

MAINE STATE LEGISLATURE

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L.D. 764

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Date: 6/17/19

(Filing No. H-614)

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JUDICIARY

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STATE OF MAINE

6

HOUSE OF REPRESENTATIVES

7

129TH LEGISLATURE

8

FIRST REGULAR SESSION

9

COMMITTEE AMENDMENT "A" to H.P. 569, L.D. 764, Bill, "An Act To Limit
10 the Dissemination of Certain Criminal Records"

11

Amend the bill by striking out the title and substituting the following:

12

'Resolve, To Create the Criminal Records Review Committee'

13

Amend the bill by striking out everything after the title and inserting the following:

14

'Emergency preamble. Whereas, acts and resolves of the Legislature do not
15 become effective until 90 days after adjournment unless enacted as emergencies; and

16

Whereas, the definition of appropriate access to criminal records is evolving as
17 society changes its thinking with regard to sentencing, punishment, rehabilitation and
18 fresh starts; and

19

Whereas, the treatment of convictions for conduct that is no longer criminal is
20 subject to reevaluation; and

21

Whereas, the separation of powers concept enshrined in the Constitution of Maine
22 limits the options available for reducing access to criminal records; and

23

Whereas, the Criminal Records Review Committee is established in this resolve to
24 develop a proposed policy on the appropriate access to criminal records; and

25

Whereas, the work of the committee must be initiated before the 90-day period
26 expires in order that the work may be completed and a report submitted in time for
27 submission to the next legislative session; and

28

Whereas, in the judgment of the Legislature, these facts create an emergency within
29 the meaning of the Constitution of Maine and require the following legislation as
30 immediately necessary for the preservation of the public peace, health and safety; now,
31 therefore, be it

32

Sec. 1. Review committee established. Resolved: That the Criminal Records
33 Review Committee, referred to in this resolve as "the review committee," is established.

COMMITTEE AMENDMENT

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Sec. 2. Review committee membership. Resolved: That, notwithstanding Joint Rule 353, the review committee consists of 15 members appointed as follows:

1. Two members of the Senate appointed by the President of the Senate, including one member from each of the 2 parties holding the largest number of seats in the Legislature;

2. Three members of the House of Representatives appointed by the Speaker of the House of Representatives, including at least one member from each of the 2 parties holding the largest number of seats in the Legislature;

3. The Attorney General or the Attorney General's designee;

4. The Commissioner of Public Safety or the commissioner's designee;

5. The President of the Maine Prosecutors Association or the president's designee;

6. The President of the Maine Association of Criminal Defense Lawyers or the president's designee;

7. The President of the Maine Sheriffs' Association or the president's designee;

8. A representative of a civil rights organization whose primary mission includes the advancement of racial justice, appointed by the President of the Senate;

9. A representative of a nonprofit organization whose mission includes advocating for victims and survivors of domestic violence or sexual assault, appointed by the President of the Senate;

10. A representative of a civil liberties organization whose primary mission is the protection of civil liberties, appointed by the Speaker of the House of Representatives; and

11. A representative of a nonprofit organization whose primary mission is to advocate for victims and survivors of sexual exploitation and sex trafficking, appointed by the Speaker of the House of Representatives.

The review committee shall invite the Chief Justice of the Supreme Judicial Court to designate a member of the judicial branch to serve as a member of the committee.

Sec. 3. Chairs. Resolved: That the first-named Senate member is the Senate chair and the first-named House of Representatives member is the House chair of the review committee.

Sec. 4. Appointments; convening of review committee. Resolved: That all appointments must be made no later than 30 days following the effective date of this resolve. The appointing authorities shall notify the Executive Director of the Legislative Council once all appointments have been completed. After appointment of all members, the chairs shall call and convene the first meeting of the review committee. If 30 days or more after the effective date of this resolve a majority of but not all appointments have been made, the chairs may request authority and the Legislative Council may grant authority for the review committee to meet and conduct its business.

