

MAINE STATE LEGISLATURE

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Amendment Name: Amendment CA (H-849) (LD 1964 2020)

Date: 8/20/2020

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JUDICIARY

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
129TH LEGISLATURE
SECOND SPECIAL SESSION

COMMITTEE AMENDMENT " " to H.P. 1408, L.D. 1964, Bill, "An Act To Limit Access to Juvenile Case Records and Protect the Confidentiality of Juvenile History Record Information"

Amend the bill by inserting after section 1 the following:

'Sec. 2. 15 MRSA §3003, sub-§19-C is enacted to read:

19-C. Order of adjudication. "Order of adjudication" means any document that constitutes the final disposition of a juvenile petition, including, but not limited to, a judgment and commitment including conditions of juvenile probation, if imposed, a dismissal form or other written order.

Sec. 3. 15 MRSA §3003, sub-§28 is enacted to read:

28. Victim. "Victim" has the same meaning as in Title 17-A, section 2101, subsection 2.'

Amend the bill in section 3 in §3010 in subsection 1 in paragraph D in the first line (page 1, line 29 in L.D.) by striking out the following: "section 803" and inserting the following: 'section 703'

Amend the bill in section 3 in §3010 in subsection 1 in paragraph E in the first line (page 1, line 31 in L.D.) by striking out the following: "section 803, subsection 5" and inserting the following: 'section 703, subsection 6'

Amend the bill in section 3 in §3010 in subsection 1 in paragraph F in the 9th line (page 2, line 2 in L.D.) by striking out the following: "sentencing" and inserting the following: 'disposition'

Amend the bill in section 3 in §3010 in subsection 4 in paragraph B in the last line (page 2, line 38 in L.D.) by inserting after the following: "information" the following: 'or one or more of the types of confidential juvenile history record information'

Amend the bill in section 4 in §3307 by striking out all of subsection 3 (page 4, lines 16 and 17 in L.D.) and inserting the following:

COMMITTEE AMENDMENT

1 **3. Record.** A verbatim record shall must be made of all detention, bind over,
2 adjudicatory and dispositional hearings.'

3 Amend the bill by inserting after section 5 the following:

4 '**Sec. 6. 15 MRSA §3308-A, sub-§1, ¶C-1** is enacted to read:

5 C-1. "Dissemination" has the same meaning as in Title 16, section 703, subsection 6.'

6 Amend the bill by inserting after section 6 the following:

7 '**Sec. 7. 15 MRSA §3308-A, sub-§3, ¶B-2** is enacted to read:

8 B-2. A governmental agency or subunit of a governmental agency in this State or
9 another state that pursuant to statute is responsible for investigating abuse, neglect or
10 exploitation of children or a governmental agency in this State or another state
11 responsible for the licensing of child care or children's camp programs or their
12 employees.'

13 Amend the bill by inserting after section 7 the following:

14 '**Sec. 8. 15 MRSA §3308-A, sub-§4**, as enacted by PL 2019, c. 525, §22, is
15 amended to read:

16 **4. Dissemination of juvenile intelligence and investigative record information**
17 **subject to reasonable limitations.** The dissemination of juvenile intelligence and
18 investigative record information by a criminal justice agency pursuant to subsection 3,
19 paragraphs A to B-2 is subject to limitations to reasonably ensure that dissemination of
20 the information will not:

21 A. Interfere with law enforcement proceedings relating to crimes;

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

25 C. Constitute an unwarranted invasion of personal privacy, including, but not limited
26 to, the personal privacy of juveniles and victims;

27 D. Disclose the identity of a confidential source;

28 E. Disclose confidential information furnished only by a confidential source;

29 F. Disclose investigative techniques and procedures or security plans and procedures
30 not known by the general public;

31 G. Endanger the life or physical safety of any individual, including law enforcement
32 personnel;

33 H. Disclose information designated confidential by statute; and

34 I. Interfere with proceedings relating to civil violations, civil enforcement
35 proceedings and other civil proceedings conducted by the Department of the Attorney
36 General or by a district attorney's office.

