

# MAINE STATE LEGISLATURE

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# 126th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2013

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Legislative Document

No. 1493

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H.P. 1070

House of Representatives, May 2, 2013

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

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Reported by Representative DION of Portland for the Criminal Law Advisory Commission pursuant to the Maine Revised Statutes, Title 17-A, section 1354, subsection 2.

Reference to the Committee on Criminal Justice and Public Safety suggested and ordered printed pursuant to Joint Rule 218.

*Millicent M. MacFarland*

MILLICENT M. MacFARLAND

Clerk

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

2 **PART A**

3 **Sec. A-1. 16 MRSA c. 3, sub-c. 8,** as amended, is repealed.

4 **Sec. A-2. 16 MRSA c. 7** is enacted to read:

5 **CHAPTER 7**

6 **CRIMINAL HISTORY RECORD INFORMATION ACT**

7 **§701. Short title**

8 This chapter may be known and cited as "the Criminal History Record Information  
9 Act."

10 **§702. Scope; application**

11 This chapter governs the dissemination of criminal history record information by a  
12 Maine criminal justice agency. This chapter establishes 2 distinct categories of criminal  
13 history record information and provides for the dissemination of each:

14 **1. Public criminal history record information.** Public criminal history record  
15 information, the dissemination of which is governed by section 704; and

16 **2. Confidential criminal history record information.** Confidential criminal  
17 history record information, the dissemination of which is governed by section 705.

18 **§703. Definitions**

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

21 **1. Administration of criminal justice.** "Administration of criminal justice" means  
22 activities relating to the apprehension or summoning, detention, pretrial release,  
23 post-trial release, prosecution, adjudication, sentencing, correctional custody and  
24 supervision or rehabilitation of accused persons or convicted criminal offenders.  
25 "Administration of criminal justice" includes the collection, storage and dissemination of  
26 criminal history record information.

27 **2. Confidential criminal history record information.** "Confidential criminal  
28 history record information" means criminal history record information of the following  
29 types:

30 A. Unless the person remains a fugitive from justice, summons and arrest  
31 information without disposition if an interval of more than one year has elapsed since  
32 the date the person was summonsed or arrested and no active prosecution of a  
33 criminal charge stemming from the summons or arrest is pending;

- 1           B. Information disclosing that the responsible law enforcement agency or officer has  
2           elected not to refer a matter to a prosecutor;
- 3           C. Information disclosing that the responsible prosecutorial office or prosecutor has  
4           elected not to initiate or approve criminal proceedings;
- 5           D. Information disclosing that a grand jury has determined that there is insufficient  
6           evidence to warrant the return of a formal charge;
- 7           E. Information disclosing that a criminal proceeding has been indefinitely postponed  
8           or dismissed because the person charged is found by the court to be mentally  
9           incompetent to stand trial or to be sentenced;
- 10          F. Information disclosing that a criminal charge has been filed, if the filing period is  
11          indefinite or for more than one year;
- 12          G. Information disclosing that a criminal charge has been dismissed by a court with  
13          prejudice or dismissed with finality by a prosecutor other than as part of a plea  
14          agreement;
- 15          H. Information disclosing that a person has been acquitted of a criminal charge. A  
16          verdict or accepted plea of not criminally responsible by reason of insanity, or its  
17          equivalent, is not an acquittal of the criminal charge;
- 18          I. Information disclosing that a criminal proceeding has terminated in a mistrial with  
19          prejudice;
- 20          J. Information disclosing that a criminal proceeding has terminated based on lack of  
21          subject matter jurisdiction;
- 22          K. Information disclosing that a criminal proceeding has been terminated because the  
23          court lacked jurisdiction over the defendant; and
- 24          L. Information disclosing that a person has been granted a full and free pardon or  
25          amnesty.

26           **3. Criminal history record information.** "Criminal history record information"  
27           means information of record collected by a criminal justice agency or at the direction of a  
28           criminal justice agency or kept in the custody of a criminal justice agency that connects a  
29           specific, identifiable person, including a juvenile treated by statute as an adult for  
30           criminal prosecution purposes, with formal involvement in the criminal justice system  
31           either as an accused or as a convicted criminal offender. "Criminal history record  
32           information" includes, but is not limited to, identifiable descriptions or notations of:  
33           summonses and arrests; detention; bail; formal criminal charges such as complaints,  
34           informations and indictments; any disposition stemming from such charges; post-plea or  
35           post-adjudication sentencing; involuntary commitment; execution of and completion of  
36           any sentencing alternatives imposed; release and discharge from involuntary  
37           commitment; any related pretrial and post-trial appeals, collateral attacks and petitions;  
38           and petitions for and warrants of pardons, commutations, reprieves and amnesties.  
39           "Criminal history record information" does not include: identification information such as  
40           fingerprints, palmprints, footprints or photographic records to the extent that the  
41           information does not indicate formal involvement of the specific individual in the  
42           criminal justice system; information of record of civil proceedings, including traffic

1 infractions and other civil violations; intelligence and investigative record information as  
2 defined in section 803; or information of record of juvenile crime proceedings or their  
3 equivalent. Specific information regarding a juvenile crime proceeding is not criminal  
4 history record information notwithstanding that a juvenile has been bound over and  
5 treated as an adult or that by statute specific information regarding a juvenile crime  
6 proceeding is usable in a subsequent adult criminal proceeding. "Formal involvement in  
7 the criminal justice system either as an accused or as a convicted criminal offender"  
8 means being within the jurisdiction of the criminal justice system commencing with  
9 arrest, summons or initiation of formal criminal charges and concluding with the  
10 completion of every sentencing alternative imposed as punishment or final discharge  
11 from an involuntary commitment based upon a finding of not criminally responsible by  
12 reason of insanity or its equivalent.

13 **4. Criminal justice agency.** "Criminal justice agency" means a federal, state or  
14 State of Maine government agency or any subunit of a government agency at any  
15 governmental level that performs the administration of criminal justice pursuant to a  
16 statute or executive order. "Criminal justice agency" includes federal courts, Maine  
17 courts, courts in any other state, the Department of the Attorney General, district  
18 attorneys' offices and the equivalent departments or offices in any federal or state  
19 jurisdiction. "Criminal justice agency" also includes any equivalent agency at any level  
20 of Canadian government and the government of any federally recognized Indian tribe.

21 **5. Disposition.** "Disposition" means information of record disclosing that a criminal  
22 proceeding has been concluded, although not necessarily finalized, and the specific nature  
23 of the concluding event. "Disposition" includes, but is not limited to: an acquittal; a  
24 dismissal, with or without prejudice; the filing of a charge by agreement of the parties or  
25 by a court; the determination that a defendant is currently a fugitive from justice; a  
26 conviction, including the acceptance by a court of a plea of guilty or nolo contendere; a  
27 deferred disposition; a proceeding indefinitely continued or dismissed due to a  
28 defendant's incompetence; a finding of not criminally responsible by reason of insanity or  
29 its equivalent; a mistrial, with or without prejudice; a new trial ordered; an arrest of  
30 judgment; a sentence imposition; a resentencing ordered; an execution of and completion  
31 of any sentence alternatives imposed, including but not limited to fines, restitution,  
32 correctional custody and supervision, and administrative release; a release or discharge  
33 from a commitment based upon a finding of not criminally responsible by reason of  
34 insanity or its equivalent; the death of the defendant; any related pretrial and post-trial  
35 appeals, collateral attacks and petitions; a pardon, commutation, reprieve or amnesty; and  
36 extradition. "Disposition" also includes information of record disclosing that the  
37 responsible law enforcement agency or officer has elected not to refer a matter to a  
38 prosecutor, that the responsible prosecutorial office or prosecutor has elected not to  
39 initiate or approve criminal proceedings or that a grand jury has determined that there is  
40 insufficient evidence to warrant the return of a formal charge.

41 **6. Dissemination.** "Dissemination" means the transmission of information by any  
42 means, including but not limited to orally, in writing or electronically, by or to anyone  
43 outside the criminal justice agency that maintains the information.

1           **7. Executive order.** "Executive order" means an order of the President of the United  
2 States or the chief executive of a state that has the force of law and that is published in a  
3 manner permitting regular public access.

4           **8. Public criminal history record information.** "Public criminal history record  
5 information" means criminal history record information that is not confidential criminal  
6 history record information, including information recorded pursuant to section 706.

7           **9. State.** "State" means any state of the United States, the District of Columbia, the  
8 Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the  
9 United States Virgin Islands, Guam and American Samoa. "State" also includes the  
10 federal government of Canada and any provincial government of Canada and the  
11 government of any federally recognized Indian tribe.

12           **10. Statute.** "Statute" means an Act of Congress or an act of a state legislature or a  
13 provision of the Constitution of the United States or the constitution of a state.

14           **§704. Dissemination of public criminal history record information**

15           **1. Generally.** Public criminal history record information is public for purposes of  
16 Title 1, chapter 13. Public criminal history record information may be disseminated by a  
17 Maine criminal justice agency to any person or public or private entity for any purpose.  
18 Public criminal history record information is public whether it relates to a crime for  
19 which a person is currently within the jurisdiction of the criminal justice system or it  
20 relates to a crime for which a person is no longer within that jurisdiction. There is no  
21 time limitation on dissemination of public criminal history record information.

22           **2. Required inquiry to State Bureau of Identification.** A Maine criminal justice  
23 agency, other than a court, shall query the Department of Public Safety, State Bureau of  
24 Identification before disseminating any public criminal history record information for a  
25 noncriminal justice purpose to ensure that the most up-to-date disposition information is  
26 being used. "Noncriminal justice purpose" means a purpose other than for the  
27 administration of criminal justice or criminal justice agency employment.

