

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND THIRTIETH LEGISLATURE

FIRST REGULAR SESSION
December 2, 2020 to March 30, 2021

FIRST SPECIAL SESSION
April 28, 2021 to July 19, 2021

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
JUNE 29, 2021

THE GENERAL EFFECTIVE DATE FOR
FIRST SPECIAL SESSION
NON-EMERGENCY LAWS IS
OCTOBER 18, 2021

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH THE MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

Augusta, Maine
2021

authority shall include findings and recommendations following its review of the effectiveness of the authority in furthering the purposes of this chapter, including:

A. An analysis of whether the authority has fulfilled its intended purpose under this chapter;

B. An analysis of whether the activities of the authority should continue for a specified period of time and any recommendations, including proposed legislation, for changes to the powers and duties of the authority to better further the purposes of this chapter; and

C. An analysis of whether the activities of the authority should be terminated and the laws governing the authority repealed within a specified time frame and any recommendations, including proposed legislation, necessary to facilitate an orderly transition following the termination of activities of the authority, including the appropriate disposition of the assets of the authority.

After receiving a report under this section, the joint standing committee of the Legislature having jurisdiction over utilities matters may report out legislation relating to the authority.

§9410. Liberal construction

This chapter, being necessary for the welfare of the State and its inhabitants, must be liberally construed. In the event of any conflict between this chapter and any other law, this chapter prevails, but the power and authority granted is deemed to be in addition to and not in derogation of power and authority granted by any other law.

Sec. 4. Maine Connectivity Authority; statutory review; report. In consultation with the ConnectMaine Authority established under the Maine Revised Statutes, Title 35-A, section 9203, the Maine Connectivity Authority established under Title 35-A, section 9404 shall review the provisions of Title 35-A, chapters 93 and 94-A and develop recommendations for any necessary changes to either chapter to facilitate the oversight of the ConnectMaine Authority by the Maine Connectivity Authority, which may include, but are not limited to, changes establishing the ConnectMaine Authority as a division of or other unit under the authority of the Maine Connectivity Authority, and any other recommendations relating to the Maine Connectivity Authority or the ConnectMaine Authority. On or before January 15, 2022, the Maine Connectivity Authority shall submit the recommendations resulting from that review, including any proposed legislation, to the Joint Standing Committee on Energy, Utilities and Technology, which it may include in the report required under Title 35-A, section 9409, subsection 1. After reviewing the report, the joint standing committee may report out related legislation to the 130th Legislature.

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

Effective June 24, 2021.

CHAPTER 365

H.P. 1247 - L.D. 1676

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

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

Sec. 1. 15 MRSA §709, sub-§1-B, as enacted by PL 2011, c. 507, §1, is repealed.

Sec. 2. 15 MRSA §709, sub-§1-C, as enacted by PL 2015, c. 470, §6, is amended to read:

1-C. Administration of juvenile justice. "Administration of juvenile justice" has the same meaning as in section ~~3308-A~~ 3003, subsection 1, ~~paragraph A 1-A.~~

Sec. 3. 15 MRSA §712, sub-§2, as amended by PL 2015, c. 470, §8, is further amended to read:

2. Investigative officers. It is not a violation of this chapter for an investigative officer, or for another employee of the Department of Corrections authorized to exercise law enforcement powers as described in Title 34-A, section 3011, to intercept, disclose or use that communication in the normal course of employment while engaged in any activity that is related to the administration of criminal justice as defined in Title 16, section 703, subsection 1 for the purposes of the Criminal History Record Information Act or as defined in Title 16, section 803, subsection 2 for the purposes of the Intelligence and Investigative Record Information Act; ~~or while engaged in any activity that is related to the administration of juvenile criminal justice if:~~

A. Either the sender or receiver of that communication is a person residing in an adult or juvenile correctional facility administered by the Department of Corrections; and

B. Notice of the possibility of interception is provided in a way sufficient to make the parties to the communication aware of the possibility of interception, which includes:

(1) Providing the resident with a written notification statement;

(2) Posting written notification next to every telephone at the facility that is subject to monitoring; and

(3) Informing the recipient of a telephone call from the resident by playing a recorded warning before the recipient accepts the call.

This subsection does not authorize any interference with the attorney-client privilege.

