

MAINE STATE LEGISLATURE

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STATE OF MAINE
126TH LEGISLATURE
FIRST REGULAR SESSION



Summaries of bills, adopted amendments and laws enacted or finally passed

**JOINT STANDING COMMITTEE ON CRIMINAL JUSTICE
AND PUBLIC SAFETY**

July 2013

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STATE OF MAINE

126TH LEGISLATURE

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LEGISLATIVE DIGEST OF BILL SUMMARIES AND ENACTED LAWS

This *Legislative Digest of Bill Summaries and Enacted Laws* contains summaries of all LDs and adopted amendments and all laws enacted or finally passed during the First Regular Session of the 126th Maine Legislature.

The *Digest* is arranged alphabetically by committee and within each committee by Legislative Document (LD) number. The committee report(s), prime sponsor and lead co-sponsor(s), if designated, are listed below each LD title. All adopted amendments are summarized and listed by paper number. A subject index is included with each committee. The appendices include a summary of relevant session statistics, an index of all bills by LD number and an index of enacted laws by law type and chapter number.

Final action on each LD is noted to the right of the LD title. The following describes the various final actions.

CARRIED OVER carried over to a subsequent session of the Legislature
CON RES XXX..... chapter # of constitutional resolution passed by both houses
CONF CMTE UNABLE TO AGREE.....Committee of Conference unable to agree; legislation died
DIED BETWEEN HOUSES.....House & Senate disagreed; legislation died
DIED IN CONCURRENCE.....defeated in each house, but on different motions; legislation died
DIED ON ADJOURNMENT..... action incomplete when session ended; legislation died
EMERGENCY..... enacted law takes effect sooner than 90 days after session adjournment
FAILED, EMERGENCY ENACTMENT or FINAL PASSAGE emergency failed to receive required 2/3 vote
FAILED, ENACTMENT or FINAL PASSAGE..... failed to receive final majority vote
FAILED, MANDATE ENACTMENT legislation proposing local mandate failed required 2/3 vote
HELD BY GOVERNOR..... Governor has not signed; final disposition to be determined at subsequent session
LEAVE TO WITHDRAW..... sponsor's request to withdraw legislation granted
NOT PROPERLY BEFORE THE BODY ruled out of order by the presiding officer; legislation died
INDEF PP..... indefinitely postponed; legislation died
ONTP, ACCEPTED, MAJORITY, MINORITY or REPORT X... ought-not-to-pass report accepted; legislation died
P&S XXX..... chapter # of enacted private & special law
PUBLIC XXX.....chapter # of enacted public Law
RESOLVE XXX..... chapter # of finally passed resolve
VETO SUSTAINED..... Legislature failed to override Governor's veto

The effective date for non-emergency legislation enacted in the First Regular Session of the 126th Legislature is October 9, 2013. The effective date for legislation enacted as an emergency measure may be found in the enacted law summary for that legislation.

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include representatives from the Department of Corrections; the county sheriff; the Department of Health and Human Services, Bureau of Child and Family Services; the district attorney; the State Police; municipal police departments; and county mental health organizations, and may include representatives from associations representing health service providers and associations of criminal defense lawyers and other state and local agencies serving juveniles.

LD 1491 An Act To Extend the Statute of Limitations on Certain Sex Crimes

PUBLIC 392

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
GERZOFSKY DION	OTP-AM ONTP	S-209

This bill provides that a civil action based upon a sexual act that is committed or engaged in by an actor who has certain authority over the other person may be commenced at any time. It also extends to 10 years the statute of limitations on prosecutions for crimes involving unlawful sexual touching, unlawful sexual contact, sexual abuse of a minor, rape or gross sexual assault if the actor has certain authority over the victim.

Committee Amendment "A" (S-209)

This amendment removes provisions of the bill regarding sexual acts committed by a person who has certain authority over the other person. It extends the statute of limitations period from six years to eight years for Class A, Class B and Class C sex crimes.

Enacted Law Summary

Public Law 2013, chapter 392 extends the statute of limitations period from six years to eight years for Class A, Class B and Class C sex crimes involving unlawful sexual contact or gross sexual assault.

LD 1493 An Act To Revise the Laws Concerning Criminal History Record Information and Intelligence and Investigative Information

PUBLIC 267

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP-AM	H-360

This bill implements the recommendations of the Criminal Law Advisory Commission to revise the criminal history record information laws, currently allocated to the Maine Revised Statutes, Title 16, chapter 3, subchapter 8.