37 To comply with this subsection a criminal justice agency may deny access in whole or in
38 part to records that contain or constitute juvenile intelligence and investigative record

1 information. A criminal justice agency also may prepare and provide redacted copies of
2 such records to a person or public or private entity authorized to receive the information
3 under this section.'

4 Amend the bill in section 8 in §3308-C by striking out all of subsections 1 and 2
5 (page 4, lines 31 to 38 and page 5, lines 1 to 28 in L.D.) and inserting the following:

6 '1. Confidentiality. Juvenile case records are confidential and may not be disclosed,
7 disseminated or inspected except as expressly authorized by this Part. Juvenile case
8 records open to public inspection pursuant to subsection 2 may be inspected only at a
9 courthouse. The court may not disseminate any juvenile case records, including those
10 open to public inspection, to the public in any manner, including by any paper or
11 electronic means.

12 2. Juvenile petitions open to public inspection. Unless Juvenile Court proceedings
13 are suspended pursuant to section 3318-A, subsection 5, the following juvenile petitions
14 are open to public inspection:

15 A. Any juvenile petition alleging a violation of Title 17-A, section 201, 202 or 203 if
16 the juvenile charged had attained 13 years of age at the time of the alleged juvenile
17 crime, if:

18 (1) The juvenile has had a first appearance with respect to the petition in the
19 Juvenile Court; and

20 (2) The Juvenile Court finds there is probable cause to believe the juvenile
21 committed a juvenile crime that would be a violation of Title 17-A, section 201,
22 202 or 203 if the juvenile involved were an adult.

23 If the juvenile had not attained 13 years of age at the time of the alleged violation of
24 Title 17-A, section 201, 202 or 203, the Juvenile Court may allow public inspection
25 of the juvenile petition pursuant to paragraph C;

26 B. Any juvenile petition alleging a juvenile crime that would constitute a Class A
27 crime if committed by an adult if the juvenile charged had attained 13 years of age at
28 the time of the alleged juvenile crime, if:

29 (1) The juvenile has had a first appearance with respect to the petition in the
30 Juvenile Court; and

31 (2) The Juvenile Court finds there is probable cause to believe the juvenile
32 committed a juvenile crime that would be a Class A crime if the juvenile
33 involved were an adult.

34 If the juvenile had not attained 13 years of age at the time of the juvenile crime that
35 would constitute a Class A crime if committed by an adult, the Juvenile Court may
36 allow public inspection of the juvenile petition pursuant to paragraph C.

37 A petition open to the public under this paragraph may be made confidential and may
38 not be open to public inspection if, upon written request by a person to the Juvenile
39 Court, and after notice to the juvenile and the juvenile's parent or parents, guardian or
40 legal custodian, the attorney for the juvenile and the office of the prosecuting attorney
41 and after a hearing in which the Juvenile Court considers the purposes of this Part,

1 the juvenile's and alleged victim's interest in privacy, the nature of the juvenile crime
2 alleged and the characteristics of the juvenile and public safety concerns as outlined
3 in section 3101, subsection 4, paragraph D, the court determines that the general
4 public's right to information does not substantially outweigh the juvenile's interest in
5 privacy; and

6 C. Any petition alleging a juvenile crime that would constitute murder or a Class A
7 crime if committed by an adult and the juvenile charged had not attained 13 years of
8 age at the time of the alleged juvenile crime, or any petition alleging a juvenile of any
9 age committed a juvenile crime that would constitute a Class B or C crime if
10 committed by an adult, if:

11 (1) The juvenile has had a first appearance with respect to the petition in the
12 Juvenile Court;

13 (2) A written request is filed by any person with the Juvenile Court requesting
14 that the juvenile petition be open to public inspection;

15 (3) The Juvenile Court finds there is probable cause to believe the juvenile
16 committed a juvenile crime that would constitute murder, a violation of Title
17 17-A, section 204 or a Class A, B or C crime if the juvenile involved were an
18 adult; and

19 (4) After notice to the juvenile and the juvenile's parent or parents, guardian or
20 legal custodian, the attorney for the juvenile, the office of the prosecuting
21 attorney and the individual or entity requesting the juvenile petition be open to
22 public inspection and a hearing in which the Juvenile Court considers the
23 purposes of this Part, the alleged victim's interest in privacy, the nature of the
24 juvenile crime alleged and the characteristics of the juvenile and public safety
25 concerns as outlined in section 3101, subsection 4, paragraph D, the court
26 determines that the general public's right to information substantially outweighs
27 the juvenile's interest in privacy.