28           **§705. Dissemination of confidential criminal history record information**

29           **1. Generally.** A Maine criminal justice agency, whether directly or through any  
30 intermediary, may disseminate confidential criminal history record information only to:

31           A. Other criminal justice agencies for the purpose of the administration of criminal  
32 justice and criminal justice agency employment;

33           B. Any person for any purpose when expressly authorized by a statute, executive  
34 order, court rule, court decision or court order containing language specifically  
35 referring to confidential criminal history record information or one or more of the  
36 types of confidential criminal history record information;

37           C. Any person with a specific agreement with a criminal justice agency to provide  
38 services required for the administration of criminal justice or to conduct  
39 investigations determining the employment suitability of prospective law  
40 enforcement officers. The agreement must specifically authorize access to data, limit

1 the use of the data to purposes for which given, ensure security and confidentiality of  
2 the data consistent with this chapter and provide sanctions for any violations;

3 D. Any person for the express purpose of research, evaluation or statistical purposes  
4 or under an agreement with the criminal justice agency. The agreement must  
5 specifically authorize access to confidential criminal history record information, limit  
6 the use of the information to research, evaluation or statistical purposes, ensure the  
7 confidentiality and security of the information consistent with this chapter and  
8 provide sanctions for any violations;

9 E. Any person who makes a specific inquiry to the criminal justice agency as to  
10 whether a named individual was summonsed, arrested or detained or had formal  
11 criminal charges initiated on a specific date;

12 F. The public for the purpose of announcing the fact of a specific disposition that is  
13 confidential criminal history record information, other than that described in section  
14 703, subsection 2, paragraph A, within 30 days of the date of occurrence of that  
15 disposition or at any point in time if the person to whom the disposition relates  
16 specifically authorizes that it be made public; and

17 G. A public entity for purposes of international travel, such as issuing visas and  
18 granting of citizenship.

19 **2. Confirming existence or nonexistence of information.** A Maine criminal justice  
20 agency may not confirm the existence or nonexistence of confidential criminal history  
21 record information to any person or public or private entity that would not be eligible to  
22 receive the information itself.

23 **3. Required inquiry to State Bureau of Identification.** A Maine criminal justice  
24 agency, other than a court, shall query the Department of Public Safety, State Bureau of  
25 Identification before disseminating any confidential criminal history record information  
26 for a noncriminal justice purpose to ensure that the most up-to-date disposition  
27 information is being used. "Noncriminal justice purpose" means a purpose other than for  
28 the administration of criminal justice or criminal justice agency use.

29 **§706. Public information about persons detained following arrest**

30 **1. Requirement of record.** A Maine criminal justice agency that maintains a  
31 holding facility, as defined in Title 34-A, section 1001, subsection 9, or other facility for  
32 pretrial detention shall record the following information concerning each person delivered  
33 to it for pretrial detention for any period of time:

34 A. The identity of the arrested person, including the person's name, year of birth,  
35 residence and occupation, if any;

36 B. The statutory or customary description of the crime or crimes for which the  
37 person was arrested including the date and geographic location where the crime is  
38 alleged to have occurred;

39 C. The date, time and place of the arrest; and

40 D. The circumstances of the arrest including, when applicable, the physical force  
41 used in making the arrest, the resistance made to the arrest, what weapons were

1 involved, the arrested person's refusal to submit and the pursuit by the arresting  
2 officers.

3 **2. Time and method of recording.** A Maine criminal justice agency shall record  
4 the information under subsection 1 immediately upon delivery of an arrested person to  
5 the criminal justice agency for detention. The criminal justice agency shall record and  
6 maintain the information in chronological order and keep the information in a suitable,  
7 permanent record. The information required by this section may be combined by a sheriff  
8 with the record required by Title 30-A, section 1505.

9 **3. Information public.** The information required to be recorded and maintained by  
10 this section is public criminal history record information.

11 **§707. Unlawful dissemination of confidential criminal history record information**

12 **1. Offense.** A person is guilty of unlawful dissemination of confidential criminal  
13 history record information if the person intentionally disseminates confidential criminal  
14 history record information knowing it to be in violation of any of the provisions of this  
15 chapter.

16 **2. Classification.** Unlawful dissemination of confidential criminal history record  
17 information is a Class E crime.

18 **§708. Inapplicability of this chapter to criminal history record information**  
19 **contained in certain records**

20 This chapter does not apply to criminal history record information contained in:

21 **1. Posters, announcements, lists.** Posters, announcements or lists used for  
22 identifying or apprehending fugitives from justice or wanted persons;

23 **2. Records of entry.** Records of entry, such as calls for service, formerly known as  
24 "police blotters," that are maintained by criminal justice agencies, that are compiled and  
25 organized chronologically and that are required by law or long-standing custom to be  
26 made public;

27 **3. Records of public judicial proceedings.** Records of public judicial proceedings:

28 A. Retained at and by the District Court, Superior Court or Supreme Judicial Court.  
29 Public access to and dissemination of such records for inspection and copying are as  
30 provided by rule or administrative order of the Supreme Judicial Court; and

31 B. From federal courts and courts of other states;

32 **4. Published opinions.** Published court or administrative opinions not impounded  
33 or otherwise declared confidential;

34 **5. Records of public proceedings.** Records of public administrative or legislative  
35 proceedings;

36 **6. Records of traffic crimes.** Records of traffic crimes maintained by the Secretary  
37 of State or by a state department of transportation or motor vehicles or the equivalent



1 thereof for the purposes of regulating the issuance, suspension, revocation or renewal of a  
2 driver's, pilot's or other operator's license; and

3 **7. Pardons, commutations, reprieves and amnesties.** Petitions for and warrants of  
4 pardons, commutations, reprieves and amnesties.

5 **§709. Right to access and review**

6 **1. Inspection.** If a Maine criminal justice agency maintains criminal history record  
7 information about a person, the person or the person's attorney may inspect the criminal  
8 history record information. A criminal justice agency may prescribe reasonable hours  
9 and locations at which the right may be exercised and any additional restrictions,  
10 including satisfactory verification of identity by fingerprint comparison, as are reasonably  
11 necessary to ensure the security and confidentiality of the criminal history record  
12 information and to verify the identity of the person seeking to inspect that information.  
13 The criminal justice agency shall supply the person or the person's attorney with a copy  
14 of the criminal history record information pertaining to the person on request and  
15 payment of a reasonable fee.

16 **2. Review.** A person or the person's attorney may request amendment or correction  
17 of criminal history record information concerning the person by addressing, either in  
18 person or in writing, the request to the criminal justice agency in which the information is  
19 maintained. The request must indicate the particular record involved, the nature of the  
20 amendment or correction sought and the justification for the amendment or correction.

21 On receipt of a request, the criminal justice agency shall take necessary steps to  
22 determine whether the questioned criminal history record information is accurate and  
23 complete. If investigation reveals that the questioned criminal history record information  
24 is inaccurate or incomplete, the criminal justice agency shall immediately correct the  
25 error or deficiency.

26 Not later than 15 days, excluding Saturdays, Sundays and legal public holidays, after the  
27 receipt of a request, the criminal justice agency shall notify the requesting person in  
28 writing either that the criminal justice agency has corrected the error or deficiency or that  
29 it refuses to make the requested amendment or correction. The notice of refusal must  
30 include the reasons for the refusal, the procedure established by the criminal justice  
31 agency for requesting a review by the head of the criminal justice agency of that refusal  
32 and the name and business address of that official.

33 **3. Administrative appeal.** If there is a request for review, the head of the criminal  
34 justice agency shall, not later than 30 days from the date of the request, excluding  
35 Saturdays, Sundays and legal public holidays, complete the review and either make the  
36 requested amendment or correction or refuse to do so. If the head of the criminal justice  
37 agency refuses to make the requested amendment or correction, the head of the criminal  
38 justice agency shall permit the requesting person to file with the criminal justice agency a  
39 concise statement setting forth the reasons for the disagreement with the refusal. The head  
40 of the criminal justice agency shall also notify the person of the provisions for judicial  
41 review of the reviewing official's determination under subsection 4.

1 Disputed criminal history record information disseminated by the criminal justice agency  
2 with which the requesting person has filed a statement of disagreement must clearly  
3 reflect notice of the dispute after the filing of such a statement. A copy of the statement  
4 must be included, along with, if the criminal justice agency determines it appropriate, a  
5 copy of a concise statement of the criminal justice agency's reasons for not making the  
6 amendment or correction requested.

7 **4. Judicial review.** If an administrative appeal brought pursuant to subsection 3 is  
8 denied by the head of the criminal justice agency, or the requesting person believes the  
9 decision of the head of the criminal justice agency to be otherwise unsatisfactory, the  
10 person may, within 30 days of the decision rendered by the head of the criminal justice  
11 agency, appeal to the Superior Court in accordance with Title 5, chapter 375, subchapter  
12 7 and the Maine Rules of Civil Procedure, Rule 80C.

13 **5. Notification.** When a criminal justice agency has amended or corrected a person's  
14 criminal history record information in response to a written request as provided in  
15 subsection 2 or a court order, the criminal justice agency shall, within 30 days thereof,  
16 advise all prior recipients who have received that information within the year prior to the  
17 amendment or correction that the amendment or correction has been made. The criminal  
18 justice agency shall also notify the person who is the subject of the amended or corrected  
19 criminal history record information of compliance with this subsection and the prior  
20 recipients notified.

21 **6. Right of release.** The provisions of this chapter do not limit the right of a person  
22 to disseminate criminal history record information pertaining to that person to any other  
23 person.

