

MAINE STATE LEGISLATURE

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131st MAINE LEGISLATURE

SECOND REGULAR SESSION-2024

Legislative Document

No. 2269

H.P. 1459

House of Representatives, March 14, 2024

**An Act to Automatically Seal Criminal History Record Information
for Class D and Class E Crimes Relating to Marijuana Possession
and Cultivation**

Reported by Representative MOONEN of Portland for the Joint Standing Committee on
Judiciary pursuant to Resolve 2023, chapter 103, section 7.

Reference to the Committee on Judiciary suggested and ordered printed pursuant to Joint
Rule 218.

A handwritten signature in cursive script that reads "Robert B. Hunt".

ROBERT B. HUNT
Clerk

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

2 **Sec. 1. 15 MRSA c. 313** is enacted to read:

3 **CHAPTER 313**

4 **AUTOMATIC SEALING OF CERTAIN CRIMINAL HISTORY RECORD**
5 **INFORMATION**

6 **§2401. Definitions**

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

9 **1. Another jurisdiction.** "Another jurisdiction" has the same meaning as in Title
10 17-A, section 2, subsection 3-B.

11 **2. Bureau.** "Bureau" means the Department of Public Safety, Bureau of State Police,
12 State Bureau of Identification.

13 **3. Criminal history record information.** "Criminal history record information" has
14 the same meaning as in Title 16, section 703, subsection 3.

15 **4. Criminal justice agency.** "Criminal justice agency" has the same meaning as in
16 Title 16, section 703, subsection 4.

17 **5. Dissemination.** "Dissemination" has the same meaning as in Title 16, section 703,
18 subsection 6.

19 **6. Eligible criminal conviction.** "Eligible criminal conviction" means a conviction
20 for a crime committed on or after January 1, 2001 and prior to January 30, 2017 for the
21 following:

22 A. Aggravated trafficking, furnishing or cultivation of scheduled drugs under Title
23 17-A, former section 1105 when the person was convicted of cultivating scheduled
24 drugs, that scheduled drug was marijuana and the underlying crime was a Class D or
25 Class E crime;

26 B. Aggravated cultivating of marijuana under Title 17-A, section 1105-D, subsection
27 1, paragraph A, subparagraph (4);

28 C. Aggravated cultivating of marijuana under Title 17-A, section 1105-D, subsection
29 1, paragraph B-1, subparagraph (4);

30 D. Aggravated cultivating of marijuana under Title 17-A, section 1105-D, subsection
31 1, paragraph C, subparagraph (4);

32 E. Aggravated cultivating of marijuana under Title 17-A, section 1105-D, subsection
33 1, paragraph D, subparagraph (4);

34 F. Unlawful possession of scheduled drugs under Title 17-A, former section 1107 when
35 that scheduled drug was marijuana and the underlying crime was a Class D or Class E
36 crime;

37 G. Unlawful possession of scheduled drugs under Title 17-A, section 1107-A,
38 subsection 1, paragraph F, subparagraph (1) or (2); or

1 H. Cultivating marijuana under Title 17-A, section 1117, subsection 1, paragraph B,
2 subparagraph (3) or (4).

3 **§2402. Statutory prerequisites for automatic sealing of criminal history record**
4 **information**

5 Criminal history record information relating to a specific criminal conviction may be
6 sealed under this chapter only if:

7 **1. Eligible criminal conviction.** The criminal conviction is an eligible criminal
8 conviction;

9 **2. Other convictions in this State.** The person has not been convicted of a crime in
10 this State and has not had a criminal charge dismissed as a result of a deferred disposition
11 pursuant to Title 17-A, former chapter 54-F or Title 17-A, chapter 67, subchapter 4 since
12 the time at which the person fully satisfied each of the sentencing alternatives imposed
13 under Title 17-A, section 1502, subsection 2 for the person's most recent eligible criminal
14 conviction up until the time the bureau submits the criminal history record information
15 related to that eligible criminal conviction to the Administrative Office of the Courts under
16 section 2403, subsection 2;

17 **3. Convictions in another jurisdiction.** The person has not been convicted of a crime
18 in another jurisdiction since the time at which the person fully satisfied each of the
19 sentencing alternatives imposed under Title 17-A, section 1502, subsection 2 for the
20 person's most recent eligible criminal conviction up until the time the bureau transfers the
21 criminal history record information related to that eligible criminal conviction to the
22 Administrative Office of the Courts under section 2403, subsection 2; and

23 **4. Pending criminal charges.** The person does not have any pending criminal charges
24 in this State or in another jurisdiction.

