

TITLE 16

COURT PROCEDURE -- EVIDENCE

CHAPTER 1

WITNESSES

SUBCHAPTER 1

GENERAL PROVISIONS

**§1. Applicability of provisions to executors, administrators or heirs
(REPEALED)**

SECTION HISTORY

PL 1977, c. 564, §75 (RP).

SUBCHAPTER 2

QUALIFICATIONS, PRIVILEGES AND CREDIBILITY

§51. Showing of interest or bias

If in the trial of a civil case there is a conflict of oral testimony or the contents of a written statement are denied or controverted by the person involved therein, it is competent to show in testimony the interest or bias of the person testifying orally or the person preparing the written statement.

§52. Mentally ill party

The rules of evidence which apply to actions by or against executors or administrators apply in actions where a person shown to the court to be mentally ill is solely interested as a party.

§53. Parties, husbands, wives and others as interested witnesses

No person is excused or excluded from testifying in any civil action by reason of his interest in the event thereof as party or otherwise, except as otherwise provided, but such interest may be shown to affect his credibility, and the husband or wife of either party may be a witness.

§53-A. Privileged communications to sexual assault counselors

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Rape crisis center" means any publicly or privately funded agency, institution or facility existing in this State, having as its purpose to reduce the trauma of sexual assault to sexual assault victims and their families through crisis intervention, counseling, medical and legal information and dissemination of educational information pertaining to sexual assault. [RR 2013, c. 2, §29 (COR).]

B. "Sexual assault counselor" means a person who :

(1) Has undergone a program of training from a rape crisis center that includes, but is not limited to: law, medicine, societal attitudes, crisis intervention, counseling techniques and referral services; and

(2) Is either a staff member, paid or unpaid, or under the supervision of a staff member of a rape crisis center. [RR 2013, c. 2, §29 (COR).]

C. "Confidential criminal history record information" has the same meaning as in section 703, subsection 2. [PL 2013, c. 588, Pt. E, §8 (NEW).]

D. "Criminal justice agency" has the same meaning as in section 703, subsection 4. [PL 2013, c. 588, Pt. E, §8 (NEW).]
[RR 2013, c. 2, §29 (COR).]

2. Privileged communications. Except with regard to reporting, cooperating in an investigation or giving evidence pursuant to Title 22, chapter 958-A or 1071, or except at the request, or with the consent of, the victim of sexual assault, a sexual assault counselor may not be required to testify in any civil or criminal action, suit or proceeding at law or in equity about any information that the sexual assault counselor may have acquired in providing sexual assault counseling services. A sexual assault counselor or a rape crisis center may not be required to disclose to the court any records, notes, memoranda or documents containing confidential communications. When a court in the exercise of sound discretion determines the disclosure necessary to the proper administration of justice, information communicated to, or otherwise learned by, that sexual assault counselor in connection with the provision of sexual assault counseling services is not privileged and disclosure may be required. [PL 2007, c. 577, §1 (AMD).]

3. Confidential criminal history record information. A Maine criminal justice agency, whether directly or through any intermediary, may disseminate confidential criminal history record information to a sexual assault counselor for the purpose of planning for the safety of a victim of sexual assault. A sexual assault counselor who receives confidential criminal history record information pursuant to this subsection shall use it solely for the purpose authorized by this subsection and may not further disseminate the information.

[PL 2013, c. 588, Pt. E, §9 (NEW).]

SECTION HISTORY

PL 1983, c. 319 (NEW). PL 2007, c. 577, §1 (AMD). PL 2013, c. 588, Pt. E, §§8, 9 (AMD). RR 2013, c. 2, §29 (COR).

§53-B. Privileged communications to victim advocate; family violence

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Advocate" means an employee of or volunteer for a nongovernmental or Maine tribal program for victims of domestic or family violence who:

(1) Has undergone at least 30 hours of training; and

(2) As a primary function with the program gives advice to, counsels or assists victims, supervises employees or volunteers who perform that function or administers the program. [PL 2013, c. 478, §3 (AMD).]

A-1. "Confidential communications" means all information, whether written or oral, transmitted between a victim and a domestic violence advocate in the course of the working relationship. "Confidential communications" includes, but is not limited to, information received or given by the advocate in the course of the working relationship, advice, records, reports, notes, memoranda, working papers, electronic communications, case files, history and statistical data, including name,

date of birth and social security number, that personally identify the victim. [PL 2005, c. 388, §1 (NEW).]

A-2. "Confidential criminal history record information" has the same meaning as in section 703, subsection 2. [PL 2013, c. 478, §4 (NEW).]

A-3. "Criminal justice agency" has the same meaning as in section 703, subsection 4. [PL 2013, c. 478, §5 (NEW).]

B. "Victim" means a victim of domestic or family violence. [PL 1995, c. 128, §1 (NEW).]
[PL 2013, c. 478, §§3-5 (AMD).]

1-A. Confidential criminal history record information. A Maine criminal justice agency, whether directly or through any intermediary, may disseminate confidential criminal history record information to an advocate for the purpose of planning for the safety of a victim of domestic violence. An advocate who receives confidential criminal history record information pursuant to this subsection shall use it solely for the purpose authorized by this subsection and may not further disseminate the information.

[PL 2013, c. 588, Pt. E, §10 (AMD).]

2. Privileged communication. Communications are privileged from disclosure as follows.

A. A victim may refuse to disclose and may deny permission to an advocate to disclose confidential written or oral communications between the victim and the advocate and written records, notes, memoranda or reports concerning the victim. [PL 1995, c. 128, §1 (NEW).]

B. Except as provided in subsection 3, a victim, advocate or advocate's agency may not be required through oral or written testimony or through production of documents to disclose to a court in criminal or civil proceedings or to any other agency or person confidential communications between the victim and the advocate. [PL 1995, c. 128, §1 (NEW).]
[PL 1995, c. 128, §1 (NEW).]

3. Exceptions. A person may not be required to publicly disclose the address or location of a domestic or family violence shelter or safe house, except that privileged communications may be disclosed in the following cases:

A. When disclosure is required under Title 22, chapter 958-A or 1071 and that disclosure is in accordance with the provisions of either chapter; [PL 2007, c. 577, §2 (AMD).]

B. When a court in the exercise of its discretion determines the disclosure of the information necessary to the proper administration of justice, an inspection of records may be held in camera by the judge to determine whether those records contain relevant information. This proceeding does not entitle an opposing party to examine the records unless those records are made available by the court; or [PL 1995, c. 128, §1 (NEW).]

C. When a victim dies or is incapable of giving consent and disclosure is required for an official law enforcement investigation or criminal proceeding regarding the cause of that victim's death or incapacitation. [PL 1995, c. 128, §1 (NEW).]
[PL 2007, c. 577, §2 (AMD).]

SECTION HISTORY

PL 1995, c. 128, §1 (NEW). PL 2005, c. 388, §1 (AMD). PL 2007, c. 577, §2 (AMD). PL 2013, c. 478, §§3-6 (AMD). PL 2013, c. 588, Pt. E, §10 (AMD).

§53-C. Privileged communications to governmental victim witness advocates or coordinators

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Crime" means a criminal offense in which there is a victim, as defined in this section. [PL 1999, c. 369, §1 (NEW).]

B. "Victim" means:

- (1) A person against whom a crime has been committed;
- (2) The immediate family of a victim of a crime if:
 - (a) The underlying crime is one of domestic violence or sexual assault or one in which the family suffered serious physical trauma or serious financial loss; or
 - (b) Due to death, age or physical or mental disease, disorder or defect, the victim is unable to participate as allowed under this chapter. [PL 1999, c. 369, §1 (NEW).]

C. "Victim witness advocate" or "victim witness coordinator" means an employee of or volunteer for a district attorney, the Attorney General or the United States Attorney whose primary job function is to advise, counsel or assist victims or witnesses of crimes, to supervise other employees or volunteers who perform that function or to administer the program. [PL 1999, c. 369, §1 (NEW).]

[PL 1999, c. 369, §1 (NEW).]

2. Privileged communications. Communications are privileged from disclosure as follows.

A. A victim may refuse to disclose and may deny permission to a victim witness advocate or coordinator to disclose confidential written or oral communications between the victim and the advocate or coordinator and written records, notes, memoranda or reports concerning the victim. [PL 1999, c. 369, §1 (NEW).]

B. Except as provided in subsection 3, a victim, advocate or coordinator or the victim advocate's or coordinator's employer may not be required, through oral or written testimony or through production of documents, to disclose to a court in criminal or civil proceedings or to any other agency or person confidential communications between the victim and the advocate or coordinator. [PL 1999, c. 369, §1 (NEW).]

[PL 1999, c. 369, §1 (NEW).]

3. Exceptions. Privileged communications may be disclosed in the following cases:

A. Disclosure may be made to the district attorney, Attorney General or the United States Attorney or their assistants; [PL 1999, c. 369, §1 (NEW).]

B. When disclosure is required under Title 22, chapter 958-A or 1071 and that disclosure is in accordance with either chapter; [PL 2007, c. 577, §3 (AMD).]

C. When a court in the exercise of its discretion determines the disclosure of information necessary to the proper administration of justice, an inspection of records may be held in camera by the judge to determine whether those records contain relevant information. This proceeding does not entitle an opposing party to examine the records unless those records are made available by the court; [PL 1999, c. 369, §1 (NEW).]

D. When a victim dies or is incapable of giving consent and disclosure is required for an official law enforcement investigation or criminal proceeding regarding the cause of that victim's death or incapacitation; or [PL 1999, c. 369, §1 (NEW).]

E. Evidence of an exculpatory nature must be disclosed to the criminal defendants pursuant to the Maine Rules of Unified Criminal Procedure, Rule 16. [PL 2015, c. 431, §34 (AMD).]

[PL 2015, c. 431, §34 (AMD).]

SECTION HISTORY

PL 1999, c. 369, §1 (NEW). PL 2007, c. 577, §3 (AMD). PL 2015, c. 431, §34 (AMD).

§54. Attestation of wills and instruments not affected

(REPEALED)

SECTION HISTORY

PL 1979, c. 540, §§24-A (RP).

§55. Religious belief affects credibility only; atheists may testify

(REPEALED)

SECTION HISTORY

PL 1977, c. 564, §76 (RP).

§56. Prior conviction as affecting credibility

(REPEALED)

SECTION HISTORY

PL 1973, c. 295 (AMD). PL 1977, c. 564, §77 (AMD). PL 1979, c. 127, §120 (RP).

§57. Privileged communications; clergymen

(REPEALED)

SECTION HISTORY

PL 1965, c. 117 (NEW). PL 1977, c. 184, §1 (RP).

§58. Exception

(REPEALED)

SECTION HISTORY

PL 1965, c. 117 (NEW). PL 1977, c. 184, §1 (RP).

§59. Actions for injury to or death of persons

(REPEALED)

SECTION HISTORY

PL 1967, c. 406 (NEW). PL 1977, c. 564, §78 (RP).

§60. Psychiatrist and patient

(REPEALED)

SECTION HISTORY

PL 1973, c. 481 (NEW). PL 1977, c. 564, §79 (RP).

§61. Shielding journalist's confidential sources

1. Compelled disclosure prohibited. A judicial, legislative, administrative or other body with the power to issue a subpoena may not compel a journalist to testify about, produce or otherwise disclose or adjudge the journalist in contempt for refusal to testify about, produce or disclose:

A. The identity of a confidential source of any information; [PL 2007, c. 654, §1 (NEW).]

B. Any information that could be used to identify a confidential source; or [PL 2007, c. 654, §1 (NEW).]

C. Any information obtained or received in confidence by the journalist acting in the journalistic capacity of gathering, receiving, transcribing or processing news or information for potential dissemination to the public. [PL 2007, c. 654, §1 (NEW).]

[PL 2007, c. 654, §1 (NEW).]

2. Exceptions allowing compelled disclosure. A court may compel disclosure of the identity of a source or information described in subsection 1 if the court finds, after the journalist has been provided notice and the opportunity to be heard, that the party seeking the identity of the source or the information has established by a preponderance of the evidence:

A. In all matters, whether criminal or civil, that:

- (1) The identity of the source or the information is material and relevant;
- (2) The identity of the source or the information is critical or necessary to the maintenance of a party's claim, defense or proof of an issue material to the claim or defense;
- (3) The identity of the source or the information is not obtainable from any alternative source or cannot be obtained by alternative means or remedies less destructive of First Amendment rights; and
- (4) There is an overriding public interest in the disclosure; and [PL 2007, c. 654, §1 (NEW).]

B. Based on information obtained from a source other than the journalist that:

- (1) In a criminal investigation or prosecution, there are reasonable grounds to believe that a crime has occurred; or
- (2) In a civil action or proceeding, there is a prima facie cause of action. [PL 2007, c. 654, §1 (NEW).]

[PL 2007, c. 654, §1 (NEW).]

3. Compelled disclosure from 3rd parties. The protection from compelled disclosure contained in subsection 1 also applies with respect to any subpoena issued to, or other compulsory process against, a 3rd party that seeks records, information or other communications relating to business transactions between the 3rd party and the journalist for the purpose of discovering the identity of the source or obtaining information described in subsection 1. Whenever a subpoena is issued to, or other compulsory process is issued against, a 3rd party that seeks records, information or other communications on business transactions with the journalist, the affected journalist must be given reasonable and timely notice of the subpoena or compulsory process before it is executed or initiated and an opportunity to be heard. In the event that the subpoena issued to, or other compulsory process against, the 3rd party is in connection with a criminal investigation in which the journalist is the express target and advance notice as provided in this section would pose a clear and substantial threat to the integrity of the investigation, the governmental authority shall so certify to such a threat in court and notification of the subpoena or compulsory process must be given to the affected journalist as soon as it is determined that the notification will no longer pose a clear and substantial threat to the integrity of the investigation.

[PL 2007, c. 654, §1 (NEW).]

4. Waiver. A journalist waives the protection provided by this section if the journalist voluntarily discloses or consents to disclosure of the protected information described in subsection 1, paragraphs A and B.

[PL 2007, c. 654, §1 (NEW).]

SECTION HISTORY

PL 2007, c. 654, §1 (NEW).

