

MAINE STATE LEGISLATURE

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132nd MAINE LEGISLATURE

FIRST SPECIAL SESSION-2025

Legislative Document

No. 1871

S.P. 741

In Senate, May 5, 2025

An Act to Permit Sealing Criminal History Record Information of Victims of Sex Trafficking or Sexual Exploitation

Received by the Secretary of the Senate on May 1, 2025. Referred to the Committee on Judiciary pursuant to Joint Rule 308.2 and ordered printed.

A handwritten signature in black ink, appearing to read "D M Grant", is positioned above the printed name of the Secretary of the Senate.

DAREK M. GRANT
Secretary of the Senate

Presented by Senator TALBOT ROSS of Cumberland.
Cosponsored by Representative SATO of Gorham and
Senators: BAILEY of York, BENNETT of Oxford, CARNEY of Cumberland,
Representatives: BOYER of Poland, LEE of Auburn, MATHIESON of Kittery, SINCLAIR of
Bath, STOVER of Boothbay.

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

2 Sec. 1. 10 MRSA c. 239 is enacted to read:

3 **CHAPTER 239**

4 **REGULATION OF BUSINESS SCREENING SERVICES' HANDLING OF**
5 **CRIMINAL HISTORY RECORD INFORMATION**

6 **§1500-AA. Definitions**

7 For the purposes of this chapter, unless the context otherwise indicates, the following
8 terms have the following meanings.

9 **1. Business screening service.** "Business screening service" means a person regularly
10 engaged in the business of collecting, assembling, evaluating or disseminating criminal
11 history record information related to specific individuals for a fee. "Business screening
12 service" does not include a government entity or the news media.

13 **2. Conviction.** "Conviction" means any of the following accepted and recorded by the
14 court:

15 A. A plea of guilty; or

16 B. A verdict of guilty by a jury or a finding of guilty by the court.

17 **3. Criminal history record information.** "Criminal history record information" or
18 "record" has the same meaning as in Title 16, section 703, subsection 3.

19 **§1500-BB. Criminal records**

20 A business screening service may disseminate only criminal history record information
21 that reflects the complete and accurate record provided by the source of the criminal history
22 record information. A complete and accurate record is a record that has been updated within
23 30 days of its receipt or been verified with the source of the criminal history record
24 information within the previous 90 days as being up-to-date.

25 **§1500-CC. Correction and deletion of criminal history record information**

26 If the completeness or accuracy of criminal history record information maintained by
27 a business screening service is disputed by the individual who is the subject of the record,
28 the business screening service shall, without charge, investigate the disputed record.

29 **1. Investigations.** In conducting an investigation, the business screening service shall
30 review and consider all relevant information submitted by the subject of the criminal
31 history record information with respect to the disputed record to determine whether the
32 record maintained by the business screening service accurately reflects the content of the
33 official record, as maintained by the Department of Public Safety, Bureau of State Police,
34 State Bureau of Identification.

35 **2. Correction and deletion of criminal history record information.** If, upon
36 investigation, the business screening service determines that the criminal history record
37 information does not accurately reflect the content of the official record, the business
38 screening service shall correct the disputed record so as to accurately reflect the content of

1 the official record. If the disputed record is found to be sealed or the subject of a pardon,
2 the business screening service shall promptly delete the record. A business screening
3 service that complies with this subsection has satisfied its obligation to correct or delete
4 records pursuant to this section.

5 **3. Terminating frivolous investigations.** A business screening service may terminate
6 an investigation of disputed criminal history record information if the business screening
7 agency reasonably determines that the dispute is frivolous, and that determination may be
8 based on the failure of the subject of the record to provide sufficient information to
9 investigate the disputed record. Upon making a determination that the dispute is frivolous,
10 the business screening service shall inform the subject of the record of the specific reasons
11 why it has determined that the dispute is frivolous and provide a description of any
12 information required to investigate the disputed record.

13 **4. Notice to subject of criminal history record information.** Within 30 days from
14 the date when the business screening service receives notice that the subject of a criminal
15 history record information is disputing the record, the business screening service shall
16 notify the subject of the record of the results of the investigation, including:

17 A. Whether the investigation was completed or terminated; and

18 B. Any records corrected or deleted as a result of the investigation.

19 **§1500-DD. Date and notice required**

20 A business screening service that disseminates criminal history record information that
21 was collected on or after July 1, 2010, shall include the date when the record was collected
22 by the business screening service and a notice that the information may include criminal
23 history record information that has been sealed or otherwise has become inaccessible to the
24 public since that date.