24 **§710. Application to prior Maine criminal history record information**

25 The provisions of this chapter apply to criminal history record information in  
26 existence before July 29, 1976, including that which has been previously expunged under  
27 any other provision of Maine law, as well as to criminal history record information in  
28 existence on July 29, 1976 and thereafter.

29 **Sec. A-3. 16 MRSA c. 9** is enacted to read:

30 **CHAPTER 9**

31 **INTELLIGENCE AND INVESTIGATIVE RECORD INFORMATION ACT**

32 **§801. Short title**

33 This chapter may be known and cited as "the Intelligence and Investigative Record  
34 Information Act."

35 **§802. Application**

36 This chapter applies to a record that is or contains intelligence and investigative  
37 record information and that is collected by or prepared at the direction of or kept in the  
38 custody of any Maine criminal justice agency.

1           **§803. Definitions**

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

4           **1. Administration of civil justice.** "Administration of civil justice" means activities  
5 relating to the anticipation, prevention, detection, monitoring or investigation of known,  
6 suspected or possible civil violations and prospective and pending civil actions. It  
7 includes the collection, storage and dissemination of intelligence and investigative record  
8 information relating to the administration of civil justice. "Administration of civil  
9 justice" does not include known, suspected or possible traffic infractions.

10           **2. Administration of criminal justice.** "Administration of criminal justice" means  
11 activities relating to the anticipation, prevention, detection, monitoring or investigation of  
12 known, suspected or possible crimes. It includes the collection, storage and  
13 dissemination of intelligence and investigative record information relating to the  
14 administration of criminal justice.

15           **3. Administration of juvenile justice.** "Administration of juvenile justice" means  
16 activities relating to the anticipation, prevention, detection, monitoring or investigation of  
17 known, suspected or possible juvenile crimes. "Administration of juvenile justice"  
18 includes the collection, storage and dissemination of intelligence and investigative  
19 information relating to the administration of juvenile justice.

20           **4. Criminal justice agency.** "Criminal justice agency" means a federal, state or  
21 State of Maine government agency or any subunit of a government agency at any  
22 governmental level that performs the administration of criminal justice pursuant to a  
23 statute or executive order. "Criminal justice agency" includes the Department of the  
24 Attorney General, district attorneys' offices and the equivalent departments or offices in  
25 any federal or state jurisdiction. "Criminal justice agency" also includes any equivalent  
26 agency at any level of Canadian government and the government of any federally  
27 recognized Indian tribe.

28           **5. Dissemination.** "Dissemination" means the transmission of information by any  
29 means, including but not limited to orally, in writing or electronically, by or to anyone  
30 outside the criminal justice agency that maintains the information.

31           **6. Executive order.** "Executive order" means an order of the President of the United  
32 States or the chief executive of a state that has the force of law and that is published in a  
33 manner permitting regular public access.

34           **7. Intelligence and investigative record information.** "Intelligence and  
35 investigative record information" means information of record collected by or prepared  
36 by or at the direction of a criminal justice agency or kept in the custody of a criminal  
37 justice agency while performing the administration of criminal justice or, exclusively for  
38 the Department of the Attorney General and district attorneys' offices, the administration  
39 of civil justice. "Intelligence and investigative record information" includes information  
40 of record concerning investigative techniques and procedures and security plans and  
41 procedures prepared or collected by a criminal justice agency or other agency.

1 "Intelligence and investigative record information" does not include criminal history  
2 record information as defined in section 703, subsection 3 and does not include  
3 information of record collected or kept while performing the administration of juvenile  
4 justice.

5 **8. State.** "State" means any state of the United States, the District of Columbia, the  
6 Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the  
7 United States Virgin Islands, Guam and American Samoa. "State" also includes the  
8 federal government of Canada and any provincial government of Canada and the  
9 government of any federally recognized Indian tribe.

10 **9. Statute.** "Statute" means an Act of Congress or an act of a state legislature or a  
11 provision of the Constitution of the United States or the constitution of a state.

12 **§804. Limitation on dissemination of intelligence and investigative record**  
13 **information**

14 Except as provided in sections 805 and 806, a record that contains intelligence and  
15 investigative record information is confidential and may not be disseminated by a  
16 criminal justice agency to any person or public or private entity if there is a reasonable  
17 possibility that public release or inspection of the record would:

18 **1. Interfere with criminal law enforcement proceedings.** Interfere with law  
19 enforcement proceedings relating to crimes;

20 **2. Result in dissemination of prejudicial information.** Result in public  
21 dissemination of prejudicial information concerning an accused person or concerning the  
22 prosecution's evidence that will interfere with the ability of a court to impanel an  
23 impartial jury;

24 **3. Constitute an invasion of privacy.** Constitute an unwarranted invasion of  
25 personal privacy;

26 **4. Disclose confidential source.** Disclose the identity of a confidential source;

27 **5. Disclose confidential information.** Disclose confidential information furnished  
28 only by a confidential source;

29 **6. Disclose trade secrets or other confidential commercial or financial**  
30 **information.** Disclose trade secrets or other confidential commercial or financial  
31 information designated as such by the owner or source of the information, by the  
32 Department of the Attorney General or by a district attorney's office;

33 **7. Disclose investigative techniques or security plans.** Disclose investigative  
34 techniques and procedures or security plans and procedures not known by the general  
35 public;

36 **8. Endanger law enforcement or others.** Endanger the life or physical safety of  
37 any individual, including law enforcement personnel;

1           **9. Disclose statutorily designated confidential information.** Disclose information  
2 designated confidential by statute;

3           **10. Interfere with civil proceedings.** Interfere with proceedings relating to civil  
4 violations, civil enforcement proceedings and other civil proceedings conducted by the  
5 Department of the Attorney General or by a district attorney's office;

6           **11. Disclose arbitration or mediation information.** Disclose conduct of or  
7 statements made or documents submitted by any person in the course of any mediation or  
8 arbitration conducted under the auspices of the Department of the Attorney General; or

9           **12. Identify source of consumer or antitrust complaints.** Identify the source of a  
10 complaint made to the Department of the Attorney General regarding a violation of  
11 consumer or antitrust laws.

12           **§805. Exceptions**

13           This chapter does not preclude dissemination of intelligence and investigative record  
14 information that is confidential under section 804 by a Maine criminal justice agency to:

15           **1. Another criminal justice agency.** Another criminal justice agency;

16           **2. A person or entity for purposes of intelligence gathering or ongoing**  
17 **investigation.** A person or public or private entity as part of the criminal justice agency's  
18 administration of criminal justice or the administration of civil justice by the Department  
19 of the Attorney General or a district attorney's office;

20           **3. An accused person or that person's agent or attorney.** A person accused of a  
21 crime or that person's agent or attorney for trial and sentencing purposes if authorized by:

22           A. The responsible prosecutorial office or prosecutor; or

23           B. A court rule or court order of this State or of the United States.

24           As used in this subsection, "agent" means a licensed professional investigator, an expert  
25 witness or a parent, foster parent or guardian if the accused person has not attained 18  
26 years of age;

27           **4. Court.** A federal court, the District Court, Superior Court or Supreme Judicial  
28 Court or an equivalent court in another state; or

29           **5. An authorized person or entity.** A person or public or private entity expressly  
30 authorized to receive the intelligence and investigative record information by statute,  
31 executive order, court rule, court decision or court order. "Express authorization" means  
32 language in the statute, executive order, court rule, court decision or court order that  
33 specifically speaks of intelligence and investigative record information or specifically  
34 refers to a type of intelligence or investigative record.

35           **§806. Exceptions subject to reasonable limitations**

36           Subject to reasonable limitations imposed by a Maine criminal justice agency to  
37 protect against the harms described in section 804, this chapter does not preclude

1 dissemination of intelligence and investigative record information confidential under  
2 section 804 by a Maine criminal justice agency to:

3 **1. A government agency responsible for investigating child or adult abuse,**  
4 **neglect or exploitation.** A government agency or subunit of a government agency in this  
5 State or another state that pursuant to statute is responsible for investigating abuse,  
6 neglect or exploitation of children or incapacitated or dependent adults if the intelligence  
7 and investigative record information is used in the investigation of suspected abuse,  
8 neglect or exploitation;

9 **2. A crime victim or that victim's agent or attorney.** A crime victim or that  
10 victim's agent or attorney. As used in this subsection, "agent" means a licensed  
11 professional investigator or an immediate family member if due to death, age or physical  
12 or mental disease, disorder or defect the victim cannot realistically act on the victim's  
13 own behalf; or

14 **3. A counselor or advocate.** A sexual assault counselor, as defined in section 53-A,  
15 subsection 1, paragraph B, or an advocate, as defined in section 53-B, subsection 1,  
16 paragraph A, with a specific agreement with a criminal justice agency. An agreement  
17 between a criminal justice agency and a sexual assault counselor or an advocate must, at a  
18 minimum, include provisions that:

19 A. Permit the sexual assault counselor or advocate to use a report or record that  
20 contains intelligence and investigative record information if the intelligence and  
21 investigative record information is used in planning for the safety of a victim named  
22 in the report or record;

23 B. Prohibit the sexual assault counselor or advocate from further disseminating a  
24 report or record that contains intelligence and investigative record information;

25 C. Require the sexual assault counselor or advocate to ensure that a report or record  
26 that contains intelligence and investigative record information remain secure and  
27 confidential;

28 D. Require the sexual assault counselor or advocate to destroy a report or record that  
29 contains intelligence and investigative record information within 30 days after the  
30 sexual assault counselor's or advocate's receiving the report or record;

31 E. Permit the criminal justice agency to perform reasonable and appropriate audits in  
32 order to ensure that a report or record containing intelligence and investigative record  
33 information that are obtained by and that are in the custody of the sexual assault  
34 counselor or advocate are maintained in accordance with the requirements of this  
35 subsection;

36 F. Require the sexual assault counselor or advocate to indemnify and hold harmless  
37 the criminal justice agency with respect to any litigation that may result from the  
38 provision of reports or records that contain intelligence and investigative record  
39 information;

40 G. Permit a criminal justice agency to immediately and unilaterally revoke an  
41 agreement made under this subsection; and

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H. Provide sanctions for any violations of this subsection.

