

MAINE STATE LEGISLATURE

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Amendment Name: Amendment CB (H-850) (LD 1964 2020)

Date: 8/20/2020

Date: (Filing No. H-)

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 **Sec. 9. 15 MRSA §3308-A, sub-§7** is enacted to read:

5 **7. Exception.** Notwithstanding subsection 6, a criminal justice agency may confirm
6 the existence or nonexistence of juvenile intelligence and investigative record information
7 that is confidential under this section to a recruiter of a branch of the United States
8 military if the person to whom the juvenile intelligence and investigative record
9 information relates has provided written authorization for the criminal justice agency to
10 disclose any records or information the criminal justice agency has about the person.
11 This subsection is repealed December 31, 2022.'

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

14 **1. Confidentiality.** Juvenile case records are confidential and may not be disclosed,
15 disseminated or inspected except as expressly authorized by this Part. Juvenile case
16 records open to public inspection pursuant to subsection 2 may be inspected only at a
17 courthouse. The court may not disseminate any juvenile case records, including those
18 open to public inspection, to the public in any manner, including by any paper or
19 electronic means.

20 **2. Juvenile petitions open to public inspection.** Unless Juvenile Court proceedings
21 are suspended pursuant to section 3318-A, subsection 5, the following juvenile petitions
22 are open to public inspection:

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

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

28 (2) The Juvenile Court finds there is probable cause to believe the juvenile
29 committed a juvenile crime that would be a violation of Title 17-A, section 201,
30 202 or 203 if the juvenile involved were an adult.

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

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

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

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

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

4 A petition open to the public under this paragraph may be made confidential and may
5 not be open to public inspection if, upon written request by a person to the Juvenile
6 Court, and after notice to the juvenile and the juvenile's parent or parents, guardian or
7 legal custodian, the attorney for the juvenile and the office of the prosecuting attorney
8 and after a hearing in which the Juvenile Court considers the purposes of this Part,
9 the juvenile's and alleged victim's interest in privacy, the nature of the juvenile crime
10 alleged and the characteristics of the juvenile and public safety concerns as outlined
11 in section 3101, subsection 4, paragraph D, the court determines that the general
12 public's right to information does not substantially outweigh the juvenile's interest in
13 privacy; and

14 C. Any petition alleging a juvenile crime that would constitute murder or a Class A
15 crime if committed by an adult and the juvenile charged had not attained 13 years of
16 age at the time of the alleged juvenile crime, or any petition alleging a juvenile of any
17 age committed a juvenile crime that would constitute a Class B or C crime if
18 committed by an adult, if:

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

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

23 (3) The Juvenile Court finds there is probable cause to believe the juvenile
24 committed a juvenile crime that would constitute murder, a violation of Title
25 17-A, section 204 or a Class A, B or C crime if the juvenile involved were an
26 adult; and

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

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

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

41 If a request to allow public inspection of a petition under this subsection has been filed,
42 the Juvenile Court shall advise the juvenile and the juvenile's parent or parents, guardian
43 or legal custodian that the request has been made and shall advise them of the juvenile's

1 right to be represented by counsel. The court may not allow the public to inspect a
2 juvenile petition pursuant to paragraph C until authorized by court order.'

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

5 **'8. Records to Secretary of State.** Whenever a juvenile has been adjudicated as
6 having committed a juvenile crime involving the operation of a motor vehicle or when the
7 court has ordered a disposition pursuant to section 3314, subsection 3, 3-A or 3-B that
8 includes suspension of the juvenile's right to operate a motor vehicle, the court shall
9 transmit to the Secretary of State an abstract, duly certified, setting forth the name of the
10 juvenile, the offense, the date of the offense, the date of the adjudicatory hearing and any
11 other pertinent facts. These juvenile case records are admissible in evidence in hearings
12 conducted by the Secretary of State or any of the Secretary of State's deputies and are
13 open to public inspection.