Sec. 4. 15 MRSA §713, sub-§2, as amended by PL 2015, c. 470, §10, is further amended to read:

2. Contents obtained under this chapter. The contents of an interception of any oral communication or wire communication that has been legally obtained pursuant to section 712, subsection 2 or 3 are admissible in the courts of this State, subject to the Maine Rules of Evidence, if related to the administration of criminal justice as defined in Title 16, section 703, subsection 1 for the purposes of the Criminal History Record Information Act or as defined in Title 16, section 803, subsection 2 for the purposes of the Intelligence and Investigative Record Information Act; the administration of juvenile justice; ~~the administration of juvenile criminal justice~~; or the statutory functions of a state agency.

Sec. 5. 15 MRSA §3003, sub-§1-A is enacted to read:

1-A. Administration of juvenile justice. "Administration of juvenile justice" means activities related to the anticipation, prevention, detection, monitoring or investigation of known, suspected or possible juvenile crimes and the apprehension or summoning, detention, conditional or unconditional release, informal adjustment, initial appearance, bind-over, adjudication, disposition, custody and supervision or rehabilitation of accused juveniles or adjudicated juvenile criminal offenders. "Administration of juvenile justice" includes the collection, storage and dissemination of juvenile case records and juvenile intelligence and investigative record information relating to the administration of juvenile justice.

Sec. 6. 15 MRSA §3003, sub-§19-C is enacted to read:

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

Sec. 7. 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.

Sec. 8. 15 MRSA §3009, sub-§2, as amended by PL 2003, c. 205, §3, is further amended to read:

2. Release of information. Upon the request of the superintendent or the superintendent's designee under subsection 1, the Department of Corrections shall release information as authorized under section ~~3308~~ 3308-C, subsection ~~7~~ 4, paragraph ~~B~~ C, subparagraph (3) and Title 34-A, section 1216, subsection 1, paragraph F to be used by the reintegration team. Information received pursuant to this subsection is confidential and may not be further disseminated, except as otherwise provided by law.

Sec. 9. 15 MRSA §3010 is enacted to read:

§3010. Dissemination of juvenile history record information by a Maine criminal justice agency

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Confidential juvenile history record information" means all juvenile history record information except public juvenile history record information.

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

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

D. "Executive order" has the same meaning as in Title 16, section 703, subsection 7.

E. "Juvenile history record information" means information of record collected by a criminal justice agency or at the direction of a criminal justice agency or kept in the custody of a criminal justice agency that connects a specific, identifiable juvenile with formal involvement in the juvenile justice system either as a person accused of or adjudicated as having committed a juvenile crime. "Juvenile history record information" includes, but is not limited to, identifiable descriptions or notations of: summonses and arrests; detention; petitions charging a juvenile with a juvenile crime or any disposition stemming from such charges; post-plea or post-adjudication disposition; execution of and completion of any disposition alternatives imposed; release and discharge from involuntary commitment; any related pretrial and post-trial appeals; collateral attacks; and petitions for and warrants of pardons, commutations, reprieves and amnesties. "Juvenile history record information" does not include information of record of civil proceedings, including traffic infractions and other civil violations or juvenile intelligence and investigative record information as defined in section 3308-A, subsection 1, paragraph E. As used in this paragraph, "formal involvement in the juvenile justice system either as a person accused of or adjudicated as having committed a juvenile crime" means

being within the jurisdiction of the juvenile justice system commencing with arrest, summons, referral to a juvenile community corrections officer, preliminary investigation or filing of a juvenile petition with the Juvenile Court and concluding with the completion of any informal adjustment agreement or the completion of any disposition entered by the Juvenile Court.

F. "Public juvenile history record information" means information indicating that a juvenile has been adjudicated as having committed a juvenile crime that would constitute murder or a Class A, B or C crime if the juvenile adjudicated were an adult and any resulting disposition imposed.

2. Juvenile history record information confidential. Except as provided in subsection 3, juvenile history record information is confidential and not open to public inspection, and does not constitute public records as defined in Title 1, section 402, subsection 3.

3. Juvenile history record information pertaining to adjudications. Notwithstanding subsection 2, if a juvenile has been adjudicated as having committed a juvenile crime that would constitute murder or a Class A, B or C crime if the juvenile adjudicated were an adult, then that adjudication and any resulting disposition imposed, but no other related juvenile history record information, may be disclosed publicly.