SUBCHAPTER 3

ATTENDANCE

§101. Subpoenas for witnesses

The clerks of the several courts and notaries public may issue subpoenas for witnesses to attend before any court or before persons authorized to examine witnesses, to give evidence concerning any pending matter. [PL 1981, c. 456, Pt. A, §58 (AMD).]

SECTION HISTORY

PL 1981, c. 456, §A58 (AMD).

§102. Failure of witness to appear; contempt; liability

When a person, summoned and obliged to attend before any judicial tribunal, fails to do so without reasonable excuse, he is liable to the party aggrieved for all damages sustained thereby. The judge or justice of such tribunal may issue a capias to apprehend and bring such delinquent before him, and he shall be punished by a fine of not more than \$100 and costs of attachment, and committed until the same and costs are paid.

SUBCHAPTER 4**EXAMINATION****§151. Oaths**

A person to whom an oath is administered shall hold up his hand unless he believes that an oath administered in that form is not binding, and then it may be administered in a form believed by him to be binding. One believing any other than the Christian religion may be sworn according to the ceremonies of his religion.

§152. Affirmation

Persons conscientiously scrupulous of taking an oath may affirm as follows: "I affirm under the pains and penalties of perjury," which affirmation is of the same force and effect as an oath.

§153. Testimony to be taken orally in open court

In all civil actions the testimony of witnesses shall be taken orally in open court, unless otherwise provided by rule.

§154. Impeaching of own witness

When a party either nominal or real or the husband or wife of a party is used as a witness by an adverse party, testimony may be introduced by such adverse party to contradict or discredit him.

§155. Refusal to answer

When a witness in court refuses to answer such questions as the court allows to be put, he shall be punished by a fine of not more than \$100 or by imprisonment for not more than 3 months.

SUBCHAPTER 5**IMMUNITIES****§201. Self-incrimination; waiver**

No defendant shall be compelled to testify in any action when the pleadings in that action imply or charge an offense against the criminal law or a traffic infraction or a violation of Title 22, section 2383, on his part. If he offers himself as a witness, he waives his privilege of not incriminating or testifying against himself, but his testimony shall not be used in evidence against him in any criminal prosecution,

or other traffic infraction proceeding or in any other civil violation proceeding arising under Title 22, section 2383, involving the same subject matter. [PL 1975, c. 740, §2-A (RPR).]

SECTION HISTORY

PL 1975, c. 430, §22 (AMD). PL 1975, c. 740, §§2-A (RPR).

SUBCHAPTER 6

FEES

§251. Fees of witnesses

Witnesses, other than law enforcement officers testifying in their official capacity, in the Supreme Judicial Court, the Superior Court, the District Court or in the Probate Court, unless the court otherwise orders, must receive \$10, and before referees, auditors or commissioners specially appointed to take testimony or special commissioners on disputed claims appointed by Probate Courts, \$10, or before the county commissioners, \$10 for each day's attendance and 22¢ a mile for each mile's travel going and returning home. The party calling the witness shall pay the witness. Payments made under this section to witnesses called on behalf of the State must be made from the county treasury upon authorization of the prosecuting attorney, unless otherwise directed by law. The court in its discretion may allow at the trial of any cause, civil or criminal, in the Supreme Judicial Court, the Superior Court or the District Court, a reasonable sum for each day's attendance of any expert witness or witnesses at the trial, in taxing the costs of the prevailing party, and the expense of all expert witnesses for the State in murder cases must be paid by the State and charged against the appropriation for the Department of the Attorney General. Such party or the attorney of record shall first file an affidavit within 30 days after entry of judgment and before the cause is settled, stating the name, residence, number of days in attendance and the actual amount paid or to be paid each expert witness in attendance at such trial. No more than \$10 per day may be allowed or taxed by the clerk of courts in the costs of any civil action for the per diem attendance of a witness, unless the affidavit is filed, and the per diem is determined and allowed by the presiding justice. [PL 2007, c. 539, Pt. JJ, §7 (AMD); PL 2007, c. 539, Pt. JJ, §10 (AFF).]

SECTION HISTORY

PL 1967, c. 286 (AMD). PL 1971, c. 199 (AMD). PL 1971, c. 261, §2 (AMD). PL 1971, c. 544, §52 (AMD). PL 1975, c. 731, §16 (AMD). PL 1983, c. 538, §1 (AMD). PL 1985, c. 384, §6 (AMD). PL 2007, c. 539, Pt. JJ, §7 (AMD). PL 2007, c. 539, Pt. JJ, §10 (AFF).

§252. Fees of police officer or constable

No police officer or constable paid a salary or paid upon a per diem basis by a municipality shall receive any fee as a complainant or witness, or for making an arrest or for attendance at court, while on duty and being compensated therefor, but shall be reimbursed by such municipality for his actual costs of arrest and actual expenses of travel and attendance. Whenever any fines or penalties are imposed by any court in any proceeding in which such a police officer or constable is a complainant or a witness, said court may tax costs for such complainant or witness in the usual manner to be paid by the Treasurer of State to the municipality employing such police officer or constable; such costs shall not exceed his actual expenses, paid by the municipality for his travel to and attendance at the court. Notwithstanding any other provisions of law, all law enforcement officers appearing at the order of a prosecuting official before the Superior Court or grand jury, whether or not called upon to give testimony, at times other than their regular working hours shall be compensated on an hourly basis equal to their present rate of employment to be paid by the respective county treasurer. [PL 1975, c. 408, §35 (AMD).]

In the event that any police officer or constable is compensated by the municipality for attendance at court on an hourly basis equal to his present rate of employment, then he shall not be compensated

by the county as provided in this section, but the county shall compensate the municipality for that amount paid to the police officer or constable for his attendance at court. [PL 1973, c. 301 (NEW).]

SECTION HISTORY

PL 1971, c. 261, §3 (AMD). PL 1973, c. 301 (AMD). PL 1973, c. 625, §87 (AMD). PL 1975, c. 369, §3 (AMD). PL 1975, c. 383, §22 (AMD). PL 1975, c. 408, §35 (AMD).

§253. Witness not obligated unless fees paid or tendered

No person is obliged to attend any court as a witness in a civil action or at any place to have his deposition taken unless his legal fees for travel to and from the place and for one day's attendance are first paid or tendered. His fees for each subsequent day's attendance must be paid at the close of the preceding day if he requests it.

CHAPTER 3

RECORDS AND OTHER DOCUMENTS

SUBCHAPTER 1

GENERAL PROVISIONS

§351. Testimony of deceased subscribing witness or magistrate

When the testimony of a subscribing witness to a deed or of the magistrate who took the acknowledgment thereof has been taken in the trial of any civil action in relation to the execution, delivery or registry of such deed, and such witness has since died, proof of such former testimony is admissible in the trial of any other civil action involving the same question if the parties are the same or if one of the parties is the same and the adverse party acted as agent or attorney for the adverse party in the former action, but such testimony may be impeached like the testimony of a living witness.

§352. Writings dated Sunday

(REPEALED)

SECTION HISTORY

PL 1979, c. 11, §1 (RP).

§353. Avoidance of Lord's Day contracts; restoration of consideration; torts on Lord's Day

(REPEALED)

SECTION HISTORY

PL 1979, c. 11, §1 (RP).

§353-A. Contracts and torts on Lord's Day

No deed, contract, receipt or other instrument in writing shall be voidable only because it was made, executed, dated or delivered on the Lord's Day. [PL 1979, c. 11, §2 (NEW).]

Title 17, chapter 105, relating to the observance of the Lord's Day shall not affect the rights or remedy of either party in any action for a tort or injury suffered on that day. [PL 1979, c. 11, §2 (NEW).]

SECTION HISTORY

PL 1979, c. 11, §2 (NEW).

§354. Proof of signature**(REPEALED)**

SECTION HISTORY

PL 1977, c. 564, §80 (RP).

§355. Affidavit of plaintiff as prima facie evidence; exception

In all actions brought on an itemized account annexed to the complaint, including an action brought in small claims court pursuant to Title 14, chapter 738, the affidavit of the plaintiff, made before a notary public using a seal, that the account on which the action is brought is a true statement of the indebtedness existing between the parties to the action with all proper credits given and that the prices or items charged therein are just and reasonable is prima facie evidence of the truth of the statement made in such affidavit and entitles the plaintiff to the judgment unless rebutted by competent and sufficient evidence. When the plaintiff is a corporation, the affidavit may be made by its president, vice-president, secretary, treasurer or other person authorized by the corporation. If the plaintiff is a debt buyer within the meaning of the Maine Fair Debt Collection Practices Act, the affidavit must also conform to the requirements of Title 32, section 11019. [PL 2017, c. 216, §1 (AMD).]

SECTION HISTORY

PL 1977, c. 564, §81 (AMD). PL 1977, c. 696, §364 (AMD). PL 1981, c. 470, §A34 (AMD). PL 2017, c. 216, §1 (AMD).

§356. Accounts admissible though hearsay or self-serving

An entry in an account kept in a book or by a card system or by any other system of keeping accounts shall not be inadmissible in any civil proceeding as evidence of the facts therein stated because it is transcribed or because it is hearsay or self-serving, if the court finds that the entry was made in good faith in the regular course of business and before the beginning of the civil proceeding. The court in its discretion, before admitting such entry in evidence, may, to such extent as it deems practicable or desirable but to no greater extent than the law required before June 30, 1933, require the party offering the same to produce and offer in evidence the original entry, writing, document or account from which the entry offered or the facts therein stated were transcribed or taken, and to call as his witness any person who made the entry offered or the original or any other entry, writing, document or account from which the entry offered or the facts therein stated were transcribed or taken or who has personal knowledge of the facts stated in the entry offered.

§357. Hospital records and copies of records

Records kept by hospitals and other medical facilities licensed under the laws of this State and records which the court finds are required to be kept by the laws of any other state or territory, or the District of Columbia, or by the laws and regulations of the United States of America pertaining to the Department of National Defense and the Veterans Administration, by hospitals and other medical facilities similarly conducted or operated or which, being incorporate, offer treatment free of charge, shall be admissible, as evidence in the courts of this State so far as such records relate to the treatment and medical history of such cases and the court shall admit copies of such records, if certified by the persons in custody thereof to be true and complete, but nothing therein contained shall be admissible as evidence which has reference to the question of liability. Copies of photographic or microphotographic records so kept by hospitals and medical facilities, when duly certified by the person in charge of the hospital and other medical facility, shall be admitted in evidence equally with the original photographs or microphotographs. [PL 1973, c. 788, §66 (AMD).]

Notwithstanding this section, the result of a laboratory or any other test kept by a hospital or other medical facility that reflects an alcohol level, a detectable urine-drug level, a detectable blood-drug level or a drug concentration of either blood or urine may not be excluded as evidence in a criminal or

civil proceeding by reason of any claim of confidentiality or privilege and may be admitted as long as the result is relevant and reliable evidence if the proceeding is one in which the operator of a motor vehicle, snowmobile, all-terrain vehicle or watercraft is alleged to have operated under the influence of intoxicating liquor or drugs and the court is satisfied that probable cause exists to believe that the operator committed the offense charged. [PL 2011, c. 335, §1 (AMD).]

SECTION HISTORY

PL 1969, c. 384 (NEW). PL 1973, c. 788, §66 (AMD). PL 1987, c. 791, §3 (AMD). PL 2005, c. 477, §26 (AMD). PL 2007, c. 63, §1 (AMD). PL 2009, c. 447, §17 (AMD). PL 2011, c. 335, §1 (AMD).

§358. Recordings of protected person

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Forensic interview" means a fact-finding conversation conducted by a forensic interviewer using an evidence-based practice. [PL 2023, c. 193, §1 (NEW).]

B. "Forensic interviewer" means an individual who meets the qualifications in subsection 2. [PL 2023, c. 193, §1 (NEW).]

C. "Protected person" means a person who at the time of a recording of a forensic interview:

(1) Has not attained 18 years of age; or

(2) Is an adult who is eligible for protective services pursuant to the Adult Protective Services Act. [PL 2023, c. 193, §1 (NEW).]

[PL 2023, c. 193, §1 (NEW).]

2. Qualifications of forensic interviewer. In order to be qualified as a forensic interviewer, an individual must:

A. Be employed by a child advocacy center or affiliated with a child advocacy center; [PL 2023, c. 193, §1 (NEW).]

B. Have completed a minimum of 32 hours of specialized instruction on an evidence-supported interview protocol; and [PL 2023, c. 193, §1 (NEW).]

C. Participate in ongoing education in the field of child maltreatment or forensic interviewing. [PL 2023, c. 193, §1 (NEW).]

[PL 2023, c. 193, §1 (NEW).]

3. Exception to hearsay rule. This section establishes an exception to the hearsay rule under the Maine Rules of Evidence, Rule 802, for the recording of a forensic interview of a protected person. A party seeking to offer all or a portion of a recording of a forensic interview of a protected person into evidence shall file a motion in limine. After providing all parties the opportunity to be heard on the motion, the court shall determine whether, in addition to satisfying all of the other requirements of this section, the following criteria have been met:

A. The interview was conducted by a forensic interviewer; [PL 2023, c. 193, §1 (NEW).]

B. Statements made by the protected person during the forensic interview were not made in response to suggestive or leading questions; [PL 2023, c. 193, §1 (NEW).]

C. A relative of the protected person was not present in the room during the substantive phase of the interview; [PL 2023, c. 193, §1 (NEW).]

D. An attorney for any party in a proceeding with the protected person was not present in the room with the protected person during the interview; [PL 2023, c. 193, §1 (NEW).]

E. The recording is both visual and audio; [PL 2023, c. 193, §1 (NEW).]

F. The recording is a fair and accurate representation of the statements made by the protected person and has not been altered except for purposes of admissibility; [PL 2023, c. 193, §1 (NEW).]

G. In a criminal matter, the protected person is available to testify or be cross-examined by any party and is called as a witness by the party offering the recording in evidence immediately following the presentation of the recording to the trier of fact and made available for cross-examination, unless all other parties expressly waive the requirement that the witness testify; and [PL 2023, c. 193, §1 (NEW).]

H. The portion of the interview to be admitted in evidence is relevant pursuant to the Maine Rules of Evidence, Rule 401, and is not otherwise inadmissible under the Maine Rules of Evidence. [PL 2023, c. 193, §1 (NEW).]