25 **§1500-EE. Effect of Fair Credit Reporting Act; violation; jurisdiction; remedies**

26 Violations of this chapter are governed by this section.

27 **1. Violation.** A business screening service is considered to be in compliance with this
28 chapter if the business screening service is in compliance with those provisions of the
29 federal Fair Credit Reporting Act, 15 United States Code, Chapter 41, Subchapter III that
30 regulate maintaining accuracy of records; investigations of disputed records, including
31 correction and deletion of records; and providing a notice with disseminated records similar
32 to that required in section 1500-DD. If the conduct of a business screening service violates
33 both the federal provisions described in this subsection and the provisions of this chapter,
34 the business screening service is in violation of this chapter and is liable to the individual
35 who is the subject of the criminal history record information in accordance with subsection
36 3.

37 **2. Foreign corporations; service of process and jurisdiction.** A business screening
38 service, that is a foreign corporation, that disseminates criminal history record information
39 in this State or that obtains a criminal record from a government entity or a court in this
40 State is considered to have consented to service of process in this State for purposes of Title
41 13-B, sections 1212-A and 1213 or any other applicable law and to the jurisdiction of courts
42 in this State for actions involving a violation of this chapter as described in subsection 1 or
43 for the recovery of remedies under this chapter. For the purposes of this subsection,
44 "foreign corporation" has the same meaning as in Title 13-B, section 102, subsection 6.

1 **3. Remedies.** A business screening service considered in violation of this chapter as
2 described in subsection 1 is liable to the individual who is the subject of the criminal history
3 record information for a penalty of \$1,000 or actual damages caused by the violation,
4 whichever is greater, plus costs and disbursements and reasonable attorney's fees.

5 **Sec. 2. 15 MRSA §2261, sub-§6,** as repealed and replaced by PL 2023, c. 639, §1,
6 is repealed.

7 **Sec. 3. 15 MRSA §2261, sub-§6-A** is enacted to read:

8 **6-A. Eligible criminal conviction.** "Eligible criminal conviction" means:

9 A. For a motion under section 2262, a criminal conviction for a current or former Class
10 E crime, except for a current or former Class E crime under Title 17-A, chapter 11;

11 B. For a motion under section 2262-A, a criminal conviction for engaging in
12 prostitution under Title 17-A, former section 853-A; and

13 C. For a motion under section 2262-B, a criminal conviction for any current or former
14 crime.

15 **Sec. 4. 15 MRSA §2261, sub-§8** is enacted to read:

16 **8. Sex trafficking.** "Sex trafficking" means:

17 A. Promoting sexual exploitation by compelling a person to enter into, engage in or
18 remain in sexual exploitation;

19 B. Promoting the sexual exploitation of a person less than 18 years of age; or

20 C. Promoting the sexual exploitation of a person who suffers from a mental disability
21 that is reasonably apparent or known to the actor and that in fact renders the other
22 person substantially incapable of appraising the nature of the conduct involved.

23 **Sec. 5. 15 MRSA §2261, sub-§9** is enacted to read:

24 **9. Sexual exploitation.** "Sexual exploitation" means engaging in the exchange of sex
25 for money or resources because of a person's history of trauma, adverse childhood
26 experiences, substance use disorder or other circumstances of victimization, exploitation
27 or oppression.

28 **Sec. 6. 15 MRSA §2262,** as amended by PL 2023, c. 666, §§1 to 3, is further
29 amended to read:

30 **§2262. Statutory prerequisites for sealing criminal history record information**

31 Except as provided in ~~section~~ sections 2262-A and 2262-B, criminal history record
32 information relating to a specific criminal conviction may be sealed under this chapter only
33 if:

34 **1. Eligible criminal conviction.** The criminal conviction is an eligible criminal
35 conviction, as defined in section 2261, subsection 6-A, paragraph A;

36 **2. Time since sentence fully satisfied.** At least 4 years have passed since the person
37 has fully satisfied each of the sentencing alternatives imposed under Title 17-A, section
38 1502, subsection 2 for the eligible criminal conviction;

39 **3. Other convictions in this State.** The person has not been convicted of another
40 crime in this State and has not had a criminal charge dismissed as a result of a deferred

