

MAINE STATE LEGISLATURE

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132nd MAINE LEGISLATURE

FIRST SPECIAL SESSION-2025

Legislative Document

No. 1916

H.P. 1277

House of Representatives, May 6, 2025

**An Act to Automatically Seal Criminal History Record Information
for Class D and Class E Crimes Relating to Marijuana Possession
and Cultivation**

Reported by Representative KUHN of Falmouth for the Joint Standing Committee on
Judiciary pursuant to Resolve 2023, chapter 103, section 8.

Reference to the Committee on Judiciary suggested and ordered printed pursuant to Joint
Rule 218.

Robert B. Hunt

ROBERT B. HUNT
Clerk

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

2 Sec. 1. 15 MRSA c. 313 is enacted to read:

3 **CHAPTER 313**

4 **AUTOMATIC SEALING OF CERTAIN CRIMINAL HISTORY RECORD**
5 **INFORMATION**

6 **§2331. Definitions**

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

9 **1. Another jurisdiction.** "Another jurisdiction" has the same meaning as in Title
10 17-A, section 2, subsection 3-B.

11 **2. Bureau.** "Bureau" means the Department of Public Safety, Bureau of State Police,
12 State Bureau of Identification.

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

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

17 **5. Dissemination.** "Dissemination" has the same meaning as in Title 16, section 703,
18 subsection 6.

19 **6. Eligible criminal conviction.** "Eligible criminal conviction" means a conviction
20 for a crime committed on or after January 1, 2001 and prior to January 30, 2017 for the
21 following:

22 A. Aggravated trafficking, furnishing or cultivation of scheduled drugs under Title
23 17-A, former section 1105 when the person was convicted of cultivating scheduled
24 drugs, that scheduled drug was marijuana and the aggravated crime was a Class D
25 crime;

26 B. Aggravated cultivating of marijuana under Title 17-A, section 1105-D, subsection
27 1, paragraph A, subparagraph (4);

28 C. Aggravated cultivating of marijuana under Title 17-A, section 1105-D, subsection
29 1, paragraph B-1, subparagraph (4);

30 D. Aggravated cultivating of marijuana under Title 17-A, section 1105-D, subsection
31 1, paragraph D, subparagraph (4); or

32 E. Unlawful possession of scheduled drugs under Title 17-A, former section 1107 when
33 that scheduled drug was marijuana and the crime was a Class D or Class E crime.

34 **§2332. Statutory prerequisites for automatic sealing of criminal history record**
35 **information**

36 Criminal history record information relating to a specific criminal conviction may be
37 sealed under this chapter only if:

1 **1. Eligible criminal conviction.** The criminal conviction is an eligible criminal
2 conviction;

3 **2. Other convictions in this State.** The person has not been convicted of a crime in
4 this State and has not had a criminal charge dismissed as a result of a deferred disposition
5 pursuant to Title 17-A, former chapter 54-F or Title 17-A, chapter 67, subchapter 4 since
6 the time at which the person fully satisfied each of the sentencing alternatives imposed
7 under Title 17-A, section 1502, subsection 2 for the person's most recent eligible criminal
8 conviction up until the time the bureau submits the criminal history record information
9 related to that eligible criminal conviction to the Administrative Office of the Courts under
10 section 2333, subsection 2;

11 **3. Convictions in another jurisdiction.** The person has not been convicted of a crime
12 in another jurisdiction since the time at which the person fully satisfied each of the
13 sentencing alternatives imposed under Title 17-A, section 1502, subsection 2 for the
14 person's most recent eligible criminal conviction up until the time the bureau transfers the
15 criminal history record information related to that eligible criminal conviction to the
16 Administrative Office of the Courts under section 2333, subsection 2; and

17 **4. Pending criminal charges.** The person does not have any pending criminal charges
18 in this State or in another jurisdiction.

19 **§2333. Automatic sealing of criminal history record information**

20 Criminal history record information for an eligible criminal conviction in which the
21 person convicted meets the requirements of section 2332 must be sealed by the court having
22 jurisdiction over the criminal proceeding that resulted in the eligible criminal conviction in
23 accordance with this section.

24 **1. Monthly examination of records.** The bureau shall at least once a month examine
25 criminal history record information collected and maintained by the bureau pursuant to
26 Title 25, section 1541, subsection 4-A to identify criminal history record information that
27 may meet the requirements of section 2332.

28 The Commissioner of Public Safety may adopt rules to carry out the purposes of this
29 subsection. Rules adopted pursuant to this subsection are routine technical rules as defined
30 in Title 5, chapter 375, subchapter 2-A.

31 **2. Transfer of records; records review.** If the bureau determines that any criminal
32 history record information examined pursuant to subsection 1 meets the requirements of
33 section 2332, the bureau shall transfer that criminal history record information, along with
34 any supporting documents or data, to the Administrative Office of the Courts. Upon
35 receipt, the Administrative Office of the Courts shall review its files to determine whether
36 it has in its possession any criminal history record information or other information related
37 to the criminal history record information submitted to it by the bureau. The Administrative
38 Office of the Courts shall transfer any information or data found along with the information
39 and data received from the bureau and any additional supporting documents the
40 Administrative Office of the Courts determines relevant to the court having jurisdiction
41 over the underlying criminal proceeding.

