

MAINE STATE LEGISLATURE

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126th MAINE LEGISLATURE

SECOND REGULAR SESSION-2014

Legislative Document

No. 1782

S.P. 709

In Senate, February 18, 2014

**An Act To Make Technical Amendments to the Criminal History
Record Information Act and the Intelligence and Investigative
Record Information Act and a Related Provision in the Maine
Revised Statutes, Title 20-A**

Reported by Senator GERZOFSKY of Cumberland for the Criminal Law Advisory
Commission pursuant to the Maine Revised Statutes, Title 17-A, chapter 55.

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

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT
Secretary of the Senate

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

2 **Sec. 1. 16 MRSA §703, sub-§2, ¶E**, as enacted by PL 2013, c. 267, Pt. A, §2, is
3 amended to read:

4 E. Information disclosing that a criminal proceeding has been ~~indefinitely~~
5 for a period of more than one year or dismissed because the person charged is found
6 by the court to be mentally incompetent to stand trial or to be sentenced;

7 **Sec. 2. 16 MRSA §705, sub-§3**, as enacted by PL 2013, c. 267, Pt. A, §2, is
8 amended to read:

9 **3. Required inquiry to State Bureau of Identification.** A Maine criminal justice
10 agency, other than a court, shall query the Department of Public Safety, State Bureau of
11 Identification before disseminating any confidential criminal history record information
12 for a noncriminal justice purpose to ensure that the most up-to-date disposition
13 information is being used. "Noncriminal justice purpose" means a purpose other than for
14 the administration of criminal justice or criminal justice agency ~~use~~ employment.

15 **Sec. 3. 16 MRSA §804, first ¶**, as enacted by PL 2013, c. 267, Pt. A, §3, is
16 amended to read:

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

21 **Sec. 4. 16 MRSA §805, sub-§3, ¶B**, as enacted by PL 2013, c. 267, Pt. A, §3, is
22 amended to read:

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

24 **Sec. 5. 16 MRSA §806, sub-§1**, as enacted by PL 2013, c. 267, Pt. A, §3, is
25 amended to read:

26 **1. A government agency responsible for investigating child or adult abuse,**
27 **neglect or exploitation or regulating facilities and programs providing care to**
28 **children or adults.** A government agency or subunit of a government agency in this
29 State or another state that pursuant to statute is responsible for investigating abuse,
30 neglect or exploitation of children or incapacitated or dependent adults or for licensing or
31 regulating the programs or facilities that provide care to children or incapacitated or
32 dependent adults if the intelligence and investigative record information ~~is used in~~
33 concerns the investigation of suspected abuse, neglect or exploitation;

34 **Sec. 6. 16 MRSA §806, sub-§2**, as enacted by PL 2013, c. 267, Pt. A, §3, is
35 amended to read:

36 **2. A crime victim or that victim's agent or attorney.** A crime victim or that
37 victim's agent or attorney. As used in this subsection, "agent" means a licensed
38 professional investigator or an immediate family member, foster parent or guardian if due

1 to death, age or physical or mental disease, disorder or defect the victim cannot
2 realistically act on the victim's own behalf; or

3 **Sec. 7. 16 MRSA §807**, as enacted by PL 2013, c. 267, Pt. A, §3, is amended to
4 read:

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

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

10 **Sec. 8. 16 MRSA §809**, as enacted by PL 2013, c. 267, Pt. A, §3, is amended to
11 read:

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

14 **1. Offense.** A person is guilty of unlawful dissemination of confidential intelligence
15 and investigative record information if the person intentionally disseminates intelligence
16 and investigative record information confidential under section 804 knowing it to be in
17 violation of any of the provisions of this chapter.

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

20 **Sec. 9. 20-A MRSA §6103, sub-§1**, as amended by PL 2013, c. 267, Pt. B, §14,
21 is further amended to read:

22 **1. Criminal history record information obtained; reliance.** The commissioner
23 shall obtain criminal history record information containing a record of ~~confidential~~ public
24 criminal history record information as defined in Title 16, section 703, subsection ~~2~~ 8
25 from the Maine Criminal Justice Information System for any person applying for
26 certification, authorization, approval or renewal. The commissioner may rely on
27 information provided by the Maine Criminal Justice Information System within 24
28 months prior to the issuance of a certificate, authorization, approval or renewal.

29 **SUMMARY**

30 This bill implements the recommendations of the Criminal Law Advisory
31 Commission to make technical amendments to the Criminal History Record Information
32 Act and the Intelligence and Investigative Record Information Act enacted by Public Law
33 2013, chapter 267. Specifically, the bill makes changes to the Maine Revised Statutes,
34 Title 16 as follows:

35 1. Amends section 703, subsection 2, paragraph E by replacing the phrase
36 "indefinitely postponed" with the phrase "postponed for a period of more than one year";

1 2. Amends section 705, subsection 3 by replacing the incorrect term "use" in the
2 final sentence with "employment";

3 3. Amends section 804 by adding the omitted words "is or" to conform with section
4 802 and includes the inadvertently omitted word "Maine" before the term "criminal
5 justice agency";

6 4. Amends section 805, subsection 3, paragraph B by adding "or court decision" for
7 purposes of completeness;

8 5. Amends section 806, subsection 1 by adding government agencies or subunits of
9 government agencies in this State or another state that by statute are responsible for
10 licensing or regulating the programs or facilities that provide care to children or
11 incapacitated or dependent adults and changing the conditions under which intelligence
12 and investigative record information may be provided to these agencies and investigatory
13 agencies. The licensing agencies were unintentionally omitted from subsection 1 when it
14 replaced former section 614, subsection 3, paragraphs B and B-1;

15 6. Amends section 806, subsection 2 by adding "foster parent or guardian" for
16 purposes of completeness;

17 7. Amends section 807 by adding the inadvertently omitted word "Maine" before the
18 words "criminal justice agency"; and

19 8. Amends section 809 by adding the inadvertently omitted word "confidential" to
20 describe the words "intelligence and investigative record information."

21 The bill also makes a correction in Title 20-A. It amends Title 20-A, section 6103,
22 subsection 1 to correct an error made in Public Law 2013, chapter 267 concerning sharing
23 criminal history record information with the Department of Education. The law prior to
24 2013 authorized the sharing of conviction data, which was defined to be public
25 information. Chapter 267 inadvertently and incorrectly revised the type of information
26 available to confidential criminal history record information. The bill corrects that error
27 by limiting the information to be provided to the Department of Education to public
28 criminal history record information and corrects a cross-reference.