4. Dissemination of juvenile history record information by Maine criminal justice agency. A Maine criminal justice agency, whether directly or through any intermediary, may disseminate confidential juvenile history record information only to:

A. Another criminal justice agency for the purpose of the administration of juvenile justice, the administration of criminal justice or criminal justice agency employment;

B. Any person for any purpose when expressly authorized by a statute, court rule, court decision or court order containing language specifically referring to confidential juvenile history record information or one or more of the types of confidential juvenile history record information; or

C. A public entity for purposes of international travel, such as issuing visas and granting of citizenship.

5. Required inquiry to State Bureau of Identification. A Maine criminal justice agency, other than a court, shall query the Department of Public Safety, State Bureau of Identification before disseminating any confidential juvenile history record information for a noncriminal justice purpose to ensure that the most up-to-date disposition information is being used. For purposes of this subsection, "noncriminal justice purpose" means a purpose other than for the administration

of juvenile justice, the administration of criminal justice or criminal justice agency employment.

6. Unlawful dissemination of confidential juvenile history record information. Any person who intentionally disseminates confidential juvenile history record information knowing it to be in violation of any provision of this chapter commits a civil violation for which a fine of not more than \$1,000 may be adjudged. The District Court has jurisdiction over violations under this subsection.

Sec. 10. 15 MRSA §3307, as amended by PL 2019, c. 525, §16, is further amended to read:

§3307. ~~Publicity and record~~ Disclosure of juvenile's identity

1-A. Disclosure of juvenile's identity. A law enforcement officer, officer of the court, juvenile community corrections officer or other representative of the Department of Corrections may not disclose the identity of any juvenile until a petition is filed ~~charging the juvenile with a juvenile crime described in subsection 2~~ open to public inspection pursuant to section 3308-C, subsection 2, paragraph A, B or C. This section does not preclude the disclosure of the identity of a juvenile to a complainant or victim ~~if a juvenile community corrections officer decides not to file a petition in accordance with section 3301, subsection 5, paragraph A or B or if the juvenile community corrections officer requests the prosecuting attorney to file a petition in accordance with section 3301, subsection 5, paragraph C,~~ or, if the victim is a minor, to the victim's parent or parents, guardian or legal custodian, to a criminal justice agency for the administration of juvenile justice or to the Department of Health and Human Services if necessary to carry out the statutory functions of that department, regardless of whether a petition has been or will be filed.

This section does not preclude the disclosure of the identity of a juvenile on conditional release pursuant to section 3203-A or on informal adjustment pursuant to section 3301 to a criminal justice agency for the administration of juvenile justice, or to the Department of Health and Human Services if necessary to carry out the statutory functions of that department.

1-B. Disclosure of juvenile's identity to victim. Upon request, the identity of a juvenile subject to Juvenile Court proceedings must be disclosed by the Juvenile Court to:

A. The victim;

B. If the victim is a minor, the parent or parents, guardian or legal custodian of the victim; or

C. If the victim cannot act on the victim's own behalf due to death, age, physical or mental disease or disorder or intellectual disability or autism or

other reason, an immediate family member, guardian, legal custodian or attorney representing the victim.

2. ~~Certain hearings public.~~

~~A. Once a petition is filed, the general public may not be excluded from a proceeding on a juvenile crime that would constitute murder or a Class A, Class B or Class C crime if the juvenile involved were an adult; from a proceeding on a juvenile crime that would constitute a Class D crime if the juvenile involved were an adult and the juvenile has previously been adjudicated of committing a juvenile crime that would constitute a Class D or higher class crime not arising from the same underlying transaction; or from a subsequent dispositional hearing in such cases.~~

~~B. The general public is excluded from all other juvenile hearings and proceedings, except that a juvenile charged with a juvenile crime that would constitute murder or a Class A, Class B or Class C offense and with a juvenile crime that would constitute a juvenile's first Class D offense or Class E offense or with conduct described in section 3103, subsection 1, paragraph B, C or E, arising from the same underlying transaction may elect to have all charges adjudicated in one hearing, and, when a juvenile does so elect, the general public is not excluded from that hearing.~~

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

Sec. 11. 15 MRSA §3308, as amended by PL 2019, c. 525, §17, is repealed.

Sec. 12. 15 MRSA §3308-A, sub-§1, ¶A, as enacted by PL 2013, c. 267, Pt. D, §1, is repealed.

