crimes in the time elapsed since the person satisfied the sentencing requirements of the eligible criminal conviction. The bill also provides that for eligible non-conviction to be automatically sealed, 6 months must have elapsed since the conclusion of the case and the person who is the subject of the criminal history record information is not currently facing pending charges.