28 In a juvenile petition alleging multiple juvenile crimes, the juvenile crime that would
29 constitute the highest class of crime if the juvenile were an adult must determine whether
30 the petition is open to public inspection.

31 The court shall redact the names and identifying information of any alleged minor victims
32 prior to the inspection of a juvenile petition.

33 If a request to allow public inspection of a petition under this subsection has been filed,
34 the Juvenile Court shall advise the juvenile and the juvenile's parent or parents, guardian
35 or legal custodian that the request has been made and shall advise them of the juvenile's
36 right to be represented by counsel. The court may not allow the public to inspect a
37 juvenile petition pursuant to paragraph C until authorized by court order.'

38 Amend the bill in section 8 in §3308-C by striking out all of subsection 8 (page 8,
39 lines 24 to 33 in L.D.) and inserting the following:

40 **8. Records to Secretary of State.** Whenever a juvenile has been adjudicated as
41 having committed a juvenile crime involving the operation of a motor vehicle or when the
42 court has ordered a disposition pursuant to section 3314, subsection 3, 3-A or 3-B that

1 includes suspension of the juvenile's right to operate a motor vehicle, the court shall
2 transmit to the Secretary of State an abstract, duly certified, setting forth the name of the
3 juvenile, the offense, the date of the offense, the date of the adjudicatory hearing and any
4 other pertinent facts. These juvenile case records are admissible in evidence in hearings
5 conducted by the Secretary of State or any of the Secretary of State's deputies and are
6 open to public inspection.

7 Nothing in this Part may be construed to limit the authority of the Secretary of State,
8 pursuant to Title 29-A, to suspend a person's driver's license or permit to operate a motor
9 vehicle, right to operate a motor vehicle or right to apply for or obtain a driver's license.'

10 Amend the bill in section 8 in §3308-C by striking out all of subsection 10 (page 9,
11 lines 1 to 25 in L.D.) and inserting the following:

12 **'10. Juvenile case records sealed.** This subsection governs the sealing of juvenile
13 case records of a person adjudicated as having committed a juvenile crime.

14 A. A person adjudicated as having committed a juvenile crime that, if the juvenile
15 were an adult, would constitute murder or a Class A, B or C crime or operating under
16 the influence as defined in Title 29-A, section 2411 may petition the court to seal
17 from public inspection all juvenile case records pertaining to the juvenile crime and
18 its disposition and to any prior juvenile case records and their dispositions if:

19 (1) At least 3 years have passed since the person's discharge from the disposition
20 ordered for that juvenile crime;

21 (2) Since the date of disposition, the person has not been adjudicated as having
22 committed a juvenile crime and has not been convicted of committing a crime;
23 and

24 (3) There are no current adjudicatory proceedings pending for a juvenile or other
25 crime.

26 B. The court may grant the petition filed under paragraph A if it finds that the
27 requirements of paragraph A are satisfied, unless it finds that the general public's
28 right to information substantially outweighs the person's interest in privacy. The
29 person has a right to appeal the court's denial of the person's petition to seal as
30 provided in chapter 509.

