

MAINE STATE LEGISLATURE

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Date: 6/5/13

L.D. 1493
(Filing No. H-360)

CRIMINAL JUSTICE AND PUBLIC SAFETY

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
126TH LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT "A" to H.P. 1070, L.D. 1493, Bill, "An Act To Revise the Laws Concerning Criminal History Record Information and Intelligence and Investigative Information"

Amend the bill in Part A in section 2 in §708 in subsection 3 in paragraph A in the first line (page 6, line 28 in L.D.) by striking out the following: "and" and inserting the following: 'or'

Amend the bill in Part A in section 2 in §709 by striking out all of subsection 4 (page 8, lines 7 to 12 in L.D.) and inserting the following:

'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.'

Amend the bill in Part A in section 2 in §709 by striking out all of subsection 6 (page 8, lines 21 to 23 in L.D.) and inserting the following:

'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.'

Amend the bill in Part A in section 3 in §805 in subsection 4 in the last line (page 11, line 28 in L.D.) by striking out the following: "; or" and inserting the following: ';'

Amend the bill in Part A in section 3 in §805 in subsection 5 in the last line (page 11, line 34 in L.D.) by striking out the following: "record." and inserting the following: 'record; or'

Amend the bill in Part A in section 3 in §805 by inserting after subsection 5 the following:

COMMITTEE AMENDMENT

1 '6. Secretary of State. The Secretary of State for use in the determination and
2 issuance of a driver's license suspension.'

3 Amend the bill in Part B by inserting after section 6 the following:

4 **'Sec. B-7. 16 MRSA §614, sub-§3, ¶D,** as amended by PL 2009, c. 181, §2, is
5 further amended to read:

6 D. A victim or victim's agent or attorney, subject to reasonable limitations to protect
7 the interest described in subsection 1; ~~or~~

8 **Sec. B-8. 16 MRSA §614, sub-§3, ¶E,** as enacted by PL 2009, c. 181, §3, is
9 amended to read:

10 E. An advocate, as defined in section 53-B, subsection 1, paragraph A, with a
11 specific agreement with a criminal justice agency and subject to reasonable
12 limitations to protect the interests described in subsection 1. An agreement between
13 an advocate and a criminal justice agency must, at a minimum, include provisions
14 that:

15 (1) Permit the advocate to use reports or records that contain intelligence and
16 investigative information for the purpose of planning for the safety of the victim
17 named in the reports;

18 (2) Prohibit the advocate from further disseminating reports or records that
19 contain intelligence and investigative information;

20 (3) Require the advocate to ensure that reports or records that contain
21 intelligence and investigative information remain secure and confidential;

22 (4) Require the advocate to destroy reports or records that contain intelligence
23 and investigative information within 30 days after receiving the report or record;

24 (5) Permit the criminal justice agency to perform reasonable and appropriate
25 audits in order to ensure that records containing intelligence and investigative
26 information that are obtained by and that are in the custody of the advocate are
27 maintained in accordance with the requirements of this paragraph;

28 (6) Require the advocate to indemnify and hold harmless the criminal justice
29 agency with respect to any litigation that may result from the provision of reports
30 or records that contain intelligence and investigative information;

31 (7) Permit the criminal justice agency to immediately and unilaterally revoke an
32 agreement made pursuant to this paragraph; and

33 (8) Provide sanctions for any violations of this paragraph.

34 The Commissioner of Public Safety may adopt a model policy to standardize the
35 provisions contemplated in this paragraph; or

36 **Sec. B-9. 16 MRSA §614, sub-§3, ¶F** is enacted to read:

37 F. The Secretary of State for use in the determination and issuance of a driver's
38 license suspension.'

1 Amend the bill in Part B by inserting after section 20 the following:

2 'Sec. B-21. 29-A MRSA §2251, sub-§7-A, ¶B, as amended by PL 2011, c. 654,
3 §8, is further amended to read:

4 B. Except as provided in paragraph B-1 and Title 16, section 805, subsection 6, the
5 Department of Public Safety, Bureau of State Police may not publicly disseminate
6 personally identifying accident report data that are contained in an accident report
7 database maintained, administered or contributed to by the Bureau of State Police.
8 Such data are not public records for the purposes of Title 1, chapter 13.'

9 Amend the bill by relettering or renumbering any nonconsecutive Part letter or
10 section number to read consecutively.

11 **SUMMARY**

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

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

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