The Commissioner of Public Safety may adopt a model agreement pursuant to this subsection for use by criminal justice agencies, sexual assault counselors and advocates.

**§807. Confirming existence or nonexistence of confidential intelligence and investigative record information**

A criminal justice agency may not confirm the existence or nonexistence of intelligence and investigative record information confidential under section 804 to any person or public or private entity that is not eligible to receive the information itself.

**§808. No right to access or review**

A person who is the subject of intelligence and investigative record information maintained by a criminal justice agency has no right to inspect or review that information for accuracy or completeness.

**§809. Unlawful dissemination of intelligence and investigative record information**

**1. Offense.** A person is guilty of unlawful dissemination of intelligence and investigative record information if the person intentionally disseminates intelligence and investigative record information knowing it to be in violation of any of the provisions of this chapter.

**2. Classification.** Unlawful dissemination of intelligence and investigative record information is a Class E crime.

**PART B**

**Sec. B-1. 1 MRSA §402, sub-§3-A,** as amended by PL 2001, c. 477, §1, is further amended to read:

**3-A. Public records further defined.** "Public records" also includes the following criminal justice agency records:

- A. Records relating to prisoner furloughs to the extent they pertain to a prisoner's identity, ~~conviction data~~ public criminal history record information, as defined in Title 16, section 703, subsection 8, address of furlough and dates of furlough;
- B. Records relating to out-of-state adult probationer or parolee supervision to the extent they pertain to a probationer's or parolee's identity, ~~conviction data~~ public criminal history record information, as defined in Title 16, section 703, subsection 8, address of residence and dates of supervision; and
- C. Records to the extent they pertain to a prisoner's, adult probationer's or parolee's identity, ~~conviction data~~ public criminal history record information, as defined in Title 16, section 703, subsection 8, and current address or location, unless the Commissioner of Corrections determines that it would be detrimental to the welfare of a client to disclose the information.

1           **Sec. B-2. 5 MRSA §19506, sub-§1**, as amended by PL 2001, c. 357, §13, is  
2 further amended to read:

3           **1. Records.** Agency personnel must be granted access to all records, reports and  
4 supporting information, other than records, reports and supporting information created in  
5 the course of an ongoing criminal investigation by the Attorney General, a district  
6 attorney's office or a law enforcement agency or records, reports and supporting  
7 information designated as confidential by Title 16, section ~~614~~ 804, that:

8           A. Pertain to a person who is a client of the agency, if the person or the person's legal  
9 guardian or other legal representative has authorized the agency to have that access;

10           C. Describe incidents of abuse, exploitation, neglect or injury, and the steps taken to  
11 investigate those incidents, prepared by any staff person of any facility serving  
12 persons with disabilities or by any agency charged with investigating allegations of  
13 abuse, exploitation, neglect and injury occurring at facilities that serve persons with  
14 disabilities; or

15           D. Pertain to an individual who is or was a person with a disability and who is the  
16 subject of a complaint received by the agency or who, as a result of monitoring or  
17 other activities resulting from a complaint or other evidence, the agency has probable  
18 cause to believe has been or is being abused, exploited or neglected and who:

19                   (1) By reason of a mental or physical condition is unable to authorize the agency  
20 to have access and is either under public guardianship or without a legal guardian  
21 or other representative who may authorize the agency to have access;

22                   (2) Has a legal guardian, conservator or other legal representative who has been  
23 contacted by the agency upon receipt of the name and address of the guardian,  
24 conservator or representative, and the agency has offered assistance to that person  
25 to resolve the situation, and that person has failed or refused to act on behalf of  
26 the individual; or

27                   (3) Is deceased or whose whereabouts are unknown.

28 Agency personnel must be given access to the records of a person with a disability and  
29 other records relevant to conducting an investigation within 3 business days of the agency  
30 making a written request. When the agency determines there is probable cause to believe  
31 that the health or safety of the person is in serious or immediate jeopardy or in event of  
32 the death of a person with a disability, the agency must be given access to records within  
33 24 hours of the agency making a written request.

34           **Sec. B-3. 9-A MRSA §13-115, sub-§1, ¶A**, as enacted by PL 2009, c. 362, Pt.  
35 B, §1, is amended to read:

36           A. Criminal, civil and administrative information, including ~~nonconviction data~~  
37 confidential criminal history record information as defined in Title 16, section ~~611~~  
38 703, subsection ~~9~~ 2;

39           **Sec. B-4. 10 MRSA §8003-B, sub-§3**, as amended by PL 1993, c. 719, §4 and  
40 affected by §12, is further amended to read:



1           **3. Attorney General records.** The provision or disclosure of investigative records  
2 of the Department of the Attorney General to a departmental employee designated by the  
3 commissioner or to a complaint officer of a board or commission does not constitute a  
4 waiver of the confidentiality of those records for any other purposes. Further disclosure  
5 of those investigative records is subject to Title 16, section ~~614~~ 804 and the discretion of  
6 the Attorney General.

7           **Sec. B-5. 15 MRSA §709, sub-§1-A,** as enacted by PL 1987, c. 680, §1, is  
8 amended to read:

9           **1-A. Administration of criminal justice.** "Administration of criminal justice" has  
10 the same meaning as in Title 16, section ~~614~~ 703, subsection 1.

11           **Sec. B-6. 15 MRSA §3308, sub-§7, ¶A,** as enacted by PL 1985, c. 426, is  
12 amended to read:

13           A. For purposes of this subsection the following terms have the following meanings.

14                   (1) "Administration of criminal justice" has the same meaning as found in Title  
15 16, section ~~614~~ 703, subsection 1.

16                   (2) "Administration of juvenile criminal justice" means ~~detection, activities~~  
17 related to the apprehension or summoning, detention, conditional or  
18 unconditional release, informal adjustment, initial appearance, bind over,  
19 adjudication ~~or~~, disposition, custody and supervision or rehabilitation of accused  
20 juveniles or adjudicated juvenile criminal offenders. It includes ~~juvenile crime~~  
21 ~~identification activities and~~ the collection, storage and dissemination of juvenile  
22 crime information.

23                   (3) "Criminal justice agency" has the same meaning as found in Title 16, section  
24 ~~614~~ 703, subsection 4.

25                   (4) "Dissemination" has the same meaning as found in Title 16, section ~~614~~ 703,  
26 subsection 6.

27           **Sec. B-7. 16 MRSA §632,** as enacted by PL 1993, c. 346, §1, is amended to read:

28           **§632. Definitions**

29           As used in this subchapter, unless the context otherwise indicates, the following  
30 terms have the following meanings.

31           **1. Administration of criminal justice.** "Administration of criminal justice" has the  
32 same meaning as defined in section ~~614~~ 703, subsection 1.

33           ~~**2. Conviction data.** "Conviction data" has the same meaning as defined in section~~  
34 ~~611, subsection 2.~~

35           **2-A. Confidential criminal history record information.** "Confidential criminal  
36 history record information" has the same meaning as defined in section 703, subsection 2.

1           **3. Criminal history record information.** "Criminal history record information" has  
2 the same meaning as defined in section ~~611~~ 703, subsection 3.

3           **4. Criminal justice agency.** "Criminal justice agency" has the same meaning as  
4 defined in section ~~611~~ 703, subsection 4.

5           **5. Criminal record information system.** "Criminal record information system"  
6 means a system including equipment, facilities, procedures and agreements for the  
7 collection, processing, preservation and dissemination of criminal record information  
8 including criminal history record information.

9           **6. Disposition.** "Disposition" has the same meaning as defined in section ~~611~~ 703,  
10 subsection 5.

11           **7. Executive order.** "Executive order" has the same meaning as defined in section  
12 ~~611~~ 703, subsection 7.

13           ~~**8. Nonconviction data.** "Nonconviction data" has the same meaning as defined in~~  
14 ~~section 611, subsection 9.~~

15           **9. Offender.** "Offender" means an individual, juvenile or adult, accused or  
16 convicted of a criminal offense under the laws of this State or federal law.

17           **10. Offender-based tracking information.** "Offender-based tracking information"  
18 means information collected during the administration of criminal justice by criminal  
19 justice agencies related to an identifiable person who has been determined to be an  
20 offender.

21           ~~**11. Person.** "Person" has the same meaning as defined in section 611, subsection~~  
22 ~~10.~~

23           **11-A. Public criminal history record information.** "Public criminal history record  
24 information" has the same meaning as defined in section 703, subsection 8.

25           **12. State.** "State" has the same meaning as defined in section ~~611~~ 703, subsection  
26 ~~11~~ 9.

27           **13. Statute.** "Statute" has the same meaning as defined in section ~~611~~ 703,  
28 subsection ~~12~~ 10.

29           **Sec. B-8. 17 MRSA §1023, sub-§3**, as enacted by PL 2001, c. 422, §13, is  
30 amended to read:

31           **3. Cooperation between agencies.** For the purposes of this section, law  
32 enforcement officers, the commissioner or the commissioner's designee, humane agents, a  
33 state veterinarian and certified animal control officers may exchange information and  
34 reports pertaining to an investigation of cruelty to animals pursuant to ~~Title 16, chapter 3,~~  
35 ~~subchapter VIII~~ subsection 4 and Title 7, section 3909, subsection 6.