1 disposition pursuant to Title 17-A, former chapter 54-F or Title 17-A, chapter 67,
2 subchapter 4 since the time at which the person fully satisfied each of the sentencing
3 alternatives imposed under Title 17-A, section 1502, subsection 2 for the person's most
4 recent eligible criminal conviction, as defined in section 2261, subsection 6-A, paragraph
5 A, up until the time of the order;

6 **4. Convictions in another jurisdiction.** The person has not been convicted of a crime
7 in another jurisdiction since the time at which the person fully satisfied each of the
8 sentencing alternatives imposed under Title 17-A, section 1502, subsection 2 for the
9 person's most recent eligible criminal conviction as defined in section 2261, subsection
10 6-A, paragraph A, up until the time of the order; and

11 **5. Pending criminal charges.** The person does not have any presently pending
12 criminal charges in this State or in another jurisdiction.

13 **Sec. 7. 15 MRSA §2262-A, sub-§1**, as enacted by PL 2023, c. 409, §2, is amended
14 to read:

15 **1. Eligible criminal conviction.** The criminal conviction is an eligible criminal
16 conviction, as defined in section 2261, subsection 6-A, paragraph B;

17 **Sec. 8. 15 MRSA §2262-B** is enacted to read:

18 **§2262-B. Sealing criminal history record information of victims of sex trafficking or**
19 **sexual exploitation**

20 Criminal history record information relating to an eligible criminal conviction, as
21 described in section 2261, subsection 6, paragraph C, must be sealed under this chapter if
22 the person filing the motion establishes:

23 **1. Victim of sex trafficking or sexual exploitation.** That the person has been a victim
24 of sex trafficking or sexual exploitation; and

25 **2. Commission of crime result of sex trafficking or sexual exploitation.** That the
26 commission of the crime for which the person was convicted was a substantial result of sex
27 trafficking or sexual exploitation.

28 A motion under this section may be filed at any time after the criminal conviction is
29 entered.

30 **Sec. 9. 15 MRSA §2263**, as amended by PL 2023, c. 409, §3, is further amended to
31 read:

32 **§2263. Motion; persons who may file**

33 A person may file a written motion seeking a court order sealing the person's criminal
34 history record information relating to a specific criminal conviction in the underlying
35 criminal proceeding based on a court determination that the person satisfies the statutory
36 prerequisites specified in section 2262 ~~or~~, 2262-A or 2262-B. The written motion must
37 briefly address each of the statutory prerequisites.

38 **Sec. 10. 15 MRSA §2264, sub-§1**, as enacted by PL 2021, c. 674, §1, is amended
39 to read:

40 **1. Filing motion.** A motion filed pursuant to section 2263 must be filed in the
41 underlying criminal proceeding. After the motion is filed, the clerk shall set the motion for

1 hearing. If multiple motions are filed, the court shall consolidate the motions to one
2 location.

3 **Sec. 11. 15 MRSA §2264, sub-§4-A** is enacted to read:

4 **4-A. Motions under section 2262-B; witnesses; presumption.** For motions filed
5 under section 2262-B:

6 A. The person filing the motion and any witnesses may participate remotely, unless
7 the court finds that the person filing the motion or a particular witness resides in this
8 State and interests of justice require in-person participation;

9 B. Official documentation of a person's status as a victim of sexual exploitation or sex
10 trafficking is not required to satisfy section 2262-B, subsection 1. If official
11 documentation is presented, the official documentation creates a presumption that the
12 person's participation in an offense was a substantial result of the sexual exploitation
13 or sex trafficking; and

14 C. Official documentation of a person's status as a victim of sexual exploitation or sex
15 trafficking includes, but is not limited to:

16 (1) A copy of an official record, certification or eligibility letter from a federal,
17 state, tribal or local proceeding, including an approval notice or a certification
18 generated from a federal immigration proceeding, that shows the person filing the
19 motion was a victim of sex trafficking or sexual exploitation;

20 (2) An affidavit or sworn testimony from a member of the clergy, a medical
21 professional, a staff member of a victim services organization or other professional
22 from whom the person filing the motion has sought legal counsel or other
23 assistance in addressing the trauma and other challenges associated with being a
24 victim of sex trafficking or sexual exploitation; and

25 (3) Any other evidence the court determines is of sufficient credibility or probative
26 value.