Part A of this bill repeals chapter 3, subchapter 8, which includes sections 611 to 623, and enacts 2 new chapters within Title 16. The creation of 2 chapters allows for the separate treatment of the 2 mutually exclusive information-of-record categories of criminal history record information and intelligence and investigative record information. Their consolidated treatment in chapter 3, subchapter 8 resulted in significant confusion as to their differing meanings and applications.

1. This bill enacts Title 16, chapter 7, which:

- A. Designates, in section 701, the new chapter as the Criminal History Record Information Act;
- B. Outlines, in section 702, the chapter's scope and application, which had no counterpart in former subchapter 8. It makes clear that when criminal history record information is public information, the term "public criminal history record information" is used. Similarly, when criminal history record information is confidential, it is labeled as "confidential criminal history record information"; and

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C. Defines, in section 703, like in former section 611, technical terms used throughout the subchapter, including:

(1) A definition of "administration of criminal justice," which mirrors former section 611, subsection 1, except that the word "detection" has been eliminated from the first sentence and "criminal identification activities" has been eliminated from the 2nd sentence because such activities are now addressed in the new chapter 9 regarding intelligence and investigative record information;

(2) A definition of "confidential criminal history record information," which replaces former section 611, subsection 9. What was formerly identified as "nonconviction data" is now identified as "confidential criminal history record information." The types of criminal history record information described in former section 611, subsection 9 are included in section 703, subsection 2 and have been modified for purposes of clarity and completeness. Section 703, subsection 2, paragraphs D, I, J and K have no counterpart in former section 611, subsection 9;

(3) A definition of "criminal history record information," which replaces former section 611, subsection 3 with a new section 703, subsection 3 and expands on the former definition. The new subsection 3 employs and refers to formal involvement in the criminal justice system either as an accused or as a convicted criminal defendant and defines the term to specifically include "a juvenile treated by statute as an adult for criminal prosecution purposes" and expands on examples of criminal history record information. The new definition expressly excludes civil proceedings of any kind, intelligence and investigative record information and any information of record of juvenile crime proceedings;

(4) A definition of "criminal justice agency," which replaces former section 611, subsection 4 with a new section 703, subsection 4 and differs in 4 substantive respects. First, the definition now specifies that the only jurisdictions to which it applies are the Federal Government, a state as defined in the new section 703, subsection 9 and the State of Maine. Foreign countries, other than Canada, are not included. Second, as to the included jurisdictions, the applicable government agencies or subunits are at all governmental levels. The former references to state, district, county or local have been replaced by "at any governmental level" because although these governmental divisions are appropriate insofar as Maine is concerned, they are not necessarily correct in describing the governmental divisions in the other named jurisdictions. Third, the definition no longer conditions government agency or subunit qualification on whether the criminal justice agency allocates a substantial part of its annual budget to the administration of criminal justice. It also adds an equivalent agency of any federally recognized Indian tribe. Fourth, it replaces the word "courts" with "federal courts, Maine courts, courts in any other state";

(5) A definition of "disposition," which replaces former section 611, subsection 5;

(6) A definition of "dissemination," which parallels former section 611, subsection 6, but expands the listed means of transmission by adding the phrase "by any means";

(7) A definition of "executive order," which parallels former section 611, subsection 7 but makes 3 nonsubstantive changes; and

(8) A definition of "public crimes."

2. This bill enacts Title 16, chapter 9, which:

A. Enacts section 801, which designates chapter 9 as the Intelligence and Investigative Record Information Act;

B. Enacts section 802, which replaces that portion of former section 614, subsection 1 that applied the section

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614 limitations on dissemination of intelligence and investigative information of record to specifically identified Maine criminal justice agencies, rather than to all Maine criminal justice agencies. Section 802 applies the chapter to all Maine criminal justice agencies; and

C. Defines in section 803, like in former section 611, technical terms used throughout the chapter, including:

(1) A definition of "administration of civil justice," which had no counterpart in former subchapter 8. It addresses the same types of criminal justice agency activities described in the new subsection 2 but in the context of "civil violations" and "civil actions" rather than in the context of crimes. It does not include known, suspected or possible traffic infractions;