1           **Sec. B-9. 18-A MRSA §9-304, sub-§(a-1), ¶(2)**, as corrected by RR 2001, c. 1,  
2 §21, is amended to read:

3           (2). The court shall request a background check for each prospective adoptive parent  
4 who is not the biological parent of the child. The background check must include a  
5 screening for child abuse cases in the records of the department and criminal history  
6 record information obtained from the Maine Criminal Justice Information System and  
7 the Federal Bureau of Investigation.

8           (i) The criminal history record information obtained from the Maine Criminal  
9 Justice Information System must include a record of ~~Maine conviction data~~  
10 public criminal history record information as defined in Title 16, section 703,  
11 subsection 8.

12           (ii) The criminal history record information obtained from the Federal Bureau of  
13 Investigation must include other state and national criminal history record  
14 information.

15           (iii) Each prospective parent who is not the biological parent of the child shall  
16 submit to having fingerprints taken. The State Police, upon receipt of the  
17 fingerprint card, may charge the court for the expenses incurred in processing  
18 state and national criminal history record checks. The State Police shall take or  
19 cause to be taken the applicant's fingerprints and shall forward the fingerprints to  
20 the State Bureau of Identification so that the bureau can conduct state and  
21 national criminal history record checks. Except for the portion of the payment, if  
22 any, that constitutes the processing fee charged by the Federal Bureau of  
23 Investigation, all money received by the State Police for purposes of this  
24 paragraph must be paid over to the Treasurer of State. The money must be  
25 applied to the expenses of administration incurred by the Department of Public  
26 Safety.

27           (iv) The subject of a Federal Bureau of Investigation criminal history record  
28 check may obtain a copy of the criminal history record check by following the  
29 procedures outlined in 28 Code of Federal Regulations, Sections 16.32 and 16.33.  
30 The subject of a state criminal history record check may inspect and review the  
31 criminal history record information pursuant to Title 16, section ~~620~~ 709.

32           (v) State and federal criminal history record information may be used by the  
33 court for the purpose of screening prospective adoptive parents in determining  
34 whether the adoption is in the best interests of the child.

35           (vi) Information obtained pursuant to this paragraph is confidential. The results  
36 of background checks received by the court are for official use only and may not  
37 be disseminated outside the court except as required under Title 22, section  
38 4011-A.

39           (vii) The expense of obtaining the information required by this paragraph is  
40 incorporated in the adoption filing fee established in section 9-301. The Probate  
41 Court shall collect the total fee and transfer the appropriate funds to the  
42 Department of Public Safety and the department.

1           **Sec. B-10. 18-A MRSA §9-304, sub-§(a-2), ¶(1)**, as enacted by PL 2003, c.  
2 575, §2, is amended to read:

3           (1). The department may request a background check for each prospective adoptive  
4 parent who is not the biological parent of the child. The background check must  
5 include criminal history record information obtained from the Maine Criminal Justice  
6 Information System and the Federal Bureau of Investigation.

7           (i) The criminal history record information obtained from the Maine Criminal  
8 Justice Information System must include a record of ~~Maine conviction data~~  
9 public criminal history record information as defined in Title 16, section 703,  
10 subsection 8.

11           (ii) The criminal history record information obtained from the Federal Bureau of  
12 Investigation must include other state and national criminal history record  
13 information.

14           (iii) Each prospective parent who is not the biological parent of the child shall  
15 submit to having fingerprints taken. The State Police, upon receipt of the  
16 fingerprint card, may charge the department for the expenses incurred in  
17 processing state and national criminal history record checks. The State Police  
18 shall take or cause to be taken the applicant's fingerprints and shall forward the  
19 fingerprints to the State Bureau of Identification so that the bureau can conduct  
20 state and national criminal history record checks. Except for the portion of the  
21 payment, if any, that constitutes the processing fee charged by the Federal Bureau  
22 of Investigation, all money received by the State Police for purposes of this  
23 paragraph must be paid over to the Treasurer of State. The money must be  
24 applied to the expenses of administration incurred by the Department of Public  
25 Safety.

26           (iv) The subject of a Federal Bureau of Investigation criminal history record  
27 check may obtain a copy of the criminal history record check by following the  
28 procedures outlined in 28 Code of Federal Regulations, Sections 16.32 and 16.33.  
29 The subject of a state criminal history record check may inspect and review the  
30 criminal history record information pursuant to Title 16, section ~~620~~ 709.

31           (v) State and federal criminal history record information may be used by the  
32 department for the purpose of screening prospective adoptive parents in  
33 determining whether the adoption is in the best interests of the child.

34           (vi) Information obtained pursuant to this paragraph is confidential. The results  
35 of background checks received by the department are for official use only and  
36 may not be disseminated outside the department except to a court considering an  
37 adoption petition under subsection (a-1).

38           **Sec. B-11. 20-A MRSA §6103, sub-§1**, as amended by PL 1997, c. 452, §3, is  
39 further amended to read:

40           **1. Criminal history record information obtained; reliance.** The commissioner  
41 shall obtain criminal history record information containing a record of ~~conviction data~~  
42 confidential criminal history record information as defined in Title 16, section 703,

1 subsection 2 from the Maine Criminal Justice Information System for any person  
2 applying for certification, authorization, approval or renewal. The commissioner may  
3 rely on information provided by the Maine Criminal Justice Information System within  
4 24 months prior to the issuance of a certificate, authorization, approval or renewal.

5 **Sec. B-12. 20-A MRSA §6103, sub-§8**, as enacted by PL 1997, c. 452, §3, is  
6 amended to read:

7 **8. Applicant's access to criminal history record check.** The subject of a Federal  
8 Bureau of Investigation criminal history record check may obtain a copy of a criminal  
9 history record check by following the procedures outlined in 28 Code of Federal  
10 Regulations, Sections 16.32 and 16.33. The subject of a state criminal record check may  
11 inspect and review criminal record information pursuant to Title 16, section ~~620~~ 709.

12 **Sec. B-13. 22 MRSA §3022, sub-§14**, as enacted by PL 2001, c. 221, §5, is  
13 amended to read:

14 **14. Access to report documents.** Report documents, as defined in section 3035,  
15 subsection 2, in the possession or custody of a medical examiner or the Office of the  
16 Chief Medical Examiner constitute investigative information. Release and inspection are  
17 governed by Title 16, section ~~614~~ 804. Release and inspection are also contingent upon  
18 the person's request specifying a specific decedent or decedents and the payment of any  
19 required fee under section 3035.

20 **Sec. B-14. 22 MRSA §3480, sub-§1, ¶B**, as corrected by RR 2009, c. 2, §56, is  
21 amended to read:

22 B. Obtain ~~noneonviction data~~ confidential criminal history record information and  
23 other criminal history record information under Title 16, section ~~614~~ 703, which the  
24 commissioner, the commissioner's delegate or the legal counsel for the department  
25 ~~deems~~ considers relevant to a case of alleged abuse, neglect or exploitation.

26 **Sec. B-15. 22 MRSA §4007, sub-§1-A, ¶D**, as enacted by PL 2007, c. 351, §2,  
27 is amended to read:

28 D. Records that are required to be maintained by the court as confidential under this  
29 subsection may be disclosed to:

- 30 (1) A state agency if necessary to carry out the statutory function of that agency;  
31 (2) A guardian ad litem appointed to the case; or  
32 (3) A criminal justice agency, as defined by Title 16, section ~~614~~ 703, subsection  
33 4, if necessary to carry out the administration of criminal justice or the  
34 administration of juvenile justice, and such disclosure is otherwise permitted  
35 pursuant to section 4008.

36 In making such disclosure, the court shall order the party receiving the information to  
37 maintain the information as confidential.

38 **Sec. B-16. 22 MRSA §4021, sub-§1, ¶B**, as amended by PL 2007, c. 586, §15,  
39 is further amended to read:

1 B. Obtain ~~nonconviction data~~ confidential criminal history record information and  
2 other criminal history record information under Title 16, chapter ~~3, subchapter 8~~ 7  
3 that the commissioner, the commissioner's delegate or the legal counsel for the  
4 department considers relevant to an abuse or neglect case or the investigation of a  
5 suspicious child death.

6 **Sec. B-17. 22 MRSA §4038-E, sub-§7, ¶A**, as enacted by PL 2011, c. 402, §15,  
7 is amended to read:

8 A. The department may, pursuant to rules adopted pursuant to Title 18-A, section  
9 9-304, subsection (a-2), request a background check for each permanency guardian.  
10 The background check must include criminal history record information obtained  
11 from the Maine Criminal Justice Information System and the Federal Bureau of  
12 Investigation.

13 (1) The criminal history record information obtained from the Maine Criminal  
14 Justice Information System must include a record of ~~Maine conviction data~~  
15 public criminal history record information as defined in Title 16, section 703,  
16 subsection 8.

17 (2) The criminal history record information obtained from the Federal Bureau of  
18 Investigation must include other state and national criminal history record  
19 information.

20 (3) Each permanency guardian of the child shall submit to having fingerprints  
21 taken. The State Police, upon receipt of the fingerprint card, may charge the  
22 department for the expenses incurred in processing state and national criminal  
23 history record checks. The State Police shall take or cause to be taken the  
24 applicant's fingerprints and shall forward the fingerprints to the State Bureau of  
25 Identification so that the bureau can conduct state and national criminal history  
26 record checks. Except for the portion of the payment, if any, that constitutes the  
27 processing fee charged by the Federal Bureau of Investigation, all money  
28 received by the State Police for purposes of this paragraph must be paid over to  
29 the Treasurer of State. The money must be applied to the expenses of  
30 administration incurred by the Department of Public Safety.