In the event that the protected person was the subject of more than one forensic interview, the exception to hearsay established under this subsection does not apply to statements from more than one forensic interview related to the same event or incident.

[PL 2023, c. 193, §1 (NEW).]

4. Recordings of protected persons preserved. A recording of a protected person that is made part of the court record must be preserved under a protective order of the court in order to protect the privacy of the protected person. The court shall maintain a copy of the recording as part of the court file for 20 years.

[PL 2023, c. 193, §1 (NEW).]

SECTION HISTORY

PL 2023, c. 193, §1 (NEW).

SUBCHAPTER 2

JUDICIAL NOTICE

§401. Construction to effectuate purpose

This subchapter shall be so interpreted and construed as to effectuate their general purpose to make uniform the law of those states which enact them and may be cited as the "Uniform Judicial Notice of Foreign Law Act."

§402. Common law and statutes

Every court of this State shall take judicial notice of the common law and statutes of every state, territory and other jurisdiction of the United States.

§403. Information for court

The court may inform itself of such laws in such manner as it may deem proper and the court may call upon counsel to aid it in obtaining such information.

§404. Determination of laws by court is reviewable

The determination of such laws shall be made by the court and not by the jury and shall be reviewable.

§405. Admissibility of laws of other jurisdictions

Any party may present to the trial court any admissible evidence of such laws, but to enable a party to offer evidence of the law in another jurisdiction or to ask that judicial notice be taken thereof, reasonable notice shall be given to the adverse parties, if any, either in the pleadings or otherwise.

§406. Laws of foreign countries

The law of a jurisdiction other than those referred to in section 402 shall be an issue for the court but shall not be subject to sections 402 to 405, concerning judicial notice.

SUBCHAPTER 3

PUBLIC RECORDS

§451. Court records as evidence

The records and proceedings of any court of the United States or of any state, authenticated by the attestation of the clerk or officer having charge thereof and by the seal of such court, are evidence.

§452. Admissibility; attested copies of deeds

(REPEALED)

SECTION HISTORY

PL 1977, c. 564, §82 (RP).

§453. -- copied records of deeds

Copies made from any portion of either of the volumes of the early records in the York County registry of deeds published by the authority of the Legislature and placed in each registry, when attested by any register of deeds having lawful custody of such printed volume, and records duplicated from originals or from copies of originals in any registry of deeds and filed in such registry of deeds or in any other registry of deeds by authority of law and copies made from such records when attested by the register of deeds of the county or district where such records are filed, may be used in evidence like attested copies of the original records.

§454. -- photostats of public records

Copies made by photographic process from public records shall be received as evidence in the courts of this State under existing laws if duly attested by the officials required by law to keep said records.

§455. Authorization of photostats

Whenever any officer or employee of the State or of any county, city or town is required or authorized by law, or otherwise, to record or copy any document, plat, paper or instrument in writing, he may do such recording or copying by any photostatic, photographic or other mechanical process which produces a clear, accurate and permanent copy or reproduction of the original document, plat, paper or instrument in writing.

§456. Photostatic and microfilm reproductions admissible

If, in the regular course of any business or governmental activity, there is kept or recorded any memorandum, writing, entry, print, representation or combination thereof, of any act, transaction, occurrence or event, and in the regular course of any business or governmental activity, causes any or all of the same to be recorded, copied or reproduced by any photographic, photostatic, microfilm, micro-card, miniature photographic, optical disk that is not erasable or other process that accurately reproduces or forms a durable medium for reproducing the original, the reproduction or copy, when satisfactorily identified, is as admissible in evidence as the original itself in any judicial or

administrative proceeding whether the original is in existence or not and an enlargement or facsimile of the reproduction or copy is likewise admissible in evidence if the original reproduction or copy is in existence and available for inspection under direction of court. The introduction of a reproduced record, enlargement or facsimile does not preclude admission of the original. This section may not be construed to exclude from evidence any document or copy thereof which is otherwise admissible under the rules of evidence. [PL 1991, c. 172, §2 (AMD).]

SECTION HISTORY

PL 1991, c. 172, §2 (AMD).

§456-A. Admissibility of electronic records

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Electronic record" means a record whose content is not readable unless retrieved by means of an electronic device such as a computer or an audio or video player. [PL 1997, c. 636, §9 (NEW).]

B. "Record" means all documentary material, regardless of media or characteristics, made or received and maintained by an agency in accordance with law or rule or in the transaction of its official business. "Record" does not include extra copies of printed or processed material of which official or record copies have been retained, stocks of publications and processed documents intended for distribution or use or records relating to personal matters that may have been kept in an office for convenience. [PL 1997, c. 636, §9 (NEW).]

[PL 1997, c. 636, §9 (NEW).]

2. Effect. A record may not be denied legal effect, validity or enforceability solely because it is in the form of an electronic record.

[PL 1997, c. 636, §9 (NEW).]

3. Accuracy. The assessment of accuracy and integrity of information set forth in electronic records is governed by the following.

A. If a rule of law requires a record to be presented or retained in its original form or provides consequences for the record not being presented or retained in its original form, that requirement is met by an electronic record if there exists a reliable assurance as to the integrity of the information set forth in the electronic record at the time it was first generated in its final form, whether as an electronic record or in another form. Reliable assurance may be based on documentation of standard operating, access and security procedures governing the system that manages the electronic record. [PL 1997, c. 636, §9 (NEW).]

B. The integrity and accuracy of the information in an electronic record are determined by whether the information has remained complete and unaltered, apart from the addition of any endorsement and any change that arises in the normal course of communication, storage and display. The standard of reliability required must be assessed in light of the purpose for which the information was generated and in light of all the relevant circumstances. [PL 1997, c. 636, §9 (NEW).]

[PL 1997, c. 636, §9 (NEW).]

4. Retention. The ability of electronic records to meet legal requirements regarding the retention of documents, records or information is governed by the following.

A. If a rule of law requires that certain documents, records or information be retained, that requirement is met by retaining electronic records as long as the following conditions are satisfied:

- (1) The information contained in the electronic record remains accessible so that it is usable for subsequent reference;

(2) The electronic record is retained in the format in which it was generated, stored, sent or received, or in a format that can be demonstrated to reflect accurately the information as originally generated, stored, sent or received; and

(3) Any information that enables the identification of the source or origin and destination of an electronic record and the date and time when it was sent or received is retained. [PL 1997, c. 636, §9 (NEW).]

B. A requirement to retain documents, records or information in accordance with paragraph A does not extend to any information the sole purpose of which is to enable the record to be sent or received. [PL 1997, c. 636, §9 (NEW).]

C. A person may satisfy the requirement referred to in paragraph A by using the services of any other person as long as the conditions set forth in paragraph A, subparagraphs (1) to (3) are met. [PL 1997, c. 636, §9 (NEW).]

D. Nothing in this subsection precludes any state agency from specifying additional requirements for the retention of records, either written or electronic, that are subject to the jurisdiction of that agency. [PL 1997, c. 636, §9 (NEW).]

[PL 1997, c. 636, §9 (NEW).]

SECTION HISTORY

PL 1997, c. 636, §9 (NEW).

§457. Copies of consular and customhouse records and documents

Copies of papers and documents belonging to, or filed or remaining in the office of any consul, vice-consul or commercial agent of the United States and of official entries in the books or records of such office, when certified under the hand and official seal of the proper consul, vice-consul or commercial agent are evidence. Copies of registers or enrollments of vessels, or of any other customhouse records or documents deposited in the office of the collector of customs, attested by him or his deputy, under seal of office, may be used in evidence and shall have the same effect as the production of the records in court, verified by the recording officer in person.

§458. Copies of deeds of Director of the Bureau of Parks and Lands

A copy from the records in the office of the Director of the Bureau of Parks and Lands of a deed from the State of the land of the State, or of a deed from the State and from the Commonwealth of Massachusetts of the undivided lands of the State and of said Commonwealth, or of a deed from said Commonwealth of the lands of said Commonwealth in Maine, certified by the Director of the Bureau of Parks and Lands or other legal custodian of such records as a true copy thereof, may be filed and recorded in the registry of deeds in the county or registry district where the land lies, with the same effect as if the deed itself had been recorded, whether said deed shall or shall not have been acknowledged by the person making the same. Such record shall have all the force and effect of a record of deeds duly acknowledged, and certified copies thereof from such registry shall be evidence when the original would be. [PL 1975, c. 339, §7 (AMD); PL 1995, c. 502, Pt. E, §30 (AMD); PL 2011, c. 657, Pt. W, §7 (REV); PL 2013, c. 405, Pt. A, §24 (REV).]

SECTION HISTORY

PL 1965, c. 226, §62 (AMD). PL 1975, c. 339, §7 (AMD). PL 1995, c. 502, Pt. E, §30 (AMD). PL 2011, c. 657, Pt. W, §7 (REV). PL 2013, c. 405, Pt. A, §24 (REV).

§459. Adjutant General's certificate as evidence

The certificate of the Adjutant General relating to the enlistment of any person from this State in the United States' service and of all facts pertaining to the situation of such person, to the time of and

including his discharge, as found upon the records of his office, are prima facie evidence of the facts so certified in any civil action or proceeding.

§460. Proof of official record

(REPEALED)

SECTION HISTORY

PL 1965, c. 356, §65 (RP).

§461. Proof of lack of record

(REPEALED)

SECTION HISTORY

PL 1965, c. 356, §65 (RP).

§462. Scope of proof

(REPEALED)

SECTION HISTORY

PL 1965, c. 356, §65 (RP).

SUBCHAPTER 4

STATUTES AND LAW

§501. Proof of foreign laws and unwritten state law

Foreign laws may be proved by parol evidence, but when such law appears to be existing in a written statute or code, it may be rejected unless accompanied by a copy thereof. The unwritten law of any other state or territory of the United States may be proved by parol evidence and by books of reports of cases adjudged in their courts.

Reference to the citation of such cases shall be deemed to incorporate them in the record. The determination of such law shall be for the court on all the evidence.

SUBCHAPTER 5

DEPOSITIONS

§551. Use of depositions

In trials before probate courts, arbitrators, referees under Title 14, chapter 303, and county commissioners, depositions may, upon order of the tribunal before which the matter is pending and on good cause shown, be taken and used in the manner provided by rule for depositions in the Superior Court. Depositions or affidavits may be taken in applications for pensions, bounties or arrears of pay under any law of the United States.

§552. Recording of deposition and other papers

Any deposition to perpetuate testimony taken before action or pending appeal together with the verified petition therefor and certificate of the officer before whom it was taken shall, within 90 days after the taking, be recorded in the registry of deeds in the county where the land or any part of it lies, if the deposition relates to real estate; if not, in the county where the parties or any of them reside.

§553. Deposition by compulsion

When a magistrate, duly authorized, has summoned a person before him to give his deposition or affidavit in any case authorized by this subchapter pending in this or any other state, the summons has been served and returned by a proper officer or other person, and proof thereof is entered on the summons, and legal fees have been tendered him a reasonable time before the day appointed for taking the deposition and he refuses to attend, the magistrate may adjourn the time of taking his deposition and issue a *capias*, directed to a proper officer, to apprehend and bring such person before him. If at the time of the adjournment he is not apprehended, the magistrate may adjourn from time to time until he is brought before him. If he then refuses to depose and answer such questions as are propounded to him by either of the parties or persons interested, under his direction, the magistrate may commit him to the county jail for contempt, as a court may commit a witness for refusing to testify. The *capias* may be served by the sheriff, deputy sheriff or any constable of the county in which such person resides. If he escapes into another county, either of said officers may arrest him there and bring him before said magistrate.

§554. Stenographers with power to take depositions**(REPEALED)**

SECTION HISTORY

PL 1969, c. 367, §3 (RP).

§555. Manner of taking depositions and disclosures**(REPEALED)**

SECTION HISTORY

PL 1969, c. 367, §3 (RP).

§556. Fees of commissioners**(REPEALED)**

SECTION HISTORY

PL 1969, c. 367, §3 (RP).

§557. Testimony of party out of State

When a party to a civil action resides without the State or is absent therefrom during the pendency of the action and the opposite party desires his testimony, a commission under the rules of court may issue to take his deposition. Such nonresident or absent party, upon such notice to him or his attorney of record in the action of the time and place appointed for taking his deposition, as the court orders, shall appear and give his deposition. If he refuses or unreasonably delays to do so, the action may be dismissed or defaulted by order of court unless his attorney admits the affidavit of the party desiring his testimony as to what the absent party would say, if present, to be used as testimony in the case.

SUBCHAPTER 6**RECORDS OF ARRESTS****(REPEALED)****§600. Expungement of records of arrest****(REPEALED)**

SECTION HISTORY

PL 1969, c. 460 (NEW). PL 1973, c. 706 (RPR). PL 1975, c. 430, §§23,24 (AMD). PL 1975, c. 623, §§18-A,18-B (AMD). PL 1975, c. 763, §2 (RP).

SUBCHAPTER 7

CRIMINAL HISTORY RECORD INFORMATION

(REPEALED)

§601. Definitions

(REPEALED)

SECTION HISTORY

PL 1975, c. 763, §3 (NEW). PL 1979, c. 433, §1 (RP).

§602. Applicability

(REPEALED)

SECTION HISTORY

PL 1975, c. 763, §3 (NEW). PL 1977, c. 281 (AMD). PL 1977, c. 384, §1 (AMD). PL 1979, c. 433, §1 (RP).

§603. Nondisclosure of certain records

(REPEALED)

SECTION HISTORY

PL 1975, c. 763, §3 (NEW). PL 1979, c. 433, §1 (RP).

§604. Limitations on dissemination

(REPEALED)

SECTION HISTORY

PL 1975, c. 763, §3 (NEW). PL 1977, c. 311, §2 (AMD). PL 1977, c. 383 (AMD). PL 1979, c. 433, §1 (RP).

§605. Unlawful dissemination

(REPEALED)

SECTION HISTORY

PL 1975, c. 763, §3 (NEW). PL 1979, c. 433, §1 (RP).

§606. Right to access and review

(REPEALED)

SECTION HISTORY

PL 1975, c. 763, §3 (NEW). PL 1977, c. 384, §§2-4 (AMD). PL 1979, c. 433, §1 (RP).

§607. Application

(REPEALED)

SECTION HISTORY

PL 1975, c. 763, §3 (NEW). PL 1979, c. 433, §1 (RP).