42 **3. Review; written findings.** Upon receipt of criminal history record information,
43 along with any supporting documents or data, and information under subsection 2, the court
44 having jurisdiction over the underlying criminal proceeding shall review those records, data

1 and information to determine if the records, data and information meet the requirements of
2 subsection 2332.

3 A. If the court determines that the records under this subsection meet the requirements
4 of section 2332, the court shall issue an order sealing the criminal history record
5 information of the eligible criminal conviction that was the subject of the records
6 reviewed.

7 B. If the court determines that the records under this subsection do not establish one or
8 more of the requirements of section 2332, the court shall issue a written order
9 containing findings of fact supporting the court's determination that the records are not
10 subject to automatic sealing.

11 **4. Notice to bureau.** The court shall electronically transmit notice of the court's order
12 under subsection 3 to the bureau. If the court issues an order sealing the criminal history
13 record information under subsection 3, paragraph A, the bureau shall promptly amend its
14 records relating to the person's eligible criminal conviction for automatic sealing to reflect
15 that the criminal history record information relating to that criminal conviction is sealed
16 and that dissemination is governed by section 2265 and the bureau shall send notification
17 of compliance with this subsection to the person's last known address. If the court issues
18 an order denying the sealing of criminal history record information under subsection 3,
19 paragraph B, the bureau shall file that order with the corresponding criminal history record
20 information.

21 **5. Cooperation.** The Department of Public Safety, Bureau of State Police;
22 Department of Corrections; judicial branch; and criminal justice agencies that collect,
23 maintain or disseminate criminal history record information shall cooperate with the bureau
24 and assist it with carrying out the purposes and duties of this section.

25 **§2334. Limited disclosure of eligible criminal conviction**

26 A person whose eligible criminal conviction is the subject of a sealing order under
27 section 2333, subsection 3, paragraph A may respond to inquiries from persons other than
28 criminal justice agencies and other entities that are authorized to obtain the sealed criminal
29 history record information under section 2265 by not disclosing the existence of the eligible
30 criminal conviction without being subject to any sanctions under the laws of this State.
31 Other than when responding to criminal justice agencies or when under oath while being
32 prosecuted for a subsequent crime, a person whose eligible criminal conviction is the
33 subject of a sealing order does not violate Title 17-A, section 451, 452 or 453 by not
34 disclosing the eligible criminal conviction.

35 **§2335. Review of determination of eligibility; motion to seal criminal history record**
36 **information**

37 **1. Appeal by person.** A person aggrieved by a written order under section 2333,
38 subsection 3, paragraph B may not appeal as a matter of right. The manner for a person to
39 file a motion to appeal must be determined by rule of the Supreme Judicial Court.

40 **2. Appeal by State.** If the State is aggrieved by an order under section 2333,
41 subsection 3, paragraph A, the State may appeal as a matter of right, and a certificate of
42 approval by the Attorney General is not required. The manner and any conditions for an
43 appeal by the Attorney General must be determined by rule of the Supreme Judicial Court.

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

Sec. 2. Rules. The Supreme Judicial Court shall establish rules relating to the process of appealing a motion to seal criminal history record information by January 1, 2026.

SUMMARY

This bill is reported out by the Joint Standing Committee on Judiciary to implement statutory changes recommended by the Criminal Records Review Committee. The Joint Standing Committee on Judiciary has not taken a position on the substance of this bill. By reporting this bill out, the committee is not suggesting and does not intend to suggest that it agrees or disagrees with any aspect of this bill; instead, the committee is reporting the bill out for the sole purpose of having a bill printed that can be referred to the committee for an appropriate public hearing and subsequent processing in the normal course. The committee is taking this action to ensure clarity and transparency in the legislative review of the proposals contained in the bill.

The bill implements a recommendation of the Criminal Records Review Committee. The bill creates a process to automatically seal or make confidential criminal history record information related to convictions for marijuana possession and cultivation-related crimes committed on or after January 1, 2001 and prior to January 30, 2017 for engaging in conduct that is no longer illegal under the State's adult use cannabis laws. The process requires the Department of Public Safety, Bureau of State Police, State Bureau of Identification to review monthly the criminal history record information obtained in its files to determine if the underlying convictions for certain criminal history record information qualify for automatic sealing. If a conviction qualifies for the sealing of information, the bureau must transfer that information to the Administrative Office of the Courts, which is required to do the same with its files for the corresponding underlying convictions.

Once the Administrative Office of the Courts has compiled all of the relevant information, the bill requires the Administrative Office of the Courts to submit that information to the Superior Court or District Court having jurisdiction over the underlying criminal proceeding that resulted in the conviction. That court is required to determine whether the underlying criminal conviction qualifies to have the criminal history record information related to the conviction sealed. If it does qualify, the court is required to send notice to the bureau to make that criminal history record information confidential. If it does not qualify, the court is required to send the order denying the sealing of information to the bureau to be filed with the criminal history record information for that underlying conviction.

The bill provides that a person aggrieved by a finding that the person's conviction does not qualify for automatic sealing does not have a right to appeal, but the Supreme Judicial Court may make rules for the manner for taking such an appeal. Regardless of a finding that a person's conviction does not qualify for automatic sealing, the person is still permitted to file a motion to seal the criminal history record information for that conviction. The State may appeal a decision granting automatic sealing of an eligible criminal conviction as a matter of right.