27 **Sec. 12. 15 MRSA §2264, sub-§5,** as amended by PL 2023, c. 409, §4, is further
28 amended to read:

29 **5. Hearing; order; written findings.** The court shall hold a hearing on a motion filed
30 under this section, except that for a motion filed under section 2262-B, the court may grant
31 the motion without a hearing if the representative for the State consents to the motion. At
32 the conclusion of the hearing, if the court determines that the person who filed the motion
33 has established by a preponderance of the evidence each of the statutory prerequisites
34 specified in section 2262 ~~or~~, 2262-A or 2262-B, the court shall grant the motion and shall
35 issue a written order sealing the criminal history record information of the eligible criminal
36 conviction that was the subject of the motion. If, at the conclusion of the hearing, the court
37 determines that the person has not established one or more of the statutory prerequisites
38 specified in section 2262 ~~or~~, 2262-A or 2262-B, the court shall issue a written order denying
39 the motion. The order must contain written findings of fact supporting the court's
40 determination. A copy of the court's written order must be provided to the person and the
41 prosecutorial office that represented the State pursuant to subsection 3.

42 **Sec. 13. 15 MRSA §2264, sub-§7,** as enacted by PL 2021, c. 674, §1, is amended
43 to read:

7. Subsequent new criminal conviction; automatic loss of eligibility; person's duty to notify. Notwithstanding a court order sealing the criminal history record information pursuant to subsection 5, if at any time subsequent to the court's order the person is convicted of a new crime in this State or in another jurisdiction, the criminal history record information must be unsealed. This subsection does not apply to records sealed pursuant to section 2262-A or 2262-B.

A. In the event of a new criminal conviction, the person shall promptly file a written notice in the underlying criminal proceeding of the person's disqualification from eligibility, identifying the new conviction, including the jurisdiction, court and docket number of the new criminal proceeding. If the person fails to file the required written notice and the court learns of the existence of the new criminal conviction, the court shall notify the person of the apparent existence of the new conviction and offer the person an opportunity to request a hearing to contest the fact of a new conviction.

B. If the person requests a hearing under paragraph A, the court shall, after giving notice to the person and the appropriate prosecutorial office, hold a hearing. At the hearing, the person has the burden of proving by clear and convincing evidence that the person has not been convicted of a crime subsequent to issuance of the sealing order. At the conclusion of the hearing, if the court determines that the person has not satisfied the burden of proof, it shall find that the person has been newly convicted of the crime and as a consequence is no longer eligible for the sealing order and shall issue a written order unsealing the criminal history record information, with written findings of fact. If, at the conclusion of the hearing, the court determines that the person has satisfied the burden of proof, it shall find that the person has not been convicted of the new crime and issue a written order certifying this determination. A copy of the court's written order must be provided to the person and the prosecutorial office that represented the State.

C. If the person does not request a hearing under paragraph A, the court shall determine that the person has not satisfied the burden of proof and the court shall find that the person has been convicted of the new crime and as a consequence is no longer eligible for the sealing order and shall issue a written order unsealing the criminal history record information, with written findings of fact. A copy of the court's written order must be provided to the person and the prosecutorial office that represented the State.

SUMMARY

This bill amends provisions of the law governing post-judgment motions to seal criminal history record information by creating a new category of criminal conviction for which a person may file a motion to seal the related criminal history record information. Under the bill, a person may file a motion to seal criminal history record information for a criminal conviction for any current or former crime if the person shows by a preponderance of the evidence that the person has been a victim of sex trafficking or sexual exploitation, as defined by the bill, and the commission of the crime for which the person was convicted was a substantial result of sex trafficking or sexual exploitation.

The bill also provides that a person who is regularly engaged in the business of collecting, assembling, evaluating or disseminating criminal history record information related to specific individuals for a fee, also called a business screening service, is required to disseminate only complete and accurate records; investigate disputed records; correct or

1 delete records found to be inaccurate or reflecting a criminal conviction that was sealed or
2 pardoned; and provide a notice with disseminated records including the date the record was
3 collected and a notice that information may include criminal records that have been sealed
4 or otherwise have become inaccessible to the public. A person is considered in violation of
5 these provisions only if the person's conduct violates these provisions and also violates
6 relevant provisions of the federal Fair Credit Reporting Act. A person found in violation of
7 both the state and federal law is liable to the subject of the record for a penalty of \$1,000
8 and additional remedies.