SUBCHAPTER 8

CRIMINAL HISTORY RECORD INFORMATION ACT

§611. Definitions

(REPEALED)

SECTION HISTORY

PL 1979, c. 433, §2 (NEW). PL 1983, c. 787, §1 (AMD). PL 1993, c. 719, §§5,6 (AMD). PL 1993, c. 719, §12 (AFF). PL 1995, c. 216, §1 (AMD). PL 2013, c. 267, Pt. A, §1 (RP).

§612. Application

(REPEALED)

SECTION HISTORY

PL 1979, c. 433, §2 (NEW). RR 2011, c. 2, §14 (COR). PL 2013, c. 267, Pt. A, §1 (RP).

§612-A. Record of persons detained

(REPEALED)

SECTION HISTORY

PL 1983, c. 377 (NEW). RR 1995, c. 2, §33 (COR). PL 2013, c. 267, Pt. A, §1 (RP).

§613. Limitations on dissemination of nonconviction data

(REPEALED)

SECTION HISTORY

PL 1979, c. 433, §2 (NEW). PL 2013, c. 267, Pt. A, §1 (RP).

§614. Limitation on dissemination of intelligence and investigative information

(REPEALED)

SECTION HISTORY

PL 1979, c. 433, §2 (NEW). PL 1981, c. 64 (AMD). PL 1983, c. 787, §2 (AMD). PL 1985, c. 552 (AMD). PL 1991, c. 729, §3 (AMD). PL 1991, c. 837, §B5 (AMD). PL 1993, c. 376, §1 (AMD). PL 1993, c. 719, §7 (AMD). PL 1993, c. 719, §12 (AFF). PL 1995, c. 135, §1 (AMD). PL 1997, c. 456, §10 (AMD). PL 1999, c. 155, §A5 (AMD). PL 1999, c. 305, §1 (AMD). PL 2001, c. 532, §§1,2 (AMD). PL 2003, c. 402, §§1,2 (AMD). PL 2009, c. 181, §§1-4 (AMD). PL 2011, c. 52, §1 (AMD). PL 2011, c. 210, §1 (AMD). PL 2011, c. 356, §1 (AMD). PL 2011, c. 657, Pt. W, §§5, 8 (REV). PL 2011, c. 691, Pt. A, §10 (AMD). PL 2013, c. 267, Pt. A, §1 (RP). PL 2013, c. 267, Pt. B, §§7-9 (AMD). PL 2013, c. 588, Pt. A, §20 (RP).

§615. Dissemination of conviction data

(REPEALED)

SECTION HISTORY

PL 1979, c. 433, §2 (NEW). PL 2013, c. 267, Pt. A, §1 (RP).

§616. Inquiries required

(REPEALED)

SECTION HISTORY

PL 1979, c. 433, §2 (NEW). PL 2013, c. 267, Pt. A, §1 (RP).

§617. Dissemination to noncriminal justice agencies

(REPEALED)

SECTION HISTORY

PL 1979, c. 433, §2 (NEW). PL 2013, c. 267, Pt. A, §1 (RP).

§618. Confirming existence or nonexistence of criminal history record information

(REPEALED)

SECTION HISTORY

PL 1979, c. 433, §2 (NEW). PL 2013, c. 267, Pt. A, §1 (RP).

§619. Unlawful dissemination

(REPEALED)

SECTION HISTORY

PL 1979, c. 433, §2 (NEW). PL 2013, c. 267, Pt. A, §1 (RP).

§620. Right to access and review

(REPEALED)

SECTION HISTORY

PL 1979, c. 433, §2 (NEW). PL 2013, c. 267, Pt. A, §1 (RP).

§621. Information and records of the Attorney General

(REPEALED)

SECTION HISTORY

PL 1979, c. 433, §2 (NEW). PL 1993, c. 376, §2 (AMD). PL 1993, c. 719, §8 (RP). PL 1993, c. 719, §12 (AFF).

§622. Application

(REPEALED)

SECTION HISTORY

PL 1979, c. 433, §2 (NEW). PL 2013, c. 267, Pt. A, §1 (RP).

§623. Attorney General fees

(REPEALED)

SECTION HISTORY

PL 1993, c. 719, §9 (NEW). PL 2013, c. 267, Pt. A, §1 (RP).

SUBCHAPTER 9

MAINE CRIMINAL JUSTICE INFORMATION SYSTEM

§631. Maine Criminal Justice Information System

There is created, within the Department of Public Safety, an information clearinghouse to be known as the Maine Criminal Justice Information System. The Maine Criminal Justice Information System shall provide criminal justice agencies and authorized private users ready access to shared uniform information on criminal offenders and crime data, including: [PL 1993, c. 346, §1 (NEW).]

1. Offender tracking information. Offender-based tracking information, including any active status of offenders in the criminal justice system;
[PL 1993, c. 346, §1 (NEW).]

2. Criminal history information. Criminal history record information that includes information on the potential risk of individuals;
[PL 1993, c. 346, §1 (NEW).]

3. Crime data. Specific crime data for investigations and statistical analysis;
[PL 1993, c. 346, §1 (NEW).]

4. Warrant information. Warrant and wanted persons information;
[PL 1993, c. 346, §1 (NEW).]

4-A. Conditions of release information. Status and conditions of release of those persons on probation or parole or admitted to bail;
[PL 1999, c. 451, §1 (NEW).]

4-B. Protective order information. Information pertaining to conditions of protection, protected persons and the subjects of protection from abuse orders;
[PL 1999, c. 451, §1 (NEW).]

5. Stolen property information. Stolen property listings; and
[PL 1993, c. 346, §1 (NEW).]

6. Other information. Other information available through communications or networking with other states or federal criminal justice agencies, or both.
[PL 1993, c. 346, §1 (NEW).]

SECTION HISTORY

PL 1993, c. 346, §1 (NEW). PL 1999, c. 451, §1 (AMD).

§632. Definitions

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 1993, c. 346, §1 (NEW).]

1. Administration of criminal justice. "Administration of criminal justice" has the same meaning as defined in section 703, subsection 1.
[PL 2013, c. 267, Pt. B, §10 (AMD).]

2. Conviction data.
[PL 2013, c. 267, Pt. B, §10 (RP).]

2-A. Confidential criminal history record information. "Confidential criminal history record information" has the same meaning as defined in section 703, subsection 2.
[PL 2013, c. 267, Pt. B, §10 (NEW).]

3. Criminal history record information. "Criminal history record information" has the same meaning as defined in section 703, subsection 3.
[PL 2013, c. 267, Pt. B, §10 (AMD).]

4. Criminal justice agency. "Criminal justice agency" has the same meaning as defined in section 703, subsection 4.
[PL 2013, c. 267, Pt. B, §10 (AMD).]

5. Criminal record information system. "Criminal record information system" means a system including equipment, facilities, procedures and agreements for the collection, processing, preservation and dissemination of criminal record information including criminal history record information. [PL 1993, c. 346, §1 (NEW).]

6. Disposition. "Disposition" has the same meaning as defined in section 703, subsection 5. [PL 2013, c. 267, Pt. B, §10 (AMD).]

7. Executive order. "Executive order" has the same meaning as defined in section 703, subsection 7. [PL 2013, c. 267, Pt. B, §10 (AMD).]

8. Nonconviction data. [PL 2013, c. 267, Pt. B, §10 (RP).]

9. Offender. "Offender" means an individual, juvenile or adult, accused or convicted of a criminal offense under the laws of this State or federal law. [PL 1993, c. 346, §1 (NEW).]

10. Offender-based tracking information. "Offender-based tracking information" means information collected during the administration of criminal justice by criminal justice agencies related to an identifiable person who has been determined to be an offender. [PL 1993, c. 346, §1 (NEW).]

11. Person. [PL 2013, c. 267, Pt. B, §10 (RP).]

11-A. Public criminal history record information. "Public criminal history record information" has the same meaning as defined in section 703, subsection 8. [PL 2013, c. 267, Pt. B, §10 (NEW).]

12. State. "State" has the same meaning as defined in section 703, subsection 9. [PL 2013, c. 267, Pt. B, §10 (AMD).]

13. Statute. "Statute" has the same meaning as defined in section 703, subsection 10. [PL 2013, c. 267, Pt. B, §10 (AMD).]

SECTION HISTORY

PL 1993, c. 346, §1 (NEW). PL 2013, c. 267, Pt. B, §10 (AMD).

§633. Policy board established; membership

There is established the Maine Criminal Justice Information System Policy Board, referred to in this subchapter as the "board." The board consists of 13 members that include the Attorney General, the Commissioner of Public Safety, the Commissioner of Corrections, the State Court Administrator, the Chief of the State Police, the Associate Commissioner for Adult Services within the Department of Corrections, the Chief Information Officer, a representative of the Maine Prosecutors Association appointed by the Attorney General, a representative of the Maine Chiefs of Police Association appointed by the Commissioner of Public Safety, a representative of the Maine Sheriff's Association appointed by the Commissioner of Public Safety, a representative of a federal criminal justice agency appointed by the Governor, a representative of a nongovernmental agency that provides services to victims of domestic violence appointed by the Governor and a public member who represents private users of criminal offender record information appointed by the Governor. [PL 2005, c. 12, Pt. SS, §19 (AMD).]

SECTION HISTORY

PL 1993, c. 346, §1 (NEW). PL 1999, c. 451, §2 (AMD). PL 2001, c. 388, §15 (AMD). PL 2005, c. 12, §SS19 (AMD).

§634. Term of membership

The Attorney General, the Commissioner of Public Safety, the Commissioner of Corrections, the State Court Administrator, the Chief of the State Police and the Chief Information Officer are members of the board during their terms of office and may appoint designees to serve in their place. The other members of the board serve terms of 3 years. Members of the board serve without compensation, except for reimbursement for actual expenses incurred in the performance of their duties. Any vacancy on the board must be filled in the same manner as the original appointment, but only for the unexpired term. [PL 2005, c. 12, Pt. SS, §20 (AMD).]

SECTION HISTORY

PL 1993, c. 346, §1 (NEW). PL 2005, c. 12, §SS20 (AMD).

§635. Duties

The board has the following duties. [PL 1993, c. 346, §1 (NEW).]

1. Establish policies. The board shall establish policies and practices necessary to provide ready access to shared, uniform information on criminal offenders and crime data described in section 631. [PL 1999, c. 451, §3 (AMD).]

2. Establish information standards. The board shall establish, maintain and promote minimum standards for accessing the Maine Criminal Justice Information System to ensure complete, accurate and up-to-date information is received by criminal justice agencies and authorized private users. These standards include:

- A. Completeness and accuracy of information; [PL 1993, c. 346, §1 (NEW).]
- B. Limitations on access and dissemination of information; [PL 1993, c. 346, §1 (NEW).]
- C. System audits; [PL 1993, c. 346, §1 (NEW).]
- D. System security; [PL 1993, c. 346, §1 (NEW).]
- E. Individuals' rights to the review of records; [PL 1993, c. 346, §1 (NEW).]
- F. Hardware and software requirements; [PL 1993, c. 346, §1 (NEW).]
- G. Networking and communications; and [PL 1993, c. 346, §1 (NEW).]
- H. Personnel qualifications and training. [PL 1993, c. 346, §1 (NEW).]

[PL 1993, c. 346, §1 (NEW).]

3. Recommendation of fees.

[PL 1999, c. 451, §3 (RP).]

4. Report. The board shall submit the following reports to the Legislature.

A. The board shall report to the joint standing committees of the Legislature having jurisdiction over criminal justice matters and judiciary matters no later than January 1st of each year concerning the status of the development, implementation and operation of the Maine Criminal Justice Information System. The report must contain information about the ability of the Judicial Department, the Department of Public Safety and the Department of Corrections to maintain, furnish and disseminate information described in section 631 in an automated manner. The report must also contain a project plan that delineates the date upon which each category of information described in section 631 will be available to criminal justice agencies and authorized private users in an automated fashion and, for those categories for which the information is already available in an automated fashion but for which enhancements are planned, the date upon which enhanced service will be available. [PL 1999, c. 451, §3 (NEW).]

B. The board shall report to the joint standing committee of the Legislature having jurisdiction over judiciary matters no later than January 1st of each year concerning the methods devised to keep accurate, updated records of misdemeanor crimes of domestic violence to ensure enforcement of 18 United States Code, Section 922 (1996). [PL 1999, c. 451, §3 (NEW).]

[PL 1999, c. 451, §3 (AMD).]

SECTION HISTORY

PL 1993, c. 346, §1 (NEW). PL 1997, c. 194, §1 (AMD). PL 1999, c. 451, §3 (AMD).

§636. Administration

The Department of Public Safety shall provide general administrative oversight for the board's policies and responsibilities. The Department of Public Safety and other criminal justice agencies when appropriate may employ personnel necessary to carry out the purposes of the Maine Criminal Justice Information System, lease, rent or acquire adequate equipment and facilities, accept federal funds or grants that are available to carry out or implement its purpose and provide technical assistance and training to criminal justice agencies necessary to meet minimum standards for access. [PL 1999, c. 451, §4 (AMD).]

SECTION HISTORY

PL 1993, c. 346, §1 (NEW). PL 1999, c. 451, §4 (AMD).

§637. Meetings

The board may meet at such time or times as necessary to carry out its duties, but at least one time in each calendar quarter at a place and time as the board determines and at the call of the chair. The board shall elect annually a chair, vice-chair, secretary and a treasurer from among its members. [PL 1993, c. 346, §1 (NEW).]

SECTION HISTORY

PL 1993, c. 346, §1 (NEW).

SUBCHAPTER 9-A

TRACKING DEVICE INFORMATION

§638. Definitions

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 2019, c. 489, §3 (NEW).]

1. Adverse result. "Adverse result" means:

A. Immediate danger of death or serious physical injury to any person; [PL 2019, c. 489, §3 (NEW).]

B. Flight from prosecution; [PL 2019, c. 489, §3 (NEW).]

C. Destruction of or tampering with evidence; [PL 2019, c. 489, §3 (NEW).]

D. Intimidation of a potential witness; [PL 2019, c. 489, §3 (NEW).]

E. Seriously jeopardizing an investigation; or [PL 2019, c. 489, §3 (NEW).]

F. Undue delay of a trial. [PL 2019, c. 489, §3 (NEW).]

[PL 2019, c. 489, §3 (NEW).]