25 **§2403. Automatic sealing of criminal history record information**

26 Criminal history record information for an eligible criminal conviction in which the
27 person convicted meets the requirements of section 2402 must be sealed in accordance with
28 this section.

29 **1. Monthly examination of records.** The bureau shall at least once a month examine
30 criminal history record information collected and maintained by the bureau pursuant to
31 Title 25, section 1541, subsection 4-A to identify criminal history record information that
32 may meet the requirements of section 2402.

33 The Commissioner of Public Safety may adopt rules to carry out the purposes of this
34 subsection. Rules adopted pursuant to this subsection are routine technical rules as defined
35 in Title 5, chapter 375, subchapter 2-A.

36 **2. Transfer of records; records review.** If the bureau determines that any criminal
37 history record information examined pursuant to subsection 1 meets the requirements of
38 section 2402, the bureau shall transfer that criminal history record information, along with
39 any supporting documents or data, to the Administrative Office of the Courts. Upon receipt,
40 the Administrative Office of the Courts shall review its files to determine whether it has in
41 its possession any criminal history record information or other information related to the
42 criminal history record information submitted to it by the bureau. The Administrative
43 Office of the Courts shall transfer any information or data found along with the information

1 and data received from the bureau and any additional supporting documents the
2 Administrative Office of the Courts determines relevant to the court with jurisdiction in the
3 underlying criminal proceeding.

4 **3. Review; written findings.** Upon receipt of criminal history record information,
5 along with any supporting documents or data, and information under subsection 2, the court
6 with jurisdiction in the underlying criminal proceeding shall review those records, data and
7 information to determine if the records, data and information meet the requirements of
8 subsection 2402.

9 A. If the court determines that the records under this subsection meet the requirements
10 of section 2402, the court shall issue an order sealing the criminal history record
11 information of the eligible criminal conviction that was the subject of the records
12 reviewed.

13 B. If the court determines that the records under this subsection do not establish one or
14 more of the requirements of section 2402, the court shall issue a written order
15 containing findings of fact supporting the court's determination that the records are not
16 subject to automatic sealing.

17 **4. Notice to the bureau.** The court shall electronically transmit notice of the court's
18 order under subsection 3 to the bureau. If the court issues an order sealing the criminal
19 history record information under subsection 3, paragraph A, the bureau shall promptly
20 amend its records relating to the person's eligible criminal conviction for automatic sealing
21 to reflect that the criminal history record information relating to that criminal conviction is
22 sealed and that dissemination is governed by section 2265, and the bureau shall send
23 notification of compliance with this subsection to the person's last known address. If the
24 court issues an order denying the sealing of criminal history record information under
25 subsection 3, paragraph B, the bureau shall file that order with the corresponding criminal
26 history record information.

27 **5. Cooperation.** The Department of Public Safety, Bureau of State Police; Department
28 of Corrections; judicial branch; and criminal justice agencies that collect, maintain or
29 disseminate criminal history record information shall cooperate with the bureau and assist
30 it with carrying out the purposes and duties of this section.

31 **§2404. Limited disclosure of eligible criminal conviction**

32 A person whose eligible criminal conviction is the subject of a sealing order under
33 section 2403, subsection 3, paragraph A may respond to inquiries from persons other than
34 criminal justice agencies and other entities that are authorized to obtain the sealed criminal
35 history record information under section 2265 by not disclosing the existence of the eligible
36 criminal conviction without being subject to any sanctions under the laws of this State.
37 Other than when responding to criminal justice agencies or when under oath while being
38 prosecuted for a subsequent crime, a person whose eligible criminal conviction is the
39 subject of a sealing order does not violate Title 17-A, section 451, 452 or 453 by not
40 disclosing the eligible criminal conviction.

41 **§2405. Review of determination of eligibility; motion to seal criminal history record**
42 **information**