31 (4) The subject of a Federal Bureau of Investigation criminal history record  
32 check may obtain a copy of the criminal history record check by following the  
33 procedures outlined in 28 Code of Federal Regulations, Sections 16.32 and 16.33.  
34 The subject of a state criminal history record check may inspect and review the  
35 criminal history record information pursuant to Title 16, section ~~620~~ 709.

36 (5) State and federal criminal history record information may be used by the  
37 department for the purpose of screening each permanency guardian in  
38 determining whether the adoption is in the best interests of the child.

39 (6) Information obtained pursuant to this paragraph is confidential. The results  
40 of background checks received by the department are for official use only and  
41 may not be disseminated outside the department except to a court considering an  
42 adoption petition under this section.

1           **Sec. B-18. 25 MRSA §1541, sub-§3, ¶B**, as enacted by PL 2001, c. 372, §1, is  
2 amended to read:

3           B. Notwithstanding chapter 199, the fingerprints and descriptive information of any  
4 person that have been submitted to the Federal Bureau of Investigation for the  
5 purpose of conducting a criminal history record check for noncriminal justice  
6 purposes through the interstate identification index system, as defined in section  
7 1703, subsection 12, are not a criminal history record, as defined by section 1703,  
8 subsection 5, or criminal history record information, as defined by Title 16, section  
9 ~~611~~ 703, subsection 3, and such submittal is not an activity related to criminal justice,  
10 as defined by section 1703, subsection 6, or the administration of criminal justice, as  
11 defined by Title 16, section ~~611~~ 703, subsection 1.

12           **Sec. B-19. 25 MRSA §1541, sub-§6**, as amended by PL 2007, c. 539, Pt. PPP,  
13 §1, is further amended to read:

14           **6. Establishment of fees.** The State Bureau of Identification may charge a fee to  
15 individuals, nongovernmental organizations, governmental organizations that are engaged  
16 in licensing and governmental organizations that are not a governmental entity of the  
17 State, a county of the State or a municipality of the State for each criminal history record  
18 check requested for noncriminal justice purposes pursuant to Title 16, chapter ~~3~~,  
19 ~~subchapter 8~~ 7. The requestor shall provide a name and date of birth for each record  
20 being requested. A request made pursuant to 5 United States Code, Section 9101 must be  
21 accompanied by fingerprints. A governmental organization that is engaged in licensing  
22 may charge an applicant for the cost of the criminal history record check. The  
23 commissioner shall establish a schedule of fees that covers the cost of providing these  
24 services. One dollar of each fee generated under this subsection must be deposited to the  
25 Other Special Revenue account within the Bureau of State Police to offset the cost of  
26 maintenance and replacement of both hardware and software associated with the criminal  
27 history record check system. The remaining revenues generated from these fees must be  
28 credited to the General Fund.

29           **Sec. B-20. 29-A MRSA §2117-A, sub-§5**, as enacted by PL 2009, c. 605, §1, is  
30 amended to read:

31           **5. Data retention.** Data collected or retained through the use of an automated  
32 license plate recognition system in accordance with subsection 3 that are not considered  
33 intelligence and investigative record information as defined by Title 16, section ~~611~~ 803,  
34 subsection ~~8~~ 7, or data collected for the purposes of commercial motor vehicle screening,  
35 may not be stored for more than 21 days.

36           **Sec. B-21. 32 MRSA §85, sub-§3**, as amended by PL 2011, c. 271, §8, is further  
37 amended to read:

38           **3. Minimum requirements for licensing.** In setting rules for the licensure of  
39 emergency medical services persons, the board shall ensure that a person is not licensed  
40 to care for patients unless that person's qualifications are at least those specified in this  
41 subsection. Any person who meets these conditions is considered to have the credentials  
42 and skill demonstrations necessary for licensure to provide emergency medical treatment.

1 A. The person must have completed successfully the training specified in rules  
2 adopted by the board pursuant to the Maine Administrative Procedure Act.

3 C. The person must have successfully completed a state cognitive test for basic  
4 emergency medical treatment and a board-approved practical evaluation of  
5 emergency medical treatment skills.

6 The board shall obtain criminal history record information containing a record of  
7 ~~conviction data~~ public criminal history record information as defined in Title 16, section  
8 703, subsection 9 for an applicant seeking licensure under this subsection. Information  
9 obtained pursuant to this subsection is confidential and may be used only to determine  
10 suitability for issuance of a license to provide emergency medical services. The results of  
11 criminal history record checks received by the board are for official use only and may not  
12 be disseminated outside the board. The applicant for licensure shall pay the expense of  
13 obtaining the information required by this subsection.

14 **Sec. B-22. 34-A MRSA §1001, sub-§§19 and 20**, as enacted by PL 1987, c.  
15 633, §1, are amended to read:

16 **19. Administration of criminal justice.** "Administration of criminal justice" has  
17 the same meaning as in Title 16, section ~~644~~ 703, subsection 1.

18 **20. Criminal justice agency.** "Criminal justice agency" has the same meaning as in  
19 Title 16, section ~~644~~ 703, subsection 4.

20 **Sec. B-23. 34-A MRSA §1216, sub-§1**, as amended by PL 2011, c. 515, §2 and  
21 c. 662, §22, is repealed and the following enacted in its place:

22 **1. Limited disclosure.** All orders of commitment, medical and administrative  
23 records, applications and reports, and facts contained in them, pertaining to any person  
24 receiving services from the department must be kept confidential and may not be  
25 disclosed by any person, except that public records must be disclosed in accordance with  
26 Title 1, section 408-A; criminal history record information may be disseminated in  
27 accordance with Title 16, chapter 7; and documents other than those documents  
28 pertaining to information obtained by the department for the purpose of evaluating a  
29 client's ability to participate in a community-based program or from informants in a  
30 correctional or detention facility for the purpose of determining whether facility rules  
31 have been violated or pertaining to a victim's request for notice of release may, and must  
32 upon request, be disclosed:

33 A. To any person if the person receiving services, that person's legal guardian, if any,  
34 and, if that person is a minor, that person's parent or legal guardian give informed  
35 written consent to the disclosure of the documents referred to in this subsection after  
36 being given the opportunity to review the documents sought to be disclosed;

37 B. To any state agency if necessary to carry out the statutory functions of that  
38 agency;

39 C. If ordered by a court of record, subject to any limitation in the Maine Rules of  
40 Evidence, Rule 503;



1 D. To any criminal justice agency if necessary to carry out the administration of  
2 criminal justice or the administration of juvenile criminal justice or for criminal  
3 justice agency employment;

4 E. To persons engaged in research if:

5 (1) The research plan is first submitted to and approved by the commissioner;

6 (2) The disclosure is approved by the commissioner; and

7 (3) Neither original records nor identifying data are removed from the facility or  
8 office that prepared the records.

9 The commissioner and the person doing the research shall preserve the anonymity of  
10 the person receiving services from the department and may not disseminate data that  
11 refer to that person by name or number or in any other way that might lead to the  
12 person's identification;

13 F. To persons who directly supervise or report on the health, behavior or progress of  
14 a juvenile, to the superintendent of a juvenile's school and the superintendent's  
15 designees and to agencies that are or might become responsible for the health or  
16 welfare of a juvenile if the information is relevant to and disseminated for the  
17 purpose of creating or maintaining an individualized plan for the juvenile's  
18 rehabilitation, including reintegration into the school; or

19 G. To any state agency engaged in statistical analysis for the purpose of improving  
20 the delivery of services to persons who are or might become mutual clients if:

21 (1) The plan for the statistical analysis is first submitted to and approved by the  
22 commissioner; and

23 (2) The disclosure is approved by the commissioner.

24 The commissioner and the state agency requesting the information shall preserve the  
25 anonymity of the persons receiving services from the department and may not  
26 disseminate data that refer to any person by name or number or that in any other way  
27 might lead to a person's identification.

28 Notwithstanding any other provision of law, the department may release the names, dates  
29 of birth and social security numbers of persons receiving services from the department  
30 and, if applicable, eligibility numbers and the dates on which those persons received  
31 services to any state or federal agency for the sole purpose of determining eligibility and  
32 billing for services and payments under federally funded programs administered by the  
33 agency. The department may also release to the agency information required for and to  
34 be used solely for audit or research purposes, consistent with federal law, for those  
35 services provided by or through the department. Agency personnel shall treat this  
36 information as confidential in accordance with federal and state law and shall return the  
37 records when their purpose has been served.

38 **Sec. B-24. 34-A MRS §11221, sub-§8,** as enacted by PL 2003, c. 371, §7, is  
39 amended to read:

40 **8. Criminal justice agency access to information.** The bureau shall provide access  
41 to the information described in subsection 1 to criminal justice agencies. For purposes of

1 this subsection, "criminal justice agency" has the same meaning as in Title 16, section  
2 ~~611~~ 703, subsection 4.

3 **Sec. B-25. 34-A MRSA §11221, sub-§10**, as amended by PL 2011, c. 299, §2, is  
4 further amended to read:

5 **10. Registrant access to information.** The bureau shall provide all information  
6 described in subsection 1, paragraphs A to F to a registrant who requests that person's  
7 own information. The process for access and review of that information is governed by  
8 Title 16, section ~~620~~ 709.

9 **Sec. B-26. 34-A MRSA §11281, sub-§6**, as enacted by PL 2011, c. 663, §3, is  
10 amended to read:

11 **6. Criminal justice agency access to information.** The bureau shall provide access  
12 to the information described in subsection 1 to criminal justice agencies. For purposes of  
13 this subsection, "criminal justice agency" has the same meaning as in Title 16, section  
14 ~~611~~ 703, subsection 4.