2. Law enforcement officer. "Law enforcement officer" means any person who by virtue of public employment is vested by law with a duty to maintain public order, to prosecute offenders, to

make arrests for crimes, whether that duty extends to all crimes or is limited to specific crimes, or to perform probation functions or who is an adult probation supervisor.

[PL 2019, c. 489, §3 (NEW).]

3. Tracking device. "Tracking device" means an electronic or mechanical device the primary purpose of which is to track the movement of a person or object. "Tracking device" does not include devices covered in subchapters 10 and 11.

[PL 2019, c. 489, §3 (NEW).]

SECTION HISTORY

PL 2019, c. 489, §3 (NEW).

§639. Authority to install and monitor a tracking device

1. Application. This subchapter only applies to tracking devices that are placed by law enforcement officers.

[PL 2019, c. 489, §3 (NEW).]

2. Installation and monitoring. A law enforcement officer may install and monitor a tracking device only in accordance with a valid search warrant issued by a duly authorized justice, judge or justice of the peace using procedures established pursuant to Title 15, section 55 or 56 or as otherwise provided in this subchapter.

[PL 2019, c. 489, §3 (NEW).]

3. Authorization of use. A court empowered to issue a search warrant or other order for the installation of a tracking device may authorize the use of that device within the jurisdiction of the court and outside that jurisdiction if the device is installed within the jurisdiction of the court.

[PL 2019, c. 489, §3 (NEW).]

4. Time period. A justice, judge or justice of the peace may issue a search warrant authorizing the installation and monitoring of a tracking device pursuant to this section. The warrant must require the installation of the tracking device within 14 days of the issuance of the warrant and allow the tracking device to be monitored for a period of 30 days following installation. A justice, judge or justice of the peace may grant an extension of the monitoring period for an additional 30 days upon a finding of continuing probable cause.

[PL 2019, c. 489, §3 (NEW).]

SECTION HISTORY

PL 2019, c. 489, §3 (NEW).

§640. Notice

1. Service of notice. Unless the court determines under subsection 3 that no notice is required, within 14 calendar days after the use of the tracking device has ended, the law enforcement officer who executed the warrant shall serve a copy of the warrant on the person who was tracked or whose property was tracked. The time period provided in this subsection may be extended for good cause shown.

[PL 2019, c. 489, §3 (NEW).]

2. Means of providing notice. The notice required under subsection 1 must be made by:

A. Delivering a copy to the person who was tracked or whose property was tracked; [PL 2019, c. 489, §3 (NEW).]

B. Leaving a copy at the person's residence or usual place of abode with an individual of suitable age and discretion who resides at that location; or [PL 2019, c. 489, §3 (NEW).]

C. Mailing a copy to the person's last known address. [PL 2019, c. 489, §3 (NEW).]

[PL 2019, c. 489, §3 (NEW).]

3. Notification not required. A law enforcement officer acting pursuant to section 639 may include in the application for a warrant a request for an order to waive the notification required under this section. The court may issue an order waiving notification if the court determines that there is reason to believe that notification will have an adverse result.

[PL 2019, c. 489, §3 (NEW).]

SECTION HISTORY

PL 2019, c. 489, §3 (NEW).

SUBCHAPTER 10

PORTABLE ELECTRONIC DEVICE CONTENT INFORMATION

§641. Definitions

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 2013, c. 402, §1 (NEW).]

1. Adverse result. "Adverse result" means:

A. Immediate danger of death or serious physical injury to any person; [PL 2019, c. 489, §4 (AMD).]

B. Flight from prosecution; [PL 2013, c. 402, §1 (NEW).]

C. Destruction of or tampering with evidence; [PL 2013, c. 402, §1 (NEW).]

D. Intimidation of a potential witness; [PL 2013, c. 402, §1 (NEW).]

E. Seriously jeopardizing an investigation; or [PL 2019, c. 489, §4 (AMD).]

F. Undue delay of a trial. [PL 2019, c. 489, §4 (AMD).]

G. [PL 2019, c. 489, §4 (RP).]

[PL 2019, c. 489, §4 (AMD).]

2. Content information. "Content information," when used with respect to any wire, oral or electronic communication, includes any information concerning the substance, purport or meaning of that communication.

[PL 2013, c. 402, §1 (NEW).]

3. Electronic communication service. "Electronic communication service" means a service that provides to users the ability to send or receive spoken or electronic communications.

[PL 2013, c. 402, §1 (NEW).]

4. Government entity. "Government entity" means a state or local government agency, including but not limited to a law enforcement entity or any other investigative entity, agency, department, division, bureau, board or commission or an individual acting or purporting to act for or on behalf of a state or local government agency.

[PL 2013, c. 402, §1 (NEW).]

5. Owner. "Owner" means the person or entity having the legal title, claim or right to a portable electronic device.

[PL 2013, c. 402, §1 (NEW).]

6. Portable electronic device. "Portable electronic device" means a device that is portable and electric that enables access to, or use of, an electronic communication service or remote computing service.

[PL 2019, c. 489, §5 (AMD).]

7. Remote computing service. "Remote computing service" means computer storage or processing services provided by means of an electronic communication service.

[PL 2013, c. 402, §1 (NEW).]

7-A. Serious physical injury. "Serious physical injury" means:

A. Bodily injury that creates a substantial risk of death, serious, permanent disfigurement or loss or substantial impairment of the function of a bodily member or organ or extended convalescence for recovery of physical health; or [PL 2019, c. 489, §6 (NEW).]

B. Any harm potentially caused by a violation of Title 17-A, chapter 11 or Title 17-A, section 282, 301, 302 or 303. [PL 2019, c. 489, §6 (NEW).]

[PL 2019, c. 489, §6 (NEW).]

8. User. "User" means a person or entity that uses a portable electronic device.

[PL 2013, c. 402, §1 (NEW).]

REVISOR'S NOTE: §641. Definitions (As enacted by PL 2013, c. 409, §1 is REALLOCATED TO TITLE 16, SECTION 647)

SECTION HISTORY

RR 2013, c. 1, §28 (RAL). PL 2013, c. 402, §1 (NEW). PL 2013, c. 409, §1 (NEW). PL 2019, c. 489, §§4-6 (AMD).

§642. Authority to obtain and disclose content information held by a provider of electronic communication service

1. Authority to obtain. A government entity may obtain portable electronic device content information directly from a provider of electronic communication service or a provider of remote computing service only in accordance with a valid search warrant issued by a duly authorized justice, judge or justice of the peace using procedures established pursuant to Title 15, section 55 or 56 or as otherwise provided in this subchapter.

[PL 2017, c. 144, §4 (AMD).]

2. Authority to disclose. A provider of electronic communication service may disclose portable electronic device content information to a government entity only pursuant to a warrant issued by a duly authorized justice, judge or justice of the peace or as otherwise provided in this subchapter.

[PL 2013, c. 519, §5 (AMD).]

REVISOR'S NOTE: §642. Warrant needed for acquisition of location information (As enacted by PL 2013, c. 409, §1 is REALLOCATED TO TITLE 16, SECTION 648)

SECTION HISTORY

RR 2013, c. 1, §29 (RAL). PL 2013, c. 402, §1 (NEW). PL 2013, c. 409, §1 (NEW). PL 2013, c. 519, §5 (AMD). PL 2017, c. 144, §4 (AMD).

§643. Notice

Notice must be given to the owner or user of a portable electronic device whose content information was obtained by a government entity. The notice requirements of this section do not apply if the government entity is unable to identify the owner or user of a portable electronic device. [PL 2019, c. 489, §7 (AMD).]

1. Timing and content of notice. Unless the court determines under subsection 2 that no notice is required, the government entity shall provide notice to the owner or user that content information was obtained by the government entity from a provider of electronic communication service or remote computing service within 3 days of obtaining the content information. The notice must be made by service or delivered by registered or first-class mail, e-mail or any other means reasonably calculated

to be effective as specified by the court issuing the warrant. The notice must contain the following information:

A. The nature of the law enforcement inquiry, with reasonable specificity; [PL 2013, c. 402, §1 (NEW).]

B. The content information of the owner or user that was supplied to or requested by the government entity and the date on which it was provided or requested; and [PL 2013, c. 402, §1 (NEW).]

C. The identity of the provider of electronic communication service or remote computing service from whom the information was obtained. [PL 2019, c. 489, §8 (AMD).]
[PL 2019, c. 489, §8 (AMD).]

2. Notification not required. A government entity acting under section 642 may include in the application for a warrant a request for an order to waive the notification required under this section. The court may issue the order if the court determines that there is reason to believe that notification will have an adverse result.
[PL 2013, c. 402, §1 (NEW).]

3. Preclusion of notice to owner or user subject to warrant for content information. A government entity acting under section 642 may include in its application for a warrant a request for an order directing a provider of electronic communication service to which a warrant is directed not to notify any other person of the existence of the warrant. The court may issue the order if the court determines that there is reason to believe that notification of the existence of the warrant will have an adverse result.
[PL 2013, c. 402, §1 (NEW).]

REVISOR'S NOTE: §643. Notice (As enacted by PL 2013, c. 409, §1 is REALLOCATED TO TITLE 16, SECTION 649)

SECTION HISTORY

RR 2013, c. 1, §30 (RAL). PL 2013, c. 402, §1 (NEW). PL 2013, c. 409, §1 (NEW). PL 2019, c. 489, §§7, 8 (AMD).

§644. Exceptions

1. Consent of owner or user. When disclosure of portable electronic device content information is not prohibited by federal law, a government entity may obtain the information without a warrant with the informed, affirmative consent of the owner or user of the portable electronic device concerned, except when the device is known or believed by the owner or user to be in the possession of a 3rd party authorized to possess the device by the owner or user.
[PL 2019, c. 489, §9 (AMD).]

2. Consent of owner or user not required if content information public. Notwithstanding subsection 1, a government entity may obtain content information without a warrant if the content information is otherwise disclosed by anyone in a publicly accessible domain, including, but not limited to, on the Internet.
[PL 2013, c. 402, §1 (NEW).]

3. Emergency. When a government entity cannot, with due diligence, obtain a warrant in time to address an emergency that involves or is believed to involve imminent danger of death or serious physical injury to any person, a government entity may obtain the content information from a portable electronic device without a warrant, and a provider of electronic communication service or remote computing service may disclose such information to the requesting government entity without a warrant.
[PL 2019, c. 489, §9 (AMD).]

REVISOR'S NOTE: §644. Exceptions to warrant requirement (As enacted by PL 2013, c. 409, § 1 is REALLOCATED TO TITLE 16, SECTION 650)

SECTION HISTORY

RR 2013, c. 1, §31 (RAL). PL 2013, c. 402, §1 (NEW). PL 2013, c. 409, §1 (NEW). PL 2019, c. 489, §9 (AMD).

§645. Use of content information obtained in violation of this subchapter not admissible

Except as proof of a violation of this subchapter, evidence obtained in violation of this subchapter is not admissible in a criminal, civil, administrative or other proceeding. [PL 2013, c. 402, §1 (NEW).]

REVISOR'S NOTE: §645. Conditions of use of location information (As enacted by PL 2013, c. 409, §1 is REALLOCATED TO TITLE 16, SECTION 650-A)

SECTION HISTORY

RR 2013, c. 1, §32 (RAL). PL 2013, c. 402, §1 (NEW). PL 2013, c. 409, §1 (NEW).

§646. Violations; injunctive relief

A person damaged as a result of a violation of this subchapter has a cause of action in court against a government entity that fails to comply with the provisions of this subchapter, and the court may award injunctive relief. [PL 2013, c. 402, §1 (NEW).]

REVISOR'S NOTE: §646. Action against a corporation (As enacted by PL 2013, c. 409, §1 is REALLOCATED TO TITLE 16, SECTION 650-B)

SECTION HISTORY

RR 2013, c. 1, §33 (RAL). PL 2013, c. 402, §1 (NEW). PL 2013, c. 409, §1 (NEW).

SUBCHAPTER 11

ELECTRONIC DEVICE LOCATION INFORMATION

§647. Definitions

(REALLOCATED FROM TITLE 16, SECTION 641)

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings. [RR 2013, c. 1, §28 (RAL).]

1. Adverse result. "Adverse result" means:

- A. Immediate danger of death or serious physical injury to any person; [PL 2019, c. 489, §10 (AMD).]
- B. Flight from prosecution; [RR 2013, c. 1, §28 (RAL).]
- C. Destruction of or tampering with evidence; [RR 2013, c. 1, §28 (RAL).]
- D. Intimidation of a potential witness; [RR 2013, c. 1, §28 (RAL).]
- E. Seriously jeopardizes an investigation; or [PL 2019, c. 489, §10 (AMD).]
- F. Undue delay of a trial. [RR 2013, c. 1, §28 (RAL).]

[PL 2019, c. 489, §10 (AMD).]

2. Electronic communication service. "Electronic communication service" means a service that provides to users the ability to send or receive wire or electronic communications.

[RR 2013, c. 1, §28 (RAL).]

3. Electronic device. "Electronic device" means a device that is electric and that enables access to, or use of, an electronic communication service, remote computing service or location information service.

[PL 2019, c. 489, §11 (AMD).]

4. Government entity. "Government entity" means a state or local agency, including but not limited to a law enforcement entity or any other investigative entity, agency, department, division, bureau, board or commission or an individual acting or purporting to act for or on behalf of a state or local agency.

[RR 2013, c. 1, §28 (RAL).]

5. Location information. "Location information" means information concerning the location of an electronic device, including both the current location and any prior location of the device, that, in whole or in part, is generated, derived from or obtained by the operation of an electronic device.

[RR 2013, c. 1, §28 (RAL).]

6. Location information service. "Location information service" means a global positioning service or other mapping, locational or directional information service.

[RR 2013, c. 1, §28 (RAL).]

7. Owner. "Owner" means the person or entity having the legal title, claim or right to an electronic device.

[RR 2013, c. 1, §28 (RAL).]

8. Remote computing service. "Remote computing service" means computer storage or processing services provided by means of an electronic communication service.

[RR 2013, c. 1, §28 (RAL).]