Sec. 5. Duties. Resolved: That the review committee shall:

1 1. Review activities in other states that address the expungement of, sealing of and
2 otherwise limiting public access to criminal records;

3 2. Consider whether the following convictions should be subject to different
4 treatment:

5 A. Convictions for conduct that has been decriminalized in this State over the last 10
6 years and conduct that is currently under consideration for decriminalization; and

7 B. Convictions for conduct that was committed by victims and survivors of sexual
8 exploitation and sex trafficking;

9 3. Consider whether there is a time limit after which some or all criminal records
10 should not be publicly available;

11 4. Invite comments and suggestions from interested parties, including but not limited
12 to victim advocates and prison and correctional reform organizations;

13 5. Review existing information about the harms and benefits of making criminal
14 records confidential;

15 6. Invite comments and suggestions concerning the procedures and processes to limit
16 public accessibility of criminal records;

17 7. Consider who, if anyone, should continue to have access to criminal records that
18 are not publicly available; and

19 8. Develop options to manage criminal records.

20 **Sec. 6. Staff assistance. Resolved:** That the Legislative Council shall provide
21 necessary staffing services to the review committee, except that Legislative Council staff
22 support is not authorized when the Legislature is in regular or special session.

23 **Sec. 7. Report. Resolved:** That, no later than December 4, 2019, the review
24 committee shall submit to the Joint Standing Committee on Judiciary a report that
25 includes its findings and recommendations, including suggested legislation, for
26 presentation to the Second Regular Session of the 129th Legislature.

27 **Sec. 8. Outside funding. Resolved:** That the review committee shall seek
28 funding contributions to fully fund the costs of the study. All funding is subject to
29 approval by the Legislative Council in accordance with its policies. If sufficient
30 contributions to fund the study have not been received within 30 days after the effective
31 date of this resolve, no meetings are authorized and no expenses of any kind may be
32 incurred or reimbursed.

33 **Sec. 9. Appropriations and allocations. Resolved:** That the following
34 appropriations and allocations are made.

35 **LEGISLATURE**

36 **Study Commissions - Funding 0444**

37 Initiative: Allocates funds for the one-time costs to the Legislature of the Criminal
38 Records Review Committee.

COMMITTEE AMENDMENT "A" to H.P. 569, L.D. 764

R.076

1	OTHER SPECIAL REVENUE FUNDS	2019-20	2020-21
2	Personal Services	\$1,100	\$0
3	All Other	\$1,650	\$0
4			
5	OTHER SPECIAL REVENUE FUNDS TOTAL	\$2,750	\$0

6 **Emergency clause.** In view of the emergency cited in the preamble, this
7 legislation takes effect when approved.'

8 **SUMMARY**

9 This amendment strikes the bill and replaces it with a resolve that establishes the
10 Criminal Records Review Committee, consisting of 15 members, including a member
11 representing the judicial branch if one is designated by the Chief Justice of the Supreme
12 Judicial Court.

13 The review committee is directed to look at all issues concerning limiting public
14 availability of criminal records and to provide recommendations to the Joint Standing
15 Committee on Judiciary by December 4, 2019. The review committee's funding must
16 come from outside sources. The amendment also adds an appropriations and allocations
17 section.

18 **FISCAL NOTE REQUIRED**

19 **(See attached)**

COMMITTEE AMENDMENT



129th MAINE LEGISLATURE

LD 764

LR 655(02)

An Act To Limit the Dissemination of Certain Criminal Records

Fiscal Note for Bill as Amended by Committee Amendment *A(H-614)*

Committee: Judiciary

Fiscal Note Required: Yes

Fiscal Note

	FY 2019-20	FY 2020-21	Projections FY 2021-22	Projections FY 2022-23
Appropriations/Allocations				
Other Special Revenue Funds	\$2,750	\$0	\$0	\$0

Fiscal Detail and Notes

Allocates \$2,750 in fiscal year 2019-20 for the one-time costs to the Legislature of the Criminal Records Review Committee. The review committee is required to seek outside funding to fully fund the costs of the study. The additional costs incurred by other departments and agencies to participate in the work of the Criminal Records Review Committee are expected to be minor and can be absorbed within existing budgeted resources.