(2) A definition of "administration of criminal justice," which is wholly different from former section 611, subsection 1 except to the extent former subsection 1 included the activities of "detection" and "criminal identification." It includes criminal justice agency activities "relating to the anticipation, prevention, detection, monitoring or investigation of known, suspected or possible crimes," activities that generally predate the activities addressed in former section 611, subsection 1. However, particularly in the context of "known" crimes, investigation can continue well after a specific, identifiable person is formally involved with the criminal justice system as an accused in anticipation of trial and sentencing;

(3) A definition of "administration of juvenile justice," which had no counterpart in former subchapter 8. It addresses the same types of criminal justice agency activities described in the new subsections 1 and 2 but in the context of juvenile crimes. The administration of juvenile justice is distinct from the administration of criminal justice and the administration of civil justice because a juvenile crime is, strictly speaking, neither a crime nor is it civil. It is a hybrid of both. As a consequence, the administration of juvenile justice is expressly excluded from the definition of "intelligence and investigative record information" and is instead addressed in a new section 3308-A of the Maine Juvenile Code;

(4) A definition of "criminal justice agency," which replaces former section 611, subsection 4 and mirrors new section 703, subsection 4, except it does not include courts. Courts are now addressed in section 805, subsection 4;

(5) A definition of "dissemination," which replaces former section 611, subsection 6 and mirrors new section 703, subsection 6;

(6) A definition of "executive order," which replaces former section 611, subsection 7 and mirrors new section 703, subsection 7; and

(7) A definition of "intelligence and investigative record information," which replaces former section 611, subsection 8 and modifies the former definition to better clarify the scope of the definition. It speaks both in terms of information of record collected or kept by any Maine criminal justice agency while performing the "administration of criminal justice," which is included as subsection 1, and in terms of information of record collected or kept by the Department of the Attorney General or by district attorneys' offices when they are performing the administration of civil justice, included as subsection 2. The definition of "intelligence and investigative record information" includes the Department of the Attorney General's records relating to the administration of civil justice in order to perpetuate Public Law 1993, chapter 719, "An Act to Bring the Department of the Attorney General into Conformity with the Criminal History Record Information Laws."

Part B corrects cross-references in existing law to reflect the new Criminal History Record Information Act and the new Intelligence and Investigative Record Information Act.

Part C moves the confidentiality protection for reports of animal cruelty from the former section governing intelligence and investigative record information to the animal welfare laws in Titles 7 and 17.

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Part D adds a new section 3308-A to the Maine Juvenile Code, addressing dissemination of juvenile intelligence and investigative record information by a Maine criminal justice agency as follows.

1. Title 15, section 3308-A, subsection 1 contains technical terms used in that section. The terms "administration of juvenile justice," "criminal justice agency," "dissemination," "executive order," "state" and "statute" mirror the meanings found in the new Title 16, section 803, subsections 3 to 6, 8 and 9, respectively. The term "juvenile intelligence and investigative record information" has no counterpart in Title 16, section 803 because the "administration of juvenile justice" is expressly excluded from the definition of "intelligence and investigative record information" in section 803, subsection 7.
2. Title 15, section 3308-A, subsection 2 clarifies that, to the extent a criminal justice agency has juvenile intelligence and investigative record information that has been made part of the court records of a juvenile proceeding, dissemination of that information by the criminal justice agency must be as provided by section 3307 and section 3308.
3. Title 15, section 3308-A, subsection 3 clarifies that juvenile intelligence and investigative record information is confidential other than as provided in subsection 2. Additionally, subsection 3 lists certain disseminations of confidential juvenile intelligence and investigative record information that are expressly authorized. These parallel those contained in Title 16, section 805.

Committee Amendment "A" (H-360)

This amendment clarifies that Maine courts, unlike other criminal justice agencies, must provide their own internal procedures addressing access and review.

It authorizes the release of intelligence and investigative record information to the Secretary of State for use in the determination and issuance of a driver's license suspension.

It amends the provision of the bill regarding judicial review to eliminate unnecessary language.

Enacted Law Summary

Public Law 2013, chapter 267 revises the criminal history record information laws, currently allocated to the Maine Revised Statutes, Title 16, chapter 3, subchapter 8 as follows.

It repeals chapter 3, subchapter 8, which includes sections 611 to 623, and enacts 2 new chapters within Title 16. The creation of 2 chapters allows for the separate treatment of the 2 mutually exclusive information-of-record categories of criminal history record information and intelligence and investigative record information. Their consolidated treatment in chapter 3, subchapter 8 resulted in significant confusion as to their differing meanings and applications.