8-A. Serious physical injury. "Serious physical injury" means:

A. Bodily injury that creates a substantial risk of death, serious, permanent disfigurement or loss or substantial impairment of the function of a bodily member or organ or extended convalescence necessary for recovery of physical health; or [PL 2019, c. 489, §12 (NEW).]

B. Any harm potentially caused by a violation of Title 17-A, chapter 11 or Title 17-A, section 282, 301, 302 or 303. [PL 2019, c. 489, §12 (NEW).]

[PL 2019, c. 489, §12 (NEW).]

9. User. "User" means a person or entity that uses an electronic device.

[RR 2013, c. 1, §28 (RAL).]

SECTION HISTORY

RR 2013, c. 1, §28 (RAL). PL 2019, c. 489, §§10-12 (AMD).

§648. Search warrant needed for acquisition of location information

Except as provided in this subchapter, a government entity may not obtain location information without a valid warrant issued by a duly authorized justice, judge or justice of the peace using procedures established pursuant to Title 15, section 55 or 56. [PL 2017, c. 144, §5 (AMD).]

A justice, judge or justice of the peace may issue a search warrant for the location information of an electronic device pursuant to this section for a period of time necessary to achieve the objective of the authorization, but in any case the warrant is not valid for more than 14 days after the issuance. A justice, judge or justice of the peace may grant an extension of a warrant upon a finding of continuing probable cause and a finding that the extension is necessary to achieve the objective of the authorization. An extension may not exceed 30 days. [PL 2017, c. 144, §5 (AMD).]

This subchapter does not apply to tracking devices, as defined in section 638, placed by law enforcement officers. [PL 2019, c. 489, §13 (NEW).]

SECTION HISTORY

RR 2013, c. 1, §29 (RAL). PL 2013, c. 519, §6 (AMD). PL 2017, c. 144, §5 (AMD). PL 2019, c. 489, §13 (AMD).

§649. Notice

(REALLOCATED FROM TITLE 16, SECTION 643)

Notice must be given to the owner or user of an electronic device whose location information was obtained by a government entity. The government entity's notification obligation applies only if the government entity is able to identify the owner or user. [RR 2013, c. 1, §30 (RAL).]

1. Timing and content of notice. Unless the court determines under subsection 2 that no notice is required, the government entity shall provide notice to the owner or user that location information was obtained by the government entity from that owner's or user's electronic device within 3 days of obtaining the location information. The notice must be made by service or delivered by registered or first-class mail, e-mail or any other means reasonably calculated to be effective as specified by the court issuing the warrant. The notice must contain the following information:

A. The nature of the law enforcement inquiry, with reasonable specificity; [RR 2013, c. 1, §30 (RAL).]

B. The location information of the owner or user that was supplied to or requested by the government entity and the date on which it was provided or requested; and [RR 2013, c. 1, §30 (RAL).]

C. If location information was obtained from a provider of electronic communication service, location information service or remote computing service or other 3rd party, the identity of the provider of electronic communication service, location information service or remote computing service or the 3rd party from whom the information was obtained. [PL 2019, c. 489, §14 (AMD).]
[PL 2019, c. 489, §14 (AMD).]

2. Notification not required. A government entity acting under section 648 may include in the application for a warrant a request for an order to waive the notification required under this section. The court may issue the order if the court determines that there is reason to believe that notification will have an adverse result.
[PL 2013, c. 588, Pt. A, §21 (AMD).]

3. Preclusion of notice to owner or user subject to warrant for location information. A government entity acting under section 648 may include in its application for a warrant a request for an order directing a provider of electronic communication service, remote computing service or location information service to which a warrant is directed not to notify any other person of the existence of the warrant. The court may issue the order if the court determines that there is reason to believe that notification of the existence of the warrant will have an adverse result.
[PL 2019, c. 489, §15 (AMD).]

SECTION HISTORY

RR 2013, c. 1, §30 (RAL). PL 2013, c. 588, Pt. A, §21 (AMD). PL 2019, c. 489, §§14, 15 (AMD).

§650. Exceptions to warrant requirement

(REALLOCATED FROM TITLE 16, SECTION 644)

When disclosure of location information is not prohibited by federal law, a government entity may obtain the location information without a warrant: [RR 2013, c. 1, §31 (RAL).]

1. Emergency services. To respond to the user's call for emergency services; [RR 2013, c. 1, §31 (RAL).]

2. Consent of owner or user. With the informed, affirmative consent of the owner or user of the electronic device concerned, except when the device is known or believed by the owner or user to be in the possession of a 3rd party authorized to possess the device by the owner or user; [PL 2019, c. 489, §16 (AMD).]

3. Consent of family member. With the informed, affirmative consent of the legal guardian or next of kin of the owner or user, if the owner or user is believed to be deceased or reported missing and unable to be contacted; or [RR 2013, c. 1, §31 (RAL).]

4. Danger of death or serious injury. If the government entity reasonably believes that an emergency involving imminent danger of death or serious physical injury to a person requires the disclosure, without delay, of location information concerning a specific person and that a warrant cannot be obtained in time to prevent the identified danger, and the possessor of the location information, in good faith, believes that an emergency involving danger of death or serious physical injury to a person requires the disclosure without delay.

Within a reasonable period of time after seeking disclosure pursuant to this subsection, the government entity seeking the location information shall file with the appropriate court a written statement setting forth the facts giving rise to the emergency and the facts as to why the person whose location information was sought is believed to be important in addressing the emergency.

[PL 2019, c. 489, §16 (AMD).]

SECTION HISTORY

RR 2013, c. 1, §31 (RAL). PL 2019, c. 489, §16 (AMD).

§650-A. Conditions of use of location information

(REALLOCATED FROM TITLE 16, SECTION 645)

1. Conditions of use of location information in proceeding. Location information obtained pursuant to this subchapter or evidence derived from that information may be received in evidence or otherwise disclosed in a trial, hearing or other proceeding only if each party, not less than 10 days before the trial, hearing or proceeding, has been furnished with a copy of the statement of emergency filed under section 650, subsection 4 or the warrant and accompanying application under which the information was obtained.

[PL 2019, c. 489, §17 (AMD).]

2. Ten-day requirement; exception. The 10-day requirement under subsection 1 may be waived if a judge makes a finding that it was not possible to provide a party with the warrant and accompanying application 10 days prior to a trial, hearing or proceeding and that the party will not be prejudiced by the delay in receiving the information.

[RR 2013, c. 1, §32 (RAL).]

SECTION HISTORY

RR 2013, c. 1, §32 (RAL). PL 2019, c. 489, §17 (AMD).

§650-B. Action against a corporation

(REALLOCATED FROM TITLE 16, SECTION 646)

This subchapter may not be construed to create a cause of action against a corporation or its officers, employees or agents for providing location information. [RR 2013, c. 1, §33 (RAL).]

SECTION HISTORY

RR 2013, c. 1, §33 (RAL).

CHAPTER 5

SPECIAL PROCEEDINGS

§651. Rules of evidence

The rules of evidence in special proceedings of a civil nature, such as before referees, auditors and county commissioners, are the same as provided for civil actions. The rules of evidence in courts of probate are as provided in Title 18-C, section 1-106. [PL 2017, c. 402, Pt. C, §32 (AMD); PL 2019, c. 417, Pt. B, §14 (AFF).]

SECTION HISTORY

PL 1979, c. 540, §§24-B (AMD). PL 2017, c. 402, Pt. C, §32 (AMD). PL 2017, c. 402, Pt. F, §1 (AFF). PL 2019, c. 417, Pt. B, §14 (AFF).

CHAPTER 7

CRIMINAL HISTORY RECORD INFORMATION ACT

§701. Short title

This chapter may be known and cited as "the Criminal History Record Information Act." [PL 2013, c. 267, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2013, c. 267, Pt. A, §2 (NEW).

§702. Scope; application

This chapter governs the dissemination of criminal history record information by a Maine criminal justice agency. This chapter establishes 2 distinct categories of criminal history record information and provides for the dissemination of each: [PL 2013, c. 267, Pt. A, §2 (NEW).]

1. Public criminal history record information. Public criminal history record information, the dissemination of which is governed by section 704; and [PL 2013, c. 267, Pt. A, §2 (NEW).]

2. Confidential criminal history record information. Confidential criminal history record information, the dissemination of which is governed by section 705. [PL 2013, c. 267, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2013, c. 267, Pt. A, §2 (NEW).

§703. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 2013, c. 267, Pt. A, §2 (NEW).]

1. Administration of criminal justice. "Administration of criminal justice" means activities relating to the apprehension or summoning, detention, pretrial release, post-trial release, prosecution, adjudication, sentencing, correctional custody and supervision or rehabilitation of accused persons or convicted criminal offenders. "Administration of criminal justice" includes the collection, storage and dissemination of criminal history record information.

[PL 2013, c. 267, Pt. A, §2 (NEW).]

2. Confidential criminal history record information. "Confidential criminal history record information" means criminal history record information of the following types:

A. Unless the person remains a fugitive from justice, summons and arrest information without disposition if an interval of more than one year has elapsed since the date the person was summonsed or arrested and no active prosecution of a criminal charge stemming from the summons or arrest is pending; [PL 2013, c. 267, Pt. A, §2 (NEW).]

B. Information disclosing that the responsible law enforcement agency or officer has elected not to refer a matter to a prosecutor; [PL 2013, c. 267, Pt. A, §2 (NEW).]

C. Information disclosing that the responsible prosecutorial office or prosecutor has elected not to initiate or approve criminal proceedings; [PL 2013, c. 267, Pt. A, §2 (NEW).]

D. Information disclosing that a grand jury has determined that there is insufficient evidence to warrant the return of a formal charge; [PL 2013, c. 267, Pt. A, §2 (NEW).]

E. Information disclosing that a criminal proceeding has been postponed for a period of more than one year or dismissed because the person charged is found by the court to be mentally incompetent to stand trial or to be sentenced; [PL 2013, c. 507, §1 (AMD).]

F. Information disclosing that a criminal charge has been filed, if more than one year has elapsed since the date of the filing; [PL 2013, c. 507, §2 (AMD).]

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; [PL 2013, c. 267, Pt. A, §2 (NEW).]

H. Information disclosing that a person has been acquitted of a criminal charge. A verdict or accepted plea of not criminally responsible by reason of insanity, or its equivalent, is not an acquittal of the criminal charge; [PL 2013, c. 267, Pt. A, §2 (NEW).]

I. Information disclosing that a criminal proceeding has terminated in a mistrial with prejudice; [PL 2013, c. 267, Pt. A, §2 (NEW).]

J. Information disclosing that a criminal proceeding has terminated based on lack of subject matter jurisdiction; [PL 2013, c. 267, Pt. A, §2 (NEW).]

K. Information disclosing that a criminal proceeding has been terminated because the court lacked jurisdiction over the defendant; and [PL 2013, c. 267, Pt. A, §2 (NEW).]

L. Information disclosing that a person has petitioned for and been granted a full and free pardon. [PL 2017, c. 432, Pt. B, §1 (AMD).]

[PL 2017, c. 432, Pt. B, §1 (AMD).]

3. Criminal history record information. "Criminal history record information" means information of record collected by a criminal justice agency or at the direction of a criminal justice agency or kept in the custody of a criminal justice agency that connects a specific, identifiable person, including a juvenile treated by statute as an adult for criminal prosecution purposes, with formal involvement in the criminal justice system either as an accused or as a convicted criminal offender. "Criminal history record information" includes, but is not limited to, identifiable descriptions or notations of: summonses and arrests; detention; bail; formal criminal charges such as complaints,

informations and indictments; any disposition stemming from such charges; post-plea or post-adjudication sentencing; involuntary commitment; execution of and completion of any sentencing alternatives imposed; release and discharge from involuntary commitment; any related pretrial and post-trial appeals, collateral attacks and petitions; and petitions for and warrants of pardons, commutations, reprieves and amnesties. "Criminal history record information" does not include: identification information such as fingerprints, palmprints, footprints or photographic records to the extent that the information does not indicate formal involvement of the specific individual in the criminal justice system; information of record of civil proceedings, including traffic infractions and other civil violations; intelligence and investigative record information as defined in section 803; or information of record of juvenile crime proceedings or their equivalent. Specific information regarding a juvenile crime proceeding is not criminal history record information notwithstanding that a juvenile has been bound over and treated as an adult or that by statute specific information regarding a juvenile crime proceeding is usable in a subsequent adult criminal proceeding. "Formal involvement in the criminal justice system either as an accused or as a convicted criminal offender" means being within the jurisdiction of the criminal justice system commencing with arrest, summons or initiation of formal criminal charges and concluding with the completion of every sentencing alternative imposed as punishment or final discharge from an involuntary commitment based upon a finding of not criminally responsible by reason of insanity or its equivalent.

[PL 2013, c. 267, Pt. A, §2 (NEW).]

4. Criminal justice agency. "Criminal justice agency" means a federal, state or State of Maine government agency or any subunit of a government agency at any governmental level that performs the administration of criminal justice pursuant to a statute or executive order. "Criminal justice agency" includes federal courts, Maine courts, courts in any other state, the Department of the Attorney General, district attorneys' offices and the equivalent departments or offices in any federal or state jurisdiction. "Criminal justice agency" also includes any equivalent agency at any level of Canadian government and the government of any federally recognized Indian tribe.

[PL 2013, c. 267, Pt. A, §2 (NEW).]

5. Disposition. "Disposition" means information of record disclosing that a criminal proceeding has been concluded, although not necessarily finalized, and the specific nature of the concluding event. "Disposition" includes, but is not limited to: an acquittal; a dismissal, with or without prejudice; the filing of a charge by agreement of the parties or by a court; the determination that a defendant is currently a fugitive from justice; a conviction, including the acceptance by a court of a plea of guilty or nolo contendere; a deferred disposition; a proceeding indefinitely continued or dismissed due to a defendant's incompetence; a finding of not criminally responsible by reason of insanity or its equivalent; a mistrial, with or without prejudice; a new trial ordered; an arrest of judgment; a sentence imposition; a resentencing ordered; an execution of and completion of any sentence alternatives imposed, including but not limited to fines, restitution, correctional custody and supervision, and administrative release; a release or discharge from a commitment based upon a finding of not criminally responsible by reason of insanity or its equivalent; the death of the defendant; any related pretrial and post-trial appeals, collateral attacks and petitions; a pardon, commutation, reprieve or amnesty; and extradition. "Disposition" also includes information of record disclosing that the responsible law enforcement agency or officer has elected not to refer a matter to a prosecutor, that the responsible prosecutorial office or prosecutor has elected not to initiate or approve criminal proceedings or that a grand jury has determined that there is insufficient evidence to warrant the return of a formal charge.