Sec. 13. 15 MRSA §3308-A, sub-§1, ¶C-1 is enacted to read:

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

Sec. 14. 15 MRSA §3308-A, sub-§2, as amended by PL 2019, c. 525, §19, is further amended to read:

2. Information part of juvenile case records. To the extent juvenile intelligence and investigative record information has been made part of the juvenile case records, dissemination of that juvenile intelligence and investigative record information by the court having actual custody of the juvenile case records must be as provided by section ~~3307 and section 3308~~ 3308-C, subsection 4.

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

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

Sec. 16. 15 MRSA §3308-A, sub-§3, ¶D, as amended by PL 2019, c. 525, §21, is further amended by amending subparagraph (2) to read:

(2) A court order pursuant to section 3307 or ~~3308~~ 3308-C.

Sec. 17. 15 MRSA §3308-A, sub-§4, as enacted by PL 2019, c. 525, §22, is amended to read:

4. Dissemination of juvenile intelligence and investigative record information subject to reasonable limitations. The dissemination of juvenile intelligence and investigative record information by a criminal justice agency pursuant to subsection 3, paragraphs B, B-1, B-2 and D is subject to limitations to reasonably ensure that dissemination of the information will not:

- A. Interfere with law enforcement proceedings relating to crimes;
- B. Result in public dissemination of prejudicial information concerning an accused person or concerning the prosecution's evidence that will interfere with the ability of a court to impanel an impartial jury;
- C. Constitute an unwarranted invasion of personal privacy, including, but not limited to, the personal privacy of juveniles and victims;
- D. Disclose the identity of a confidential source;
- E. Disclose confidential information furnished only by a confidential source;
- F. Disclose investigative techniques and procedures or security plans and procedures not known by the general public;
- G. Endanger the life or physical safety of any individual, including law enforcement personnel;
- H. Disclose information designated confidential by statute; and
- I. Interfere with proceedings relating to civil violations, civil enforcement proceedings and other civil proceedings conducted by the Department of the Attorney General or by a district attorney's office.

To comply with this subsection a criminal justice agency may deny access in whole or in part to records that contain or constitute juvenile intelligence and investigative record information. A criminal justice agency also may prepare and provide redacted copies of

such records to a person or public or private entity authorized to receive the information under this section.

Sec. 18. 15 MRSA §3308-A, sub-§7 is enacted to read:

7. Unlawful dissemination of confidential juvenile intelligence and investigative record information. Any person who intentionally disseminates confidential juvenile intelligence and investigative record information knowing it to be in violation of any provision of this chapter commits a civil violation for which a fine of not more than \$1,000 may be adjudged. The District Court has jurisdiction over violations under this subsection.

Sec. 19. 15 MRSA §3308-C is enacted to read:
§3308-C. Confidentiality of juvenile case records

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

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

A. Any juvenile petition alleging a violation of Title 17-A, section 201, 202 or 203 if the juvenile charged had attained 13 years of age at the time of the alleged juvenile crime, if the Juvenile Court has found there is probable cause to believe the juvenile committed a juvenile crime that would be a violation of Title 17-A, section 201, 202 or 203 if the juvenile involved were an adult.

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

B. Any juvenile petition alleging a juvenile crime that would constitute a Class A crime if committed by an adult if the juvenile charged had attained 13 years of age at the time of the alleged juvenile crime if the Juvenile Court has found there is probable cause to believe the juvenile committed a juvenile crime that would be a Class A crime if the juvenile involved were an adult.

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

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

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

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

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

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

D. In a juvenile petition alleging multiple juvenile crimes, the juvenile crime that would constitute the highest class of crime if the juvenile were an adult determines whether the petition is open to public inspection.

The prosecuting attorney shall ensure that names and identifying information of any alleged victims are redacted before a petition is filed with the Juvenile Court.

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

3. Orders of adjudication open to public inspection. Orders of adjudication for any juvenile crime that would constitute murder or a Class A, B or C crime if the juvenile involved were an adult are open to public inspection. Orders of adjudication for all other juvenile crimes are confidential and not open to public inspection. When an order of adjudication reflects adjudications for both a juvenile crime that would constitute murder or a Class A, B or C crime if the juvenile involved were an adult and another juvenile crime or crimes not constituting murder or a Class A, B or C crime if the juvenile involved were an adult, the juvenile crime that would constitute the highest class of crime if the juvenile were an adult determines whether the order of adjudication is open to public inspection.

