



# Administrative Office of the Courts

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## **Judicial Branch testimony neither for nor against LD 1911, An Act to Automatically Seal Criminal History Record Information for Certain Cases:**

Senator Carney, Representative Kuhn, members of the Joint Standing Committee on Judiciary, my name is Julie Finn and I represent the Judicial Branch. I would like to provide some brief testimony neither for nor against LD 1911.

The original version of the bill, as posted online, contains several sections that would be difficult or impossible for the Judicial Branch to implement. The term “automatically” means that the Judicial Branch would be responsible for identifying the cases that meet the eligibility criteria, both retroactively and prospectively; collecting the mostly paper files; finding a judge to review the case and issue a sealing order; and transmitting the sealing order to the State Bureau of Identification. This process would be labor-intensive and require significant additional clerical and judicial resources.

Several months ago, Senator Talbot Ross contacted me and my colleague Amanda Doherty about this bill and requested our feedback. We provided detailed analysis and, at her request, met with outside advocates and individuals from national “clean slate” organizations. It is clear that their intent is to make the process as streamlined and technology based as possible. To that end, Senator Talbot Ross proposed the amendment that was circulated earlier this week. However, given the pervasive usage of paper files that will continue to some extent until Enterprise Justice is fully implemented in early 2027 and for cases that predate Enterprise Justice, there is a limited amount of work that can be accomplished electronically.

Specifically, proposed 15 MRS § 2403 requires the Judicial Branch to “electronically compile a list of criminal history record information that meets the requirements of section 2402.” On January 1, 2028, the start date of the “automatic” reviews, “eligible criminal convictions” would include (1) Class D and E crimes 5 years after conviction; (2) Class C crimes 10 years after conviction; (3) Class B crimes 15 years after conviction; and (4) eligible non-convictions. Because of the lag times of 5, 10 and 15 years, the dates of conviction would be between 2013 and 2023, and the files would be paper, not electronic. The tasks involved would

occur roughly in this order: Archived paper files would have to be gathered from multiple storage locations, forwarded to the court of jurisdiction, reviewed by a law clerk for compliance with the statute, forwarded to a judge to issue a sealing order if appropriate, docketed by a court clerk with a copy to the defendant and the file, and finally transmitted to SBI.

In addition, 15 MRS § 2404, “Phased sealing of historic criminal history record information,” provides a retrospective schedule for sealing eligible records from January 1, 2005 to the present. This requirement will require considerable resources in both the clerical and judicial realms. While electronic means can be used to identify files to be sealed, the manual process outlined above would have to be repeated thousands of times for the files described in this section as well.

There are also some specific criteria included in the eligibility section, 15 MRS § 2401(5)(B)(7), that would be problematic for the Judicial Branch:

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,

To illustrate, if a Class D theft was committed against a family or a household member, under the cited subsection it should be excluded as an eligible conviction. However, we do not track the information about victim relationship if it is not an element of the offense, so we would have to complete additional programming or potentially allow for automatic sealing of an ineligible crime in this specific example.

We will work with the Senator and others to provide assistance and funding estimates for this bill.

Thank you for your time.