31 C. At the time a person adjudicated as having committed a juvenile crime other than
32 a crime listed in paragraph A is finally discharged from the disposition imposed for
33 that juvenile crime, the court, upon receipt of appropriate notice of the discharge,
34 shall immediately enter an order sealing from public inspection all records pertaining
35 to the juvenile crime and its disposition. Appropriate notice that the person is
36 discharged from the disposition:

37 (1) Must be provided to the court by the Department of Corrections if the
38 person's disposition involved commitment to the custody of a Department of
39 Corrections juvenile correctional facility, a period of confinement not to exceed
40 30 days or any suspended disposition with a period of probation;

41 (2) Must be provided to the court by the office of the prosecuting attorney if
42 disposition included restitution, community service or a restorative justice event

1 and the court ordered that proof of completion of the obligation be provided to
2 the office of the prosecuting attorney; or

3 (3) May be provided to the court by the person or the person's attorney. If the
4 notice is provided by the person or the person's attorney, the person or the
5 person's attorney must have served a copy of the notice on the office of the
6 prosecuting attorney before the court may enter the order sealing the juvenile
7 case records.

8 D. Notwithstanding subsections 2 and 3, subsection 4, paragraphs C, D and F and
9 subsections 5 and 6, a court order sealing juvenile case records pursuant to this
10 subsection permits only the following persons to have access to the sealed juvenile
11 case records:

12 (1) The courts and criminal justice agencies as provided by this section; and

13 (2) The person whose juvenile case records are sealed or that person's designee.

14 E. A copy of the court's written order certifying its granting of the person's petition
15 to seal juvenile case records pursuant to paragraph A or its order of immediate
16 sealing pursuant to paragraph C must be provided to the Department of Public Safety,
17 Bureau of State Police, State Bureau of Identification if the adjudication is for a
18 juvenile crime the criminal records of which are maintained by the State Bureau of
19 Identification pursuant to Title 25, section 1541. The State Bureau of Identification
20 or the appropriate agency upon receipt of the order shall promptly update its records
21 relating to each of juvenile adjudications included in the order.

22 F. A person whose juvenile case records are sealed pursuant to this subsection may
23 respond to inquiries from other than the courts and criminal justice agencies about
24 that person's juvenile crimes, the juvenile case records of which have been sealed, as
25 if the juvenile crimes had never occurred, without being subject to any sanctions.
26 The sealing of a person's juvenile case records does not remove or otherwise affect
27 the prohibition against that person's possessing a firearm pursuant to section 393.'

28 Amend the bill by striking out all of section 10 and inserting the following:

29 '**Sec. 10. 15 MRSA §3318-A, sub-§5**, as enacted by PL 2011, c. 282, §4, is
30 amended to read:

31 **5. Suspension of juvenile proceedings.** Pending a competency examination when
32 the issue of a juvenile's competency to proceed is raised by the juvenile, by the State or
33 sua sponte by the Juvenile Court, the Juvenile Court shall suspend the proceeding on the
34 petition. All juvenile case records, including a petition that is otherwise open to public
35 inspection under section 3308-C, subsection 2, paragraph A or B, are confidential and
36 may not be open to public inspection while the proceeding remains suspended. All
37 Juvenile Court hearings conducted while the proceeding on a juvenile petition is
38 suspended pursuant to this subsection are confidential and not open to the general public.
39 The suspension remains in effect pending the outcome of a competency determination
40 hearing pursuant to subsection 7. Suspension of the proceeding does not affect the
41 Juvenile Court's ability to detain or release the juvenile pursuant to section 3203-A,
42 subsection 5.'

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

3 **SUMMARY**

4 This amendment is the majority report of the Joint Standing Committee on Judiciary.

5 The amendment:

6 1. Defines the terms "order of adjudication" and "victim" in the Maine Juvenile
7 Code;

8 2. Permits a Maine criminal justice agency to disseminate confidential juvenile
9 history record information to any person for any purpose when expressly authorized by a
10 statute, court rule, court decision or court order containing language specifically referring
11 to one or more of the types of confidential juvenile history record information;

12 3. Retains current law requiring the creation of a verbatim record of all detention,
13 bind over, adjudicatory and dispositional hearings;

14 4. Restores a definition of "dissemination" applicable to juvenile intelligence and
15 investigative record information that was repealed by Public Law 2019, chapter 525,
16 section 18;