[PL 2013, c. 267, Pt. A, §2 (NEW).]

6. Dissemination. "Dissemination" means the transmission of information by any means, including but not limited to orally, in writing or electronically, by or to anyone outside the criminal justice agency that maintains the information.

[PL 2013, c. 267, Pt. A, §2 (NEW).]

7. Executive order. "Executive order" means an order of the President of the United States or the chief executive of a state that has the force of law and that is published in a manner permitting regular public access.

[PL 2013, c. 267, Pt. A, §2 (NEW).]

8. Public criminal history record information. "Public criminal history record information" means criminal history record information that is not confidential criminal history record information, including information recorded pursuant to section 706.

[PL 2013, c. 267, Pt. A, §2 (NEW).]

9. State. "State" means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the United States Virgin Islands, Guam and American Samoa. "State" also includes the federal government of Canada and any provincial government of Canada and the government of any federally recognized Indian tribe.

[PL 2013, c. 267, Pt. A, §2 (NEW).]

10. Statute. "Statute" means an Act of Congress or an act of a state legislature or a provision of the Constitution of the United States or the constitution of a state.

[PL 2013, c. 267, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2013, c. 267, Pt. A, §2 (NEW). PL 2013, c. 507, §§1, 2 (AMD). PL 2017, c. 432, Pt. B, §1 (AMD).

§704. Dissemination of public criminal history record information

1. Generally. Public criminal history record information is public for purposes of Title 1, chapter 13. Public criminal history record information may be disseminated by a Maine criminal justice agency to any person or public or private entity for any purpose. Public criminal history record information is public whether it relates to a crime for which a person is currently within the jurisdiction of the criminal justice system or it relates to a crime for which a person is no longer within that jurisdiction. There is no time limitation on dissemination of public criminal history record information.

[PL 2013, c. 267, Pt. A, §2 (NEW).]

2. Required inquiry to State Bureau of Identification. A Maine criminal justice agency, other than a court, shall query the Department of Public Safety, State Bureau of Identification before disseminating any public criminal history record information for a noncriminal justice purpose to ensure that the most up-to-date disposition information is being used. "Noncriminal justice purpose" means a purpose other than for the administration of criminal justice or criminal justice agency employment.

[PL 2013, c. 267, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2013, c. 267, Pt. A, §2 (NEW).

§705. Dissemination of confidential criminal history record information

1. Generally. A Maine criminal justice agency, whether directly or through any intermediary, may disseminate confidential criminal history record information only to:

- A. Other criminal justice agencies for the purpose of the administration of criminal justice and criminal justice agency employment; [PL 2013, c. 267, Pt. A, §2 (NEW).]
- B. Any person for any purpose when expressly authorized by a statute, executive order, court rule, court decision or court order containing language specifically referring to confidential criminal history record information or one or more of the types of confidential criminal history record information; [PL 2013, c. 267, Pt. A, §2 (NEW).]

C. Any person with a specific agreement with a criminal justice agency to provide services required for the administration of criminal justice or to conduct investigations determining the employment suitability of prospective law enforcement officers. The agreement must specifically authorize access to data, limit the use of the data to purposes for which given, ensure security and confidentiality of the data consistent with this chapter and provide sanctions for any violations; [PL 2013, c. 267, Pt. A, §2 (NEW).]

D. Any person for the express purpose of research, evaluation or statistical purposes or under an agreement with the criminal justice agency. The agreement must specifically authorize access to confidential criminal history record information, limit the use of the information to research, evaluation or statistical purposes, ensure the confidentiality and security of the information consistent with this chapter and provide sanctions for any violations; [PL 2013, c. 267, Pt. A, §2 (NEW).]

E. Any person who makes a specific inquiry to the criminal justice agency as to whether a named individual was summonsed, arrested or detained or had formal criminal charges initiated on a specific date; [PL 2013, c. 267, Pt. A, §2 (NEW).]

F. The public for the purpose of announcing the fact of a specific disposition that is confidential criminal history record information, other than that described in section 703, subsection 2, paragraph A, within 30 days of the date of occurrence of that disposition or at any point in time if the person to whom the disposition relates specifically authorizes that it be made public; and [PL 2013, c. 267, Pt. A, §2 (NEW).]

G. A public entity for purposes of international travel, such as issuing visas and granting of citizenship. [PL 2013, c. 267, Pt. A, §2 (NEW).]
[PL 2013, c. 267, Pt. A, §2 (NEW).]

2. Confirming existence or nonexistence of information. A Maine criminal justice agency may not confirm the existence or nonexistence of confidential criminal history record information to any person or public or private entity that would not be eligible to receive the information itself. [PL 2013, c. 267, Pt. A, §2 (NEW).]

3. Required inquiry to State Bureau of Identification. A Maine criminal justice agency, other than a court, shall query the Department of Public Safety, State Bureau of Identification before disseminating any confidential criminal history record information for a noncriminal justice purpose to ensure that the most up-to-date disposition information is being used. "Noncriminal justice purpose" means a purpose other than for the administration of criminal justice or criminal justice agency employment. [PL 2013, c. 507, §3 (AMD).]

SECTION HISTORY

PL 2013, c. 267, Pt. A, §2 (NEW). PL 2013, c. 507, §3 (AMD).

§706. Public information about persons detained following arrest

1. Requirement of record. A Maine criminal justice agency that maintains a holding facility, as defined in Title 34-A, section 1001, subsection 9, or other facility for pretrial detention shall record the following information concerning each person delivered to it for pretrial detention for any period of time:

A. The identity of the arrested person, including the person's name, year of birth, residence and occupation, if any; [PL 2013, c. 267, Pt. A, §2 (NEW).]

B. The statutory or customary description of the crime or crimes for which the person was arrested including the date and geographic location where the crime is alleged to have occurred; [PL 2013, c. 267, Pt. A, §2 (NEW).]

C. The date, time and place of the arrest; and [PL 2013, c. 267, Pt. A, §2 (NEW).]

D. The circumstances of the arrest including, when applicable, the physical force used in making the arrest, the resistance made to the arrest, what weapons were involved, the arrested person's refusal to submit and the pursuit by the arresting officers. [PL 2013, c. 267, Pt. A, §2 (NEW).]
[PL 2013, c. 267, Pt. A, §2 (NEW).]

2. Time and method of recording. A Maine criminal justice agency shall record the information under subsection 1 immediately upon delivery of an arrested person to the criminal justice agency for detention. The criminal justice agency shall record and maintain the information in chronological order and keep the information in a suitable, permanent record. The information required by this section may be combined by a sheriff with the record required by Title 30-A, section 1505.
[PL 2013, c. 267, Pt. A, §2 (NEW).]

3. Information public. The information required to be recorded and maintained by this section is public criminal history record information.
[PL 2013, c. 267, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2013, c. 267, Pt. A, §2 (NEW).

§707. Unlawful dissemination of confidential criminal history record information

1. Offense. A person is guilty of unlawful dissemination of confidential criminal history record information if the person intentionally disseminates confidential criminal history record information knowing it to be in violation of any of the provisions of this chapter.
[PL 2021, c. 293, Pt. B, §4 (AMD).]

2. Classification. Unlawful dissemination of confidential criminal history record information is a Class E crime.
[PL 2013, c. 267, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2013, c. 267, Pt. A, §2 (NEW). PL 2015, c. 354, §2 (AMD). PL 2021, c. 293, Pt. B, §4 (AMD).

§708. Inapplicability of this chapter to criminal history record information contained in certain records

This chapter does not apply to criminal history record information contained in: [PL 2013, c. 267, Pt. A, §2 (NEW).]

1. Posters, announcements, lists. Posters, announcements or lists used for identifying or apprehending fugitives from justice or wanted persons;
[PL 2013, c. 267, Pt. A, §2 (NEW).]

2. Records of entry. Records of entry, such as calls for service, formerly known as "police blotters," that are maintained by criminal justice agencies, that are compiled and organized chronologically and that are required by law or long-standing custom to be made public;
[PL 2013, c. 267, Pt. A, §2 (NEW).]

3. Records of public judicial proceedings. Records of public judicial proceedings:

A. Retained at or by the District Court, Superior Court or Supreme Judicial Court. Public access to and dissemination of such records for inspection and copying are as provided by rule or administrative order of the Supreme Judicial Court; and [PL 2013, c. 267, Pt. A, §2 (NEW).]

B. From federal courts and courts of other states; [PL 2013, c. 267, Pt. A, §2 (NEW).]
[PL 2013, c. 267, Pt. A, §2 (NEW).]

4. Published opinions. Published court or administrative opinions not impounded or otherwise declared confidential;

[PL 2013, c. 267, Pt. A, §2 (NEW).]

5. Records of public proceedings. Records of public administrative or legislative proceedings;

[PL 2013, c. 267, Pt. A, §2 (NEW).]

6. Records of traffic crimes. Records of traffic crimes maintained by the Secretary of State or by a state department of transportation or motor vehicles or the equivalent thereof for the purposes of regulating the issuance, suspension, revocation or renewal of a driver's, pilot's or other operator's license; and

[PL 2013, c. 267, Pt. A, §2 (NEW).]

7. Pardons, other than full and free pardons, commutations, reprieves and amnesties.

Petitions for and warrants of pardons, commutations, reprieves and amnesties other than warrants of full and free pardons and their respective petitions.

[PL 2017, c. 432, Pt. B, §2 (AMD).]

SECTION HISTORY

PL 2013, c. 267, Pt. A, §2 (NEW). PL 2017, c. 432, Pt. B, §2 (AMD).

§709. Right to access and review

1. Inspection. If a Maine criminal justice agency maintains criminal history record information about a person, the person or the person's attorney may inspect the criminal history record information. A criminal justice agency may prescribe reasonable hours and locations at which the right may be exercised and any additional restrictions, including satisfactory verification of identity by fingerprint comparison, as are reasonably necessary to ensure the security and confidentiality of the criminal history record information and to verify the identity of the person seeking to inspect that information. The criminal justice agency shall supply the person or the person's attorney with a copy of the criminal history record information pertaining to the person on request and payment of a reasonable fee.

[PL 2013, c. 267, Pt. A, §2 (NEW).]

2. Review. A person or the person's attorney may request amendment or correction of criminal history record information concerning the person by addressing, either in person or in writing, the request to the criminal justice agency in which the information is maintained. The request must indicate the particular record involved, the nature of the amendment or correction sought and the justification for the amendment or correction.

On receipt of a request, the criminal justice agency shall take necessary steps to determine whether the questioned criminal history record information is accurate and complete. If investigation reveals that the questioned criminal history record information is inaccurate or incomplete, the criminal justice agency shall immediately correct the error or deficiency.

Not later than 15 days, excluding Saturdays, Sundays and legal public holidays, after the receipt of a request, the criminal justice agency shall notify the requesting person in writing either that the criminal justice agency has corrected the error or deficiency or that it refuses to make the requested amendment or correction. The notice of refusal must include the reasons for the refusal, the procedure established by the criminal justice agency for requesting a review by the head of the criminal justice agency of that refusal and the name and business address of that official.

[PL 2013, c. 267, Pt. A, §2 (NEW).]

3. Administrative appeal. If there is a request for review, the head of the criminal justice agency shall, not later than 30 days from the date of the request, excluding Saturdays, Sundays and legal public holidays, complete the review and either make the requested amendment or correction or refuse to do so. If the head of the criminal justice agency refuses to make the requested amendment or correction,

the head of the criminal justice agency shall permit the requesting person to file with the criminal justice agency a concise statement setting forth the reasons for the disagreement with the refusal. The head of the criminal justice agency shall also notify the person of the provisions for judicial review of the reviewing official's determination under subsection 4.

Disputed criminal history record information disseminated by the criminal justice agency with which the requesting person has filed a statement of disagreement must clearly reflect notice of the dispute after the filing of such a statement. A copy of the statement must be included, along with, if the criminal justice agency determines it appropriate, a copy of a concise statement of the criminal justice agency's reasons for not making the amendment or correction requested.

[PL 2013, c. 267, Pt. A, §2 (NEW).]

4. Judicial review. If an administrative appeal brought pursuant to subsection 3 is denied by the head of the criminal justice agency, that decision is final agency action subject to appeal to the Superior Court in accordance with Title 5, chapter 375, subchapter 7 and the Maine Rules of Civil Procedure, Rule 80C.

[PL 2013, c. 267, Pt. A, §2 (NEW).]

5. Notification. When a criminal justice agency has amended or corrected a person's criminal history record information in response to a written request as provided in subsection 2 or a court order, the criminal justice agency shall, within 30 days thereof, advise all prior recipients who have received that information within the year prior to the amendment or correction that the amendment or correction has been made. The criminal justice agency shall also notify the person who is the subject of the amended or corrected criminal history record information of compliance with this subsection and the prior recipients notified.

[PL 2013, c. 267, Pt. A, §2 (NEW).]

6. Right of access and review of court records. This section does not apply to the right of access and review by a person or the person's attorney of criminal history record information about that person retained at or by the District Court, Superior Court or Supreme Judicial Court. Access and review of court records retained by the District Court, Superior Court or Supreme Judicial Court are as provided by rule or administrative order of the Supreme Judicial Court.

[PL 2013, c. 267, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2013, c. 267, Pt. A, §2 (NEW).

§710. Application to prior Maine criminal history record information

The provisions of this chapter apply to criminal history record information in existence before July 29, 1976, including that which has been previously expunged under any other provision of Maine law, as well as to criminal history record information in existence on July 29, 1976 and thereafter. [PL 2013, c. 267, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2013, c. 267, Pt. A, §2 (NEW).

CHAPTER 9

INTELLIGENCE AND INVESTIGATIVE RECORD INFORMATION ACT

§801. Short title

This chapter may be known and cited as "the Intelligence and Investigative Record Information Act." [PL 2013, c. 267, Pt. A, §3 (NEW).]

