## MAINE STATE LEGISLATURE

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1 2	SECOND REGULAR SESSION
3 4	ONE HUNDRED AND TWELFTH LEGISLATURE
5 <b>6</b>	Legislative Document No. 2111
7 8	H.P. 1498 House of Representatives, March 3, 1986 Approved for introduction by a majority of the Legislative Council
9	pursuant to Joint Rule 26.  Reference to the Committee on Judiciary suggested and ordered printed.
10	EDWIN H. PERT, Clerk
11	Presented by Representative Bott of Orono.  Cosponsored by Senator Trafton of Androscoggin and Representative Stetsor of Damariscotta.
12 13	STATE OF MAINE
14 15 16	IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY-SIX
17 18 19	AN ACT Concerning Expungement of Certain Criminal Records.
20 21	Be it enacted by the People of the State of Maine as follows:
22	14 MRSA c. 745 is enacted to read:
23	CHAPTER 745
24	EXPUNGEMENT
25	§8401. Favorable termination of criminal action
26 27 28	For the purposes of this chapter, a criminal action or proceeding against a person is considered terminated in favor of that person if:
29 30 31 32	1. Prior of filing of criminal complaint; decision not to proceed. Following the arrest of the person and prior to the filing of a criminal complaint, the arresting agency or prosecutor elects not

- 1 to proceed any further or elects to charge that per-2 son with a noncriminal violation or infraction;
  - Dismissal. All criminal charges against the person are dismissed;
  - 3. Acquittal. The person is acquitted of all criminal charges and the State elects not to appeal or, in the case where an appeal is taken, the State does not prevail in the appeal and no new trial is ordered;
- 4. Verdict set aside. An order is entered setting aside a verdict of guilty of all criminal charges and the State elects not to appeal the order or, in the case where an appeal is taken, the State does not prevail in the appeal and no new trial is ordered; or
  - 5. Judgment vacated. An order is entered vacating a judgment of guilty on all criminal charges and the State elects not to appeal the order or, in the case where an appeal is taken, the State does not prevail in the appeal and no new trial is ordered.
  - §8402. Civil action for expungement

- 1. Action. A person in whose favor a criminal action or proceeding was terminated may institute a civil action in Superior Court for expungement of records pertaining to that action or proceeding. The person bringing the action has the burden of proving by a preponderance of the evidence that he did not commit any criminal acts which gave rise to the criminal action or proceeding.
- 2. Expungement. If the person bringing the action prevails in such an action and there is no appeal from that judgment or, if there is an appeal, that person prevails on appeal, the court shall order expungement as follows.
  - A. Any state, county or municipal law enforcement agency having in its possession any photograph, photographic plate or proof, any fingerprints or any duplicates or copies of any of these, shall return them to that person.

- B. All official records and papers, including judgments and orders of a court, but not including published court decisions, opinions, records or briefs on appeal, including all duplicates and copies, on file with any state, county or local law enforcement agency, any court, any prosecutor's office, shall be sealed and not made available to any person or public or private agency, except that they may be released to the person bringing the action for expungement or his agent.
  - C. Any state, county or municipal law enforcement agency which transmitted or forwarded to any agency of the United States, of any other state or of any other jurisdiction outside the State, copies of any materials or records set out in paragraph A or B, shall formally request in writing that all such materials or records be returned to the transmitting or forwarding agency. Upon such return, the agency shall return or seal the materials or records as provided in paragraph A or B.

## 23 STATEMENT OF FACT

This bill provides a mechanism for the expungement of certain criminal materials and records in cases where the criminal action or proceeding was terminated in favor of the accused and the accused can prove by a preponderance of the evidence that he did not commit any criminal act.

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