Public Law 2013, chapter 267 enacts Title 16, chapter 7, which:

1. Designates, in section 701, the new chapter as the Criminal History Record Information Act;
2. Outlines, in section 702, the chapter's scope and application, which had no counterpart in former subchapter 8. It makes clear that when criminal history record information is public information, the term "public criminal history record information" is used. Similarly, when criminal history record information is confidential, it is labeled as "confidential criminal history record information"; and
3. Defines, in section 703, like in former section 611, technical terms used throughout the subchapter, including:
 - A. A definition of "administration of criminal justice," which mirrors former section 611, subsection 1, except

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that the word "detection" has been eliminated from the first sentence and "criminal identification activities" has been eliminated from the 2nd sentence because such activities are now addressed in the new chapter 9 regarding intelligence and investigative record information;

B. A definition of "confidential criminal history record information," which replaces former section 611, subsection 9. What was formerly identified as "nonconviction data" is now identified as "confidential criminal history record information." The types of criminal history record information described in former section 611, subsection 9 are included in section 703, subsection 2 and have been modified for purposes of clarity and completeness. Section 703, subsection 2, paragraphs D, I, J and K have no counterpart in former section 611, subsection 9;

C. A definition of "criminal history record information," which replaces former section 611, subsection 3 with a new section 703, subsection 3 and expands on the former definition. The new subsection 3 employs and refers to formal involvement in the criminal justice system either as an accused or as a convicted criminal defendant and defines the term to specifically include "a juvenile treated by statute as an adult for criminal prosecution purposes" and expands on examples of criminal history record information. The new definition expressly excludes civil proceedings of any kind, intelligence and investigative record information and any information of record of juvenile crime proceedings;

D. A definition of "criminal justice agency," which replaces former section 611, subsection 4 with a new section 703, subsection 4 and differs in 4 substantive respects. First, the definition now specifies that the only jurisdictions to which it applies are the Federal Government, a state as defined in the new section 703, subsection 9 and the State of Maine. Foreign countries, other than Canada, are not included. Second, as to the included jurisdictions, the applicable government agencies or subunits are at all governmental levels. The former references to state, district, county or local have been replaced by "at any governmental level" because although these governmental divisions are appropriate insofar as Maine is concerned, they are not necessarily correct in describing the governmental divisions in the other named jurisdictions. Third, the definition no longer conditions government agency or subunit qualification on whether the criminal justice agency allocates a substantial part of its annual budget to the administration of criminal justice. It also adds an equivalent agency of any federally recognized Indian tribe. Fourth, it replaces the word "courts" with "federal courts, Maine courts, courts in any other state";

E. A definition of "disposition," which replaces former section 611, subsection 5;

F. A definition of "dissemination," which parallels former section 611, subsection 6, but expands the listed means of transmission by adding the phrase "by any means";

G. A definition of "executive order," which parallels former section 611, subsection 7 but makes 3 nonsubstantive changes; and

H. A definition of "public crimes."

Public Law 2013, chapter 267 enacts Title 16, chapter 9, which:

1. Enacts section 801, which designates chapter 9 as the Intelligence and Investigative Record Information Act;
2. Enacts section 802, which replaces that portion of former section 614, subsection 1 that applied the section 614 limitations on dissemination of intelligence and investigative information of record to specifically identified Maine criminal justice agencies, rather than to all Maine criminal justice agencies. Section 802 applies the chapter to all Maine criminal justice agencies; and
3. Defines in section 803, like in former section 611, technical terms used throughout the chapter, including:

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A. A definition of "administration of civil justice," which had no counterpart in former subchapter 8. It addresses the same types of criminal justice agency activities described in the new subsection 2 but in the context of "civil violations" and "civil actions" rather than in the context of crimes. It does not include known, suspected or possible traffic infractions;

B. A definition of "administration of criminal justice," which is wholly different from former section 611, subsection 1 except to the extent former subsection 1 included the activities of "detection" and "criminal identification." It includes criminal justice agency activities "relating to the anticipation, prevention, detection, monitoring or investigation of known, suspected or possible crimes," activities that generally predate the activities addressed in former section 611, subsection 1. However, particularly in the context of "known" crimes, investigation can continue well after a specific, identifiable person is formally involved with the criminal justice system as an accused in anticipation of trial and sentencing;