15 **PART C**

16 **Sec. C-1. 7 MRSA §3909, sub-§6** is enacted to read:

17 **6. Confidential information.** The names of and other identifying information about  
18 persons providing information pertaining to criminal or civil cruelty to animals to the  
19 department are confidential information and may not be released.

20 **Sec. C-2. 17 MRSA §1023, sub-§4** is enacted to read:

21 **4. Confidential information.** The names of and other identifying information about  
22 persons providing information pertaining to criminal or civil cruelty to animals to the  
23 Department of Agriculture, Conservation and Forestry are confidential information and  
24 may not be released.

25 **PART D**

26 **Sec. D-1. 15 MRSA §3308-A** is enacted to read:

27 **§3308-A. Dissemination of juvenile intelligence and investigative record information**  
28 **by a Maine criminal justice agency**

29 The following provisions apply to the dissemination of juvenile intelligence and  
30 investigative record information collected by or at the direction of or kept in the custody  
31 of any Maine criminal justice agency.

32 **1. Definitions.** As used in this section, unless the context otherwise indicates, the  
33 following terms have the following meanings.

34 A. "Administration of juvenile justice" means activities relating to the anticipation,  
35 prevention, detection, monitoring or investigation of known, suspected or possible

1 juvenile crimes. "Administration of juvenile justice" includes the collection, storage  
2 and dissemination of juvenile intelligence and investigative record information  
3 relating to the administration of juvenile justice.

4 B. "Criminal justice agency" has the same meaning as in Title 16, section 803,  
5 subsection 4.

6 C. "Dissemination" has the same meaning as in Title 16, section 803, subsection 5.

7 D. "Executive order" has the same meaning as in Title 16, section 803, subsection 6.

8 E. "Juvenile intelligence and investigative record information" means information of  
9 record collected by a criminal justice agency or at the direction of a criminal justice  
10 agency or kept in the custody of a criminal justice agency while performing the  
11 administration of juvenile justice. "Juvenile intelligence and investigative record  
12 information" includes information of record concerning investigative techniques and  
13 procedures and security plans and procedures prepared or collected by a criminal  
14 justice agency or another agency. "Juvenile intelligence and investigative record  
15 information" does not include criminal history record information as defined in Title  
16 16, section 703, subsection 3 or intelligence and investigative record information as  
17 defined in Title 16, section 803, subsection 7.

18 F. "State" has the same meaning as in Title 16, section 803, subsection 8.

19 G. "Statute" has the same meaning as in Title 16, section 803, subsection 9.

20 **2. Information part of proceeding.** To the extent the juvenile intelligence and  
21 investigative record information has been made part of the court records of a juvenile  
22 proceeding, dissemination of that juvenile intelligence and investigative record  
23 information by a Maine criminal justice agency must be as provided by section 3307 and  
24 section 3308.

25 **3. Limited dissemination.** Except as otherwise provided in subsection 2, juvenile  
26 intelligence and investigative record information is confidential and may be disseminated  
27 by a Maine criminal justice agency only to:

28 A. Another criminal justice agency;

29 B. A person or public or private entity as part of performing the administration of  
30 juvenile justice;

31 C. A juvenile accused of a juvenile crime or that juvenile's agent or attorney for  
32 adjudicatory or dispositional purposes if authorized by:

33 (1) The responsible prosecutorial office or prosecutor; or

34 (2) A court rule or court order of this State or of the United States.

35 As used in this paragraph, "agent" means a licensed professional investigator, an  
36 expert witness or the juvenile's parents, guardian or legal custodian;

37 D. A juvenile crime victim or that victim's agent or attorney if authorized by:

38 (1) Statute; or

39 (2) A court order.

1 As used in this paragraph, "agent" means a licensed professional investigator or an  
2 immediate family member if, due to death, age, physical or mental disease, disorder  
3 or intellectual disability or autism, the victim cannot realistically act on the victim's  
4 own behalf;

5 E. A federal court, the District Court, including when it is exercising the jurisdiction  
6 conferred by section 3101, the Superior Court or the Supreme Judicial Court and an  
7 equivalent court in another state; and

8 F. A person or public or private entity expressly authorized to receive the juvenile  
9 intelligence and investigative record information by statute, executive order, court  
10 rule, court decision or court order. "Express authorization" means language in the  
11 statute, executive order, court rule, court decision or court order that specifically  
12 speaks to intelligence or investigative record information or specifically refers to a  
13 type of intelligence or investigative record.

## 14 **SUMMARY**

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

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

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

25 A. Designates, in section 701, the new chapter as the Criminal History Record  
26 Information Act;

27 B. Outlines, in section 702, the chapter's scope and application, which had no  
28 counterpart in former subchapter 8. It makes clear that when criminal history record  
29 information is public information, the term "public criminal history record  
30 information" is used. Similarly, when criminal history record information is  
31 confidential, it is labeled as "confidential criminal history record information";

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

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

39 (2) A definition of "confidential criminal history record information," which  
40 replaces former section 611, subsection 9. What was formerly identified as

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"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;

(8) A definition of "public criminal history record information," which replaces former section 611, subsection 9. What was formerly identified as "conviction data" is now identified as "public criminal history record information." It defines "public criminal history record information" to mean "criminal history record information that is not confidential criminal history record information";

1 (9) A definition of "state," which parallels former section 611, subsection 11, but  
2 specifically identifies what formerly was described as "any territory or possession  
3 of the United States." It includes in the definition of "state" the federal and any  
4 provincial government of Canada and any federally recognized Indian tribe, both  
5 of which are a "criminal justice agency"; and

6 (10) A definition of "statute," which mirrors the content of the former definition  
7 in section 611, subsection 12;

8 D. Collects in section 704 in a single comprehensive section addressing the  
9 dissemination of public criminal history record information by a Maine criminal  
10 justice agency what formerly was contained in former sections 612, subsection 3,  
11 section 615 and section 616. It is made up of 2 subsections. The first subsection  
12 elaborates on former section 612, subsection 3 and former section 615. It makes  
13 clear that public criminal history record information is public for purposes of the  
14 Freedom of Access Act; that no time limitation exists for the dissemination of it; and  
15 that "no time limitation" means that dissemination is authorized whether the  
16 information relates to a crime for which a person is currently within the jurisdiction  
17 of the criminal justice system or instead, is no longer within that jurisdiction. The  
18 2nd subsection parallels former section 616, but differs in 3 respects. First, a Maine  
19 court is exempted from making inquiry of the State Bureau of Identification before  
20 dissemination because a court's own records already contain the most up-to-date  
21 disposition information. Second, only dissemination of public criminal history record  
22 information for a noncriminal justice purpose is addressed. Confidential criminal  
23 history record information in this context is now addressed in section 705, subsection  
24 3. Third, the term "noncriminal justice purpose" is now defined to mean "a purpose  
25 other than the administration of criminal justice or criminal justice agency  
26 employment";

27 E. Collects in section 705 in a single comprehensive section addressing the  
28 dissemination of confidential criminal history record information by a Maine criminal  
29 justice agency what formerly was contained in former section 612, subsection 3 and  
30 sections 613, 616 and 618. Subsection 1 establishes the general rule that  
31 dissemination of such information directly or through an intermediary by a Maine  
32 criminal justice agency is only to authorized persons or entities and lists the  
33 authorized persons and entities. Paragraphs A to D mirror former section 613,  
34 subsections 1 to 4. Paragraph E parallels former section 612, subsection 3, paragraph  
35 B, but does not require that the information disseminated be based upon data  
36 excluded by section 708, former section 612, subsection 2, as unnecessary. The  
37 remaining issue contained in the final sentence of former paragraph B is controlled by  
38 new paragraph F. Paragraph F expands and clarifies former section 612, subsection  
39 3, paragraph A. It expressly allows dissemination by a Maine criminal justice agency  
40 to the public for the purpose of announcing the fact of a specific disposition that is  
41 confidential criminal history record information, other than that contained in section  
42 703, subsection 2, paragraph A, within 30 days of the date of occurrence of that  
43 disposition. Further, it also allows for public dissemination at any point in time if the  
44 person to whom the disposition relates specifically authorizes that it be made public.  
45 Paragraph G replaces former section 612, subsection 3, paragraph C and parallels its  
46 content. Section 705, subsection 2 replaces former section 618 and parallels its

1 content. Section 705, subsection 3 replaces former section 616. It mirrors the  
2 content of section 704, subsection 2 except that it addresses only the dissemination of  
3 confidential criminal history information. Public criminal history record information  
4 in this context is addressed in section 704, subsection 2;

5 F. Enacts section 706 to replace former section 612-A. Like its predecessor, it serves  
6 the dual purpose of helping to guard against secret arrests and to provide public  
7 access to information concerning the crime or crimes for which a person is arrested  
8 and the time, place and circumstances of the arrest itself. Although section 706  
9 parallels former section 612-A, changes have been made in subsection 1 to enhance  
10 clarity and completeness. The former requirement in section 612-A, subsection 2 that  
11 the permanent record be in a bound volume has been removed in light of current  
12 electronic recording methods, and the former exception respecting juveniles in  
13 section 612-A, subsection 3 has been deleted as unnecessary in light of section 703,  
14 subsection 3;

15 G. Enacts section 707 to replace former section 619. Although it parallels former  
16 section 619, it limits the crime to the unlawful dissemination of confidential criminal  
17 history record information and conditions criminality upon the person intentionally  
18 disseminating and knowing it to be in violation of any of the provisions of chapter 7;

19 H. Enacts section 708 to replace former section 612, subsection 2. It retains each of  
20 the former exceptions to which the subchapter does not apply. Except for subsection  
21 3, changes were made to the former law only to enhance clarity and completeness.  
22 Subsection 3 has been redrafted to clarify that access to and dissemination of Maine  
23 trial and appellate court records of public judicial proceedings is as the Supreme  
24 Judicial Court provides by rule or administrative order;