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

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

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

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

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

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

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

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

38 C. At the time a person adjudicated as having committed a juvenile crime other than
39 a crime listed in paragraph A is finally discharged from the disposition imposed for
40 that juvenile crime, the court, upon receipt of appropriate notice of the discharge,
41 shall immediately enter an order sealing from public inspection all records pertaining

1 to the juvenile crime and its disposition. Appropriate notice that the person is
2 discharged from the disposition:

3 (1) Must be provided to the court by the Department of Corrections if the
4 person's disposition involved commitment to the custody of a Department of
5 Corrections juvenile correctional facility, a period of confinement not to exceed
6 30 days or any suspended disposition with a period of probation;

7 (2) Must be provided to the court by the office of the prosecuting attorney if
8 disposition included restitution, community service or a restorative justice event
9 and the court ordered that proof of completion of the obligation be provided to
10 the office of the prosecuting attorney; or

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

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

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

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

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

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

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

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

39 **5. Suspension of juvenile proceedings.** Pending a competency examination when
40 the issue of a juvenile's competency to proceed is raised by the juvenile, by the State or
41 sua sponte by the Juvenile Court, the Juvenile Court shall suspend the proceeding on the

1 petition. All juvenile case records, including a petition that is otherwise open to public
2 inspection under section 3308-C, subsection 2, paragraph A or B, are confidential and
3 may not be open to public inspection while the proceeding remains suspended. All
4 Juvenile Court hearings conducted while the proceeding on a juvenile petition is
5 suspended pursuant to this subsection are confidential and not open to the general public.
6 The suspension remains in effect pending the outcome of a competency determination
7 hearing pursuant to subsection 7. Suspension of the proceeding does not affect the
8 Juvenile Court's ability to detain or release the juvenile pursuant to section 3203-A,
9 subsection 5.'

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

12 SUMMARY

13 This amendment is a minority report of the Joint Standing Committee on Judiciary.

14 The amendment:

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

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

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

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

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

32 6. Allows a criminal justice agency to confirm the existence or nonexistence of
33 juvenile intelligence and investigative record information to military recruiters with
34 consent. This provision is repealed December 31, 2022;

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

38 8. Modifies the "tiered" system of public access to juvenile petitions created by the
39 bill, as follows:

40 A. A petition alleging a Class A crime committed by a juvenile 13 years of age or
41 older is automatically open to public inspection after the juvenile's first appearance

1 and if probable cause is found, unless the petition is made confidential by court order.
2 Any person may request that such a petition be made confidential; and

3 B. Any person may request access to inspect a juvenile petition that alleges murder
4 or a Class A crime committed by a juvenile under 13 years of age, or a Class B or C
5 crime committed by a juvenile of any age. If a request to allow such inspection is
6 filed, a hearing on the request must be held, and notice of the hearing must be given
7 to the juvenile, the juvenile's parents or guardians, the attorney representing the
8 juvenile, the office of the prosecuting attorney and the person requesting access to the
9 petition;

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

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

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

18 12. Amends provisions in the Maine Juvenile Code pertaining to the sealing of
19 juvenile case records as follows:

20 A. The amendment provides that when a juvenile is adjudicated of a Class D or E
21 crime, except operation under the influence, sealing of all court records and its
22 disposition occurs automatically when a juvenile completes the disposition ordered
23 by the court. The Department of Corrections must provide notice to the court when a
24 juvenile completes probation, completes a period of confinement or is discharged
25 from a commitment. The District Attorney's office must provide notice to the court
26 when the juvenile was ordered to pay restitution or complete some other obligation
27 and was ordered to provide proof of completion to the District Attorney's office. The
28 juvenile may also provide proof of completion of the juvenile's court disposition to
29 the court, but must provide proof of such completion to the prosecuting attorney;

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

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

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

39 The amendment makes no change to current law regarding the process for sealing
40 juvenile court records regarding adjudications for murder or Class A, B or C crimes or

COMMITTEE AMENDMENT “ ” to H.P. 1408, L.D. 1964

1 operating under the influence, as defined in the Maine Revised Statutes, Title 29-A,
2 section 2411.

3 **FISCAL NOTE REQUIRED**

4 **(See attached)**



129th MAINE LEGISLATURE

LD 1964

LR 2605(03)

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.