17 5. Authorizes criminal justice agencies to disseminate confidential juvenile
18 intelligence and investigative record information to a governmental agency or subunit of
19 a governmental agency in this State or another state that pursuant to statute is responsible
20 for investigating abuse, neglect or exploitation of children or a governmental agency in
21 this State or another state that is responsible for the licensing of child care or children's
22 camp programs or their employees;

23 6. Clarifies that juvenile case records that are maintained by the court and are open to
24 public inspection may be inspected only at a courthouse and may not be disseminated by
25 the court in any manner, including by paper or by any electronic means;

26 7. Modifies the "tiered" system of public access to juvenile petitions created by the
27 bill, as follows:

28 A. A petition alleging a Class A crime committed by a juvenile 13 years of age or
29 older is automatically open to public inspection after the juvenile's first appearance
30 and if probable cause is found, unless the petition is made confidential by court order.
31 Any person may request that such a petition be made confidential; and

32 B. Any person may request access to inspect a juvenile petition that alleges murder
33 or a Class A crime committed by a juvenile under 13 years of age, or a Class B or C
34 crime committed by a juvenile of any age. If a request to allow such inspection is
35 filed, a hearing on the request must be held, and notice of the hearing must be given
36 to the juvenile, the juvenile's parents or guardians, the attorney representing the
37 juvenile, the office of the prosecuting attorney and the person requesting access to the
38 petition;

39 8. Specifies that when multiple juvenile crimes are alleged in a petition, the juvenile
40 crime alleged that would constitute the highest class of crime if the juvenile were an adult
41 determines whether the petition is open to public inspection;

1 9. Requires the court to send notice to the Secretary of State when a juvenile's right
2 to operate a motor vehicle is suspended for a drug-related crime, as is allowed by law;

3 10. Clarifies that the Juvenile Court must suspend the proceeding on the petition
4 pending a competency examination when the issue of a juvenile's competency to proceed
5 is raised by the juvenile, by the State or sua sponte by the Juvenile Court; and

6 11. Amends provisions in the Maine Juvenile Code pertaining to the sealing of
7 juvenile case records as follows:

8 A. The amendment provides that when a juvenile is adjudicated of a Class D or E
9 crime, except operation under the influence, sealing of all court records and its
10 disposition occurs automatically when a juvenile completes the disposition ordered
11 by the court. The Department of Corrections must provide notice to the court when a
12 juvenile completes probation, completes a period of confinement or is discharged
13 from a commitment. The District Attorney's office must provide notice to the court
14 when the juvenile was ordered to pay restitution or complete some other obligation
15 and was ordered to provide proof of completion to the District Attorney's office. The
16 juvenile may also provide proof of completion of the juvenile's court disposition to
17 the court, but must provide proof of such completion to the prosecuting attorney;

18 B. The amendment reiterates that, in accordance with existing law, courts, criminal
19 justice agencies and the person whose juvenile records are sealed may have access to
20 those sealed records;

21 C. The amendment clarifies that sealing juvenile case records does not enable the
22 person to whom the records relate to possess a firearm if the person is prohibited
23 from doing so as a result of the adjudication to which the sealed juvenile case records
24 relate; and

25 D. The amendment establishes that a person has a right to appeal a court's denial of
26 the person's petition to seal a juvenile case record.

27 The amendment makes no change to current law regarding the process for sealing
28 juvenile court records regarding adjudications for murder or Class A, B or C crimes or
29 operating under the influence, as defined in the Maine Revised Statutes, Title 29-A,
30 section 2411.

31 **FISCAL NOTE REQUIRED**

32 **(See attached)**



129th MAINE LEGISLATURE

LD 1964

LR 2605(02)

An Act To Limit Access to Juvenile Case Records and Protect the Confidentiality of Juvenile History Record Information

Fiscal Note for Bill as Amended by Committee Amendment " "

Committee: Judiciary

Fiscal Note Required: Yes

Fiscal Note

Minor cost increase - General Fund

Correctional and Judicial Impact Statements

This bill will neither increase nor decrease the number of new cases.

This bill may increase administrative costs and the workload of judicial and clerk staff, but the Courts do not require additional funding at this time.