SECTION HISTORY

PL 2013, c. 267, Pt. A, §3 (NEW).

§802. Application

This chapter applies to a record that is or contains intelligence and investigative record information and that is collected by or prepared at the direction of or kept in the custody of any Maine criminal justice agency. [PL 2013, c. 267, Pt. A, §3 (NEW).]

SECTION HISTORY

PL 2013, c. 267, Pt. A, §3 (NEW).

§803. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 2013, c. 267, Pt. A, §3 (NEW).]

1. Administration of civil justice. "Administration of civil justice" means activities relating to the anticipation, prevention, detection, monitoring or investigation of known, suspected or possible civil violations and prospective and pending civil actions. It includes the collection, storage and dissemination of intelligence and investigative record information relating to the administration of civil justice. "Administration of civil justice" does not include known, suspected or possible traffic infractions.

[PL 2013, c. 267, Pt. A, §3 (NEW).]

2. Administration of criminal justice. "Administration of criminal justice" means activities relating to the anticipation, prevention, detection, monitoring or investigation of known, suspected or possible crimes. It includes the collection, storage and dissemination of intelligence and investigative record information relating to the administration of criminal justice.

[PL 2013, c. 267, Pt. A, §3 (NEW).]

3. Administration of juvenile justice. "Administration of juvenile justice" has the same meaning as in Title 15, section 3003, subsection 1-A.

[PL 2021, c. 365, §26 (AMD); PL 2021, c. 365, §37 (AFF).]

4. Criminal justice agency. "Criminal justice agency" means a federal, state or State of Maine government agency or any subunit of a government agency at any governmental level that performs the administration of criminal justice pursuant to a statute or executive order. "Criminal justice agency" includes the Department of the Attorney General, district attorneys' offices and the equivalent departments or offices in any federal or state jurisdiction. "Criminal justice agency" also includes any equivalent agency at any level of Canadian government and the government of any federally recognized Indian tribe.

[PL 2013, c. 267, Pt. A, §3 (NEW).]

5. Dissemination. "Dissemination" means the transmission of information by any means, including but not limited to orally, in writing or electronically, by or to anyone outside the criminal justice agency that maintains the information.

[PL 2013, c. 267, Pt. A, §3 (NEW).]

6. Executive order. "Executive order" means an order of the President of the United States or the chief executive of a state that has the force of law and that is published in a manner permitting regular public access.

[PL 2013, c. 267, Pt. A, §3 (NEW).]

7. Intelligence and investigative record information. "Intelligence and investigative record information" means information of record collected by or prepared by or at the direction of a criminal justice agency or kept in the custody of a criminal justice agency while performing the administration

of criminal justice or, exclusively for the Department of the Attorney General and district attorneys' offices, the administration of civil justice. "Intelligence and investigative record information" includes information of record concerning investigative techniques and procedures and security plans and procedures prepared or collected by a criminal justice agency or other agency. "Intelligence and investigative record information" does not include criminal history record information as defined in section 703, subsection 3 and does not include information of record collected or kept while performing the administration of juvenile justice.

[PL 2013, c. 267, Pt. A, §3 (NEW).]

8. State. "State" means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the United States Virgin Islands, Guam and American Samoa. "State" also includes the federal government of Canada and any provincial government of Canada and the government of any federally recognized Indian tribe.

[PL 2013, c. 267, Pt. A, §3 (NEW).]

9. Statute. "Statute" means an Act of Congress or an act of a state legislature or a provision of the Constitution of the United States or the constitution of a state.

[PL 2013, c. 267, Pt. A, §3 (NEW).]

SECTION HISTORY

PL 2013, c. 267, Pt. A, §3 (NEW). PL 2021, c. 365, §26 (AMD). PL 2021, c. 365, §37 (AFF).

§804. Limitation on dissemination of intelligence and investigative record information

Except as provided in sections 805-A and 806, a record that is or contains intelligence and investigative record information is confidential and may not be disseminated by a Maine criminal justice agency to any person or public or private entity if there is a reasonable possibility that public release or inspection of the record would: [PL 2023, c. 235, §1 (AMD).]

1. Interfere with criminal law enforcement proceedings. Interfere with law enforcement proceedings relating to crimes;

[PL 2013, c. 267, Pt. A, §3 (NEW).]

2. Result in dissemination of prejudicial information. Result in public dissemination of prejudicial information concerning an accused person or concerning the prosecution's evidence that will interfere with the ability of a court to impanel an impartial jury;

[PL 2013, c. 267, Pt. A, §3 (NEW).]

3. Constitute an invasion of privacy. Constitute an unwarranted invasion of personal privacy;

[PL 2013, c. 267, Pt. A, §3 (NEW).]

4. Disclose confidential source. Disclose the identity of a confidential source;

[PL 2013, c. 267, Pt. A, §3 (NEW).]

5. Disclose confidential information. Disclose confidential information furnished only by a confidential source;

[PL 2013, c. 267, Pt. A, §3 (NEW).]

6. Disclose trade secrets or other confidential commercial or financial information. Disclose trade secrets or other confidential commercial or financial information designated as such by the owner or source of the information, by the Department of the Attorney General or by a district attorney's office;

[PL 2013, c. 267, Pt. A, §3 (NEW).]

7. Disclose investigative techniques or security plans. Disclose investigative techniques and procedures or security plans and procedures not known by the general public;

[PL 2013, c. 267, Pt. A, §3 (NEW).]

8. Endanger law enforcement or others. Endanger the life or physical safety of any individual, including law enforcement personnel; [PL 2013, c. 267, Pt. A, §3 (NEW).]

9. Disclose statutorily designated confidential information. Disclose information designated confidential by statute; [PL 2013, c. 267, Pt. A, §3 (NEW).]

10. Interfere with civil proceedings. Interfere with proceedings relating to civil violations, civil enforcement proceedings and other civil proceedings conducted by the Department of the Attorney General or by a district attorney's office; [PL 2013, c. 267, Pt. A, §3 (NEW).]

11. Disclose arbitration or mediation information. Disclose conduct of or statements made or documents submitted by any person in the course of any mediation or arbitration conducted under the auspices of the Department of the Attorney General; or [PL 2013, c. 267, Pt. A, §3 (NEW).]

12. Identify source of consumer or antitrust complaints. Identify the source of a complaint made to the Department of the Attorney General regarding a violation of consumer or antitrust laws. [PL 2013, c. 267, Pt. A, §3 (NEW).]

SECTION HISTORY

PL 2013, c. 267, Pt. A, §3 (NEW). PL 2013, c. 507, §4 (AMD). PL 2023, c. 235, §1 (AMD).

§805. Exceptions

(REPEALED)

SECTION HISTORY

PL 2013, c. 267, Pt. A, §3 (NEW). PL 2013, c. 507, §5 (AMD). PL 2023, c. 235, §2 (RP).

§805-A. Exceptions

1. Dissemination of certain information. This chapter does not preclude dissemination of intelligence and investigative record information that is confidential under section 804 by a Maine criminal justice agency to:

- A. Another criminal justice agency; [PL 2023, c. 235, §3 (NEW).]
- B. A person or public or private entity as part of the criminal justice agency's administration of criminal justice or the administration of civil justice by the Department of the Attorney General or a district attorney's office; [PL 2023, c. 235, §3 (NEW).]
- C. A person accused of a crime or that person's agent or attorney for trial and sentencing purposes if authorized by:
 - (1) The responsible prosecutorial office or prosecutor; or
 - (2) A court rule, court order or court decision of this State or of the United States.

As used in this subsection, "agent" means a licensed professional investigator, an expert witness or a parent, foster parent or guardian if the accused person has not attained 18 years of age; [PL 2023, c. 235, §3 (NEW).]

D. A federal court, the District Court, Superior Court or Supreme Judicial Court or an equivalent court in another state; [PL 2023, c. 235, §3 (NEW).]

E. A person or public or private entity expressly authorized to receive the intelligence and investigative record information by statute, executive order, court rule, court decision or court order. "Express authorization" means language in the statute, executive order, court rule, court

decision or court order that specifically speaks of intelligence and investigative record information or specifically refers to a type of intelligence or investigative record; or [PL 2023, c. 235, §3 (NEW).]

F. The Secretary of State for use in the determination and issuance of a driver's license suspension. [PL 2023, c. 235, §3 (NEW).]
[PL 2023, c. 235, §3 (NEW).]

2. Record of complaint. On request to a Maine criminal justice agency under the Freedom of Access Act, a person is entitled to receive one copy of a complaint made by that person. The criminal justice agency may not charge a fee for a copy of a complaint provided under this subsection. [PL 2023, c. 235, §3 (NEW).]

SECTION HISTORY

PL 2023, c. 235, §3 (NEW).

§806. Exceptions subject to reasonable limitations

Subject to reasonable limitations imposed by a Maine criminal justice agency to protect against the harms described in section 804, this chapter does not preclude dissemination of intelligence and investigative record information confidential under section 804 by a Maine criminal justice agency to: [PL 2013, c. 267, Pt. A, §3 (NEW).]

1. A government agency responsible for regulating facilities and programs providing care to children or adults. A government agency or subunit of a government agency in this State or another state that pursuant to statute is responsible for licensing or regulating the programs or facilities that provide care to children or incapacitated or dependent adults if the intelligence and investigative record information concerns the investigation of suspected abuse, neglect or exploitation; [PL 2021, c. 252, §1 (AMD).]

1-A. A government agency or subunit of a government agency responsible for investigating child or adult abuse. A government agency or subunit of a government agency in this State or another state that pursuant to statute is responsible for investigating abuse, neglect or exploitation of children or incapacitated or dependent adults if:

A. The intelligence and investigative record information is being provided in response to a request by that agency or subunit of an agency for records regarding a particular person or persons; and [PL 2021, c. 252, §2 (NEW).]

B. The intelligence and investigative record information relates to alleged or proven conduct that is criminal under Title 17-A, chapters 9, 11, 12, 13, 21, 23, 33, 35, 41, 43 or 45 by a person in paragraph A. [PL 2021, c. 252, §2 (NEW).]

The intelligence and investigative record information obtained pursuant to this subsection may be used only for the purpose for which it was obtained and, as necessary, for administrative or ombudsman office oversight of the agency or subunit of an agency obtaining the information; [PL 2021, c. 252, §2 (NEW).]

2. A crime victim or that victim's agent or attorney. A crime victim or that victim's agent or attorney. A Maine criminal justice agency that provides a copy of intelligence and investigative record information under this subsection to the crime victim or that victim's agent or attorney may not charge a fee for providing that information. As used in this subsection, "agent" means a licensed professional investigator, an insurer or an immediate family member, foster parent or guardian if due to death, age or physical or mental disease, disorder or defect the victim cannot realistically act on the victim's own behalf; or [PL 2023, c. 235, §4 (AMD).]

3. A counselor or advocate.

[PL 2015, c. 411, §1 (RP).]

4. A counselor or advocate. A sexual assault counselor, as defined in section 53-A, subsection 1, paragraph B, or an advocate, as defined in section 53-B, subsection 1, paragraph A. A person to whom intelligence and investigative record information is disclosed pursuant to this subsection:

A. May use the information only for planning for the safety of the victim of a sexual assault or domestic or family violence incident to which the information relates; [PL 2015, c. 411, §2 (NEW).]

B. May not further disseminate the information; [PL 2015, c. 411, §2 (NEW).]

C. Shall ensure that physical copies of the information are securely stored and remain confidential; [PL 2015, c. 411, §2 (NEW).]

D. Shall destroy all physical copies of the information within 30 days after their receipt; [PL 2015, c. 411, §2 (NEW).]

E. Shall permit criminal justice agencies providing such information to perform reasonable and appropriate audits to ensure that all physical copies of information obtained pursuant to this subsection are maintained in accordance with this subsection; and [PL 2015, c. 411, §2 (NEW).]

F. Shall indemnify and hold harmless criminal justice agencies providing information pursuant to this subsection with respect to any litigation that may result from the provision of the information to the person. [PL 2015, c. 411, §2 (NEW).]

[PL 2015, c. 411, §2 (NEW).]

SECTION HISTORY

PL 2013, c. 267, Pt. A, §3 (NEW). PL 2013, c. 507, §§6, 7 (AMD). PL 2015, c. 411, §§1, 2 (AMD). PL 2021, c. 252, §§1, 2 (AMD). PL 2023, c. 235, §4 (AMD).

§806-A. Video depicting use of deadly force

This chapter does not preclude the public dissemination of that portion of a video in the custody of the Attorney General depicting the use of deadly force by law enforcement when the public interest in the evaluation of the use of deadly force by law enforcement and the review and investigation of those incidents by the Attorney General outweighs the harms contemplated in section 804. Upon receiving a request for video depicting the use of deadly force, the Attorney General shall issue a decision on whether to release the video no later than 30 days after the request and, in the event of denial, shall provide written notice stating in detail the basis for the denial, a time frame for release of all or part of the video and the process to appeal the decision pursuant to Title 1, section 409. [PL 2021, c. 353, §2 (NEW).]

SECTION HISTORY

PL 2021, c. 353, §2 (NEW).

§807. Confirming existence or nonexistence of confidential intelligence and investigative record information

(REPEALED)

SECTION HISTORY

PL 2013, c. 267, Pt. A, §3 (NEW). PL 2013, c. 507, §8 (AMD). PL 2021, c. 153, §1 (RP).

§808. No right to access or review

A person who is the subject of intelligence and investigative record information maintained by a criminal justice agency has no right to inspect or review that information for accuracy or completeness. [PL 2013, c. 267, Pt. A, §3 (NEW).]

SECTION HISTORY

PL 2013, c. 267, Pt. A, §3 (NEW).

§809. Unlawful dissemination of confidential intelligence and investigative record information

1. Offense. A person is guilty of unlawful dissemination of confidential intelligence and investigative record information if the person intentionally disseminates intelligence and investigative record information confidential under section 804 knowing it to be in violation of any of the provisions of this chapter.

[PL 2013, c. 507, §9 (AMD).]

2. Classification. Unlawful dissemination of confidential intelligence and investigative record information is a Class E crime.

[PL 2013, c. 507, §9 (AMD).]

SECTION HISTORY

PL 2013, c. 267, Pt. A, §3 (NEW). PL 2013, c. 507, §9 (AMD).

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