C. A definition of "administration of juvenile justice," which had no counterpart in former subchapter 8. It addresses the same types of criminal justice agency activities described in the new subsections 1 and 2 but in the context of juvenile crimes. The administration of juvenile justice is distinct from the administration of criminal justice and the administration of civil justice because a juvenile crime is, strictly speaking, neither a crime nor is it civil. It is a hybrid of both. As a consequence, the administration of juvenile justice is expressly excluded from the definition of "intelligence and investigative record information" and is instead addressed in a new section 3308-A of the Maine Juvenile Code;

D. A definition of "criminal justice agency," which replaces former section 611, subsection 4 and mirrors new section 703, subsection 4, except it does not include courts. Courts are now addressed in section 805, subsection 4;

E. A definition of "dissemination," which replaces former section 611, subsection 6 and mirrors new section 703, subsection 6;

F. A definition of "executive order," which replaces former section 611, subsection 7 and mirrors new section 703, subsection 7; and

G. A definition of "intelligence and investigative record information," which replaces former section 611, subsection 8 and modifies the former definition to better clarify the scope of the definition. It speaks both in terms of information of record collected or kept by any Maine criminal justice agency while performing the "administration of criminal justice," which is included as subsection 1, and in terms of information of record collected or kept by the Department of the Attorney General or by district attorneys' offices when they are performing the administration of civil justice, included as subsection 2. The definition of "intelligence and investigative record information" includes the Department of the Attorney General's records relating to the administration of civil justice in order to perpetuate Public Law 1993, chapter 719, "An Act to Bring the Department of the Attorney General into Conformity with the Criminal History Record Information Laws."

Public Law 2013, chapter 267 moves the confidentiality protection for reports of animal cruelty from the former section governing intelligence and investigative record information to the animal welfare laws in Titles 7 and 17.

Public Law 2013, chapter 267 adds a new section 3308-A to the Maine Juvenile Code, addressing dissemination of juvenile intelligence and investigative record information by a Maine criminal justice agency as follows.

1. Title 15, section 3308-A, subsection 1 contains technical terms used in that section. The terms "administration of juvenile justice," "criminal justice agency," "dissemination," "executive order," "state" and "statute" mirror the meanings found in the new Title 16, section 803, subsections 3 to 6, 8 and 9, respectively. The term "juvenile intelligence and investigative record information" has no counterpart in Title 16, section 803 because the

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"administration of juvenile justice" is expressly excluded from the definition of "intelligence and investigative record information" in section 803, subsection 7.

2. Title 15, section 3308-A, subsection 2 clarifies that, to the extent a criminal justice agency has juvenile intelligence and investigative record information that has been made part of the court records of a juvenile proceeding, dissemination of that information by the criminal justice agency must be as provided by section 3307 and section 3308.

3. Title 15, section 3308-A, subsection 3 clarifies that juvenile intelligence and investigative record information is confidential other than as provided in subsection 2. Additionally, subsection 3 lists certain disseminations of confidential juvenile intelligence and investigative record information that are expressly authorized. These parallel those contained in Title 16, section 805.

It also clarifies that Maine courts, unlike other criminal justice agencies, must provide their own internal procedures addressing access and review.

Public Law 2013, chapter 267 authorizes the release of intelligence and investigative record information to the Secretary of State for use in the determination and issuance of a driver's license suspension.

LD 1513 *Resolve, Directing the Department of Corrections, Department of Education, Department of Health and Human Services and Department of Labor To Support the Statewide Coordinated Services District System* **CARRIED OVER**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
HASKELL		

This resolve requires the Department of Corrections, the Department of Education, the Department of Health and Human Services and the Department of Labor to fund, support the administration of and provide staffing for the statewide coordinated services district system established pursuant to Resolve 2009, chapter 204 to coordinate and implement service delivery initiatives to increase high school graduation rates, reduce the number of youth in the juvenile justice system, reduce child abuse and neglect and increase employment opportunities for youth.

This bill was carried over to any special or regular session of the 126th Legislature by joint order, H.P. 1145, as amended by H-B (H-580) and H-C (H-582).

LD 1515 *An Act To Increase the Availability of Mental Health Services* **CARRIED OVER**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MALABY	OTP-AM	

This bill authorizes the Commissioner of Corrections to:

1. Under certain circumstances, transfer an adult jail inmate to a correctional facility for the purpose of providing the inmate with mental health services;
2. Accept placement in a mental health unit of a correctional facility for observation of an adult defendant who has been committed to the custody of the Commissioner of Health and Human Services;