25 I. Enacts section 709 to replace former section 620, makes the language gender  
26 neutral and removes language addressing intelligence and investigative record  
27 information because chapter 9 now addresses that information. In addition, language  
28 addressing judicial review has been updated to rely upon the Maine Administrative  
29 Procedure Act and Rule 80C of the Maine Rules of Civil Procedure; and

30 J. Enacts section 710, which replaces former section 622 and mirrors its content.

31 2. The bill enacts Title 16, chapter 9, which:

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

34 B. Enacts section 802, which replaces that portion of former section 614, subsection  
35 1 that applied the section 614 limitations on dissemination of intelligence and  
36 investigative information of record to specifically identified Maine criminal justice  
37 agencies, rather than to all Maine criminal justice agencies. Section 802 applies the  
38 chapter to all Maine criminal justice agencies;

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

41 (1) A definition of "administration of civil justice," which had no counterpart in  
42 former subchapter 8. It addresses the same types of criminal justice agency  
43 activities described in the new subsection 2 but in the context of "civil violations"

1 and "civil actions" rather than in the context of crimes. It does not include  
2 known, suspected or possible traffic infractions;

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

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

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

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

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

29 (7) A definition of "intelligence and investigative record information," which  
30 replaces former section 611, subsection 8 and modifies the former definition to  
31 better clarify the scope of the definition. It speaks both in terms of information of  
32 record collected or kept by any Maine criminal justice agency while performing  
33 the "administration of criminal justice," which is included as subsection 1, and in  
34 terms of information of record collected or kept by the Department of the  
35 Attorney General or by district attorneys' offices when they are performing the  
36 administration of civil justice, included as subsection 2. The definition of  
37 "intelligence and investigative record information" includes the Department of  
38 the Attorney General's records relating to the administration of civil justice in  
39 order to perpetuate Public Law 1993, chapter 719, "An Act to Bring the  
40 Department of the Attorney General into Conformity with the Criminal History  
41 Record Information Laws." District attorneys' offices have been added because  
42 they too have records relating to the administration of civil justice that merit  
43 similar treatment. Further, it expands the former reference to operation plans to  
44 reflect new section 804, subsection 7 and former section 614, subsection 1,  
45 paragraph G. See also Title 1, section 402, subsection 3, paragraph L.



1 Subsection 7, like former section 611, subsection 8, expressly excludes criminal  
2 history record information as defined in section 703. It expressly addresses the  
3 "administration of juvenile justice" and makes clear that information of record  
4 collected or kept while a criminal justice agency is performing the administration  
5 of juvenile justice is not included and thus is not addressed further in this chapter;

6 (8) A definition of "state," which replaces former section 611, subsection 11 and  
7 mirrors new section 703, subsection 9; and

8 (9) A definition of "statute," which replaces former section 611, subsection 12  
9 and mirrors new section 703, subsection 10;

10 D. Enacts section 804, which contains that portion of former section 614, subsection  
11 1 that prohibits a criminal justice agency from disseminating intelligence and  
12 investigative record information to the public if there is a reasonable possibility that  
13 public release or inspection of the information would result in one or more  
14 enumerated harms in section 614, subsection 1. Section 804 lists 12 harms, 9 of  
15 which mirror the content of the formerly listed harms in section 614, subsection 1.  
16 Two of the remaining 12 were formerly listed harms, but with slightly changed  
17 content. Subsection 1 parallels former section 614, subsection 1, paragraph A, but  
18 the clarifying phrase "relating to crimes" has been added to draw the necessary  
19 distinction between the subsection 1 harm of interference with criminal proceedings  
20 and the new subsection 10 harm of interference with civil proceedings conducted by  
21 the Department of the Attorney General or by a district attorney. Section 804,  
22 subsection 6 parallels former section 614, subsection 1, paragraph F but the phrase  
23 "or by a district attorney's office" has been added to make clear that such offices, in  
24 carrying out their prosecutorial responsibilities, must also have the same authority as  
25 the Department of the Attorney General to designate information as a trade secret or  
26 as confidential commercial or financial information. Lastly, section 804, subsection  
27 10 has been added and has no counterpart in former section 614, subsection 1. The  
28 specific harm identified is interfering with proceedings relating to civil violations,  
29 civil enforcement proceedings and other civil proceedings conducted by the  
30 Department of the Attorney General or by a district attorney's office. Subsections 11  
31 and 12 apply solely to the Department of the Attorney General because these harms  
32 are unique to that department. Section 804 does not contain the content of former  
33 section 614, subsection 1-A relating to information about reports of cruelty to  
34 animals; instead its substance has been relocated to both Title 7, section 3909,  
35 subsection 6 and Title 17, section 1023, subsection 4;

36 E. Enacts section 805, which, along with section 806, replaces former section 614,  
37 subsection 3. Section 805 lists certain disseminations of confidential intelligence and  
38 investigative record information by a Maine criminal justice agency that are excepted  
39 from section 804. These exceptions, unlike those listed in section 806, are not subject  
40 to reasonable limitations to protect against the harms described in section 804. The  
41 first unconditional exception in subsection 1 mirrors former section 614, subsection  
42 3, paragraph A. The 2nd unconditional exception in subsection 2 has no counterpart  
43 in former section 614, subsection 3. It has been added to make clear that criminal  
44 justice agencies, when carrying out the administration of criminal justice, often  
45 disseminate intelligence and investigative record information to persons and public or  
46 private entities for intelligence gathering purposes and for ongoing investigative

1 purposes and that such disseminations are authorized under chapter 9. Additionally,  
2 subsection 2 has been added to make clear that the Department of the Attorney  
3 General and district attorneys' offices are authorized under chapter 9 to make similar  
4 disseminations to carry out the administration of civil justice. The 3rd unconditional  
5 exception in subsection 3 parallels former section 614, subsection 3, but with 4  
6 modifications. First, the phrase "an accused person" is replaced by a "person accused  
7 of a crime" for trial and sentencing purposes. Second, the person's "agent" is defined.  
8 Third, the required authorization contained in subsection 3, paragraph A merges  
9 former subsection 3, paragraph C, subparagraphs (1) and (3). Fourth, the required  
10 authorization contained in subsection 3, paragraph B slightly modifies the wording of  
11 subsection 3, paragraph A, subparagraph (2). The 4th unconditional exception in  
12 subsection 4 has no counterpart in former section 614, subsection 3. It has been  
13 added to make clear that criminal justice agencies may disseminate confidential  
14 intelligence and investigative record information to a federal court, the District Court,  
15 Superior Court or Supreme Judicial Court, and the equivalent courts in another state.  
16 The 5th and final unconditional exception in subsection 5 has no counterpart in  
17 former section 614, subsection 3. It is modeled after section 705, subsection 1,  
18 paragraph B but redrafted to address intelligence and investigative record information  
19 rather than confidential criminal history record information. It allows dissemination  
20 of confidential intelligence and investigative record information by a Maine criminal  
21 justice agency to a person or public entity expressly authorized to receive the  
22 information by statute, executive order, court rule, court decision or court order.  
23 "Express authorization" is defined;

24 F. Enacts section 806, which replaces that portion of former section 614, subsection  
25 3 that listed certain disseminations of confidential intelligence or investigative record  
26 information by a Maine criminal justice agency that were excepted from former  
27 section 614, subsection 1, but nonetheless were subject to reasonable limitations to  
28 protect the interests against the harms described in subsection 1. The first conditional  
29 exception in section 806, subsection 1 parallels former subsection 3, paragraph B but  
30 broadens its scope to include a "government agency or subunit of a government  
31 agency in this State or another state that pursuant to statute is responsible for  
32 investigating abuse, neglect or exploitation of children or incapacitated or dependent  
33 adults" for use in the investigation of suspected abuse, neglect or exploitation. The  
34 2nd conditional exception in section 806, subsection 2 mirrors former subsection 3,  
35 paragraph D except the victim's "agent," previously undefined, is now defined to  
36 mean "a licensed professional investigator or an immediate family member if due to  
37 death, age or physical or mental disease, disorder or defect the victim cannot  
38 realistically act on the victim's own behalf." The 3rd and final conditional exception  
39 in section 806, subsection 1 mirrors former subsection 3, paragraph E;

40 G. Enacts section 807, which has no former counterpart in subchapter 8, but it  
41 parallels section 705, subsection 2 respecting a criminal justice agency confirming  
42 the existence or nonexistence of confidential criminal history record information to  
43 any person or public or private entity that would not be eligible to receive the  
44 information itself;

1 H. Enacts section 808, which carries forward that portion of former section 620,  
2 subsection 1 that denied to a person who is the subject of intelligence and  
3 investigative record information the right to inspect or review that information; and

4 I. Enacts section 809 to replace former section 614, subsection 4 establishing the  
5 Class E crime of unlawful dissemination of intelligence and investigative record  
6 information. In addition to restructuring the crime, section 809 adds the additional  
7 element of knowing it to be in violation. These changes make the crime parallel with  
8 section 707 addressing the unlawful dissemination of confidential criminal history  
9 record information.

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

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

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

19 Title 15, section 3308-A, subsection 1 contains technical terms used in that section.  
20 The terms "administration of juvenile justice," "criminal justice agency," "dissemination,"  
21 "executive order," "state" and "statute" mirror the meanings found in the new Title 16,  
22 section 803, subsections 3 to 6, 8 and 9, respectively. The term "juvenile intelligence and  
23 investigative record information" has no counterpart in Title 16, section 803 because the  
24 "administration of juvenile justice" is expressly excluded from the definition of  
25 "intelligence and investigative record information" in section 803, subsection 7.

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

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