4. Dissemination of information contained in juvenile case records. The following provisions apply to the dissemination of information contained in juvenile case records.

A. For purposes of this subsection, unless the context otherwise indicates, the following terms have the following meanings.

(1) "Administration of criminal justice" has the same meaning as in Title 16, section 703, subsection 1.

(2) "Criminal justice agency" has the same meaning as in Title 16, section 703, subsection 4.

(3) "Juvenile intelligence and investigative record information" has the same meaning as in section 3308-A, subsection 1, paragraph E.

B. Nothing in this section precludes sharing of any information contained in juvenile case records by one criminal justice agency with another criminal justice agency for the purpose of administration of criminal justice, administration of juvenile justice or criminal justice agency employment.

C. Nothing in this section precludes dissemination of any information contained in juvenile case records if:

(1) The juvenile has been adjudicated as having committed a juvenile crime;

(2) The information is disseminated by and to persons who directly supervise or report on the health, behavior or progress of the juvenile, the superintendent of the juvenile's school and the superintendent's designees, criminal justice agencies or agencies that are or might become responsible for the health or welfare of the juvenile as a result of a court order or by agreement with the Department of Corrections or the Department of Health and Human Services; and

(3) The information is relevant to and disseminated only for the purpose of creating or maintaining an individualized plan for the juvenile's rehabilitation, including reintegration into a school.

Any information received under this paragraph is confidential and may not be further disclosed or disseminated, except as otherwise provided by law.

D. Nothing in this section precludes dissemination of any information in the juvenile case records in the possession of the Department of Corrections if the person concerning whom the juvenile case records are sought, the juvenile, the person's legal guardian, if any, and, if the person is a minor, the person's parent or parents, guardian or legal custodian have given informed written consent to the dissemination of the juvenile case records.

E. Except as expressly authorized by this section, juvenile intelligence and investigative record information, juvenile community corrections officers' records and all other reports of social and clinical studies contained in juvenile case records may not be open to inspection and may not be disclosed or disseminated except with the consent of the Juvenile Court. The names and identifying information regarding any alleged victims and minors contained in the juvenile case records must be redacted prior to disclosure, dissemination or inspection.

The Juvenile Court may not order the disclosure, dissemination or inspection of juvenile case records unless the juvenile, the juvenile's parent or parents, guardian or legal custodian and either the juvenile's attorney or, if the juvenile does not have an attorney, the juvenile's attorney of record and the prosecuting attorney are given notice of the request and an opportunity to be heard regarding the request. In deciding whether to allow the disclosure, dissemination or inspection of any portion of juvenile case records under this paragraph, the Juvenile Court shall consider the purposes of this Part and the reasons for which the request is being made and may restrict the disclosure, dissemination or inspection of the juvenile case records in any manner the court determines necessary or appropriate.

F. When a juvenile who is adjudicated as having committed a juvenile crime that if committed by an adult would be gross sexual assault under Title 17-A, section 253, subsection 1 is committed to a Department of Corrections juvenile correctional facility or placed on probation, the Department of Corrections shall provide, while the juvenile is committed or on probation, a copy of the juvenile's judgment and commitment to the Department of Health and Human Services, to all law enforcement agencies that have jurisdiction in those areas where the juvenile resides, works or attends school and to the superintendent of any school in which the juvenile attends school during the period of commitment or probation. The Department of Corrections shall provide a copy of the juvenile's judgment and commitment to all licensed day care facility operators located in the municipality where the juvenile resides, works or attends school during the period of commitment or probation. Upon request, the Department of Corrections shall also provide a copy of the juvenile's judgment and commitment to other entities that are involved in the care of children and are located in the municipality where the juvenile resides, works or attends school during the period of commitment or probation. The Department of Corrections may provide a copy of the juvenile's judgment and commitment to any other agency or person that the Department of Corrections determines is appropriate to ensure public safety. Neither the failure of the Department of Corrections to perform the requirements of this paragraph nor compliance with this paragraph subjects the Department of Corrections or its employees to liability in a civil action.

G. Juvenile case records must be open to inspection by and, upon request, be disseminated to the juvenile, the juvenile's parent or parents, guardian or legal custodian, the juvenile's attorney, the prosecuting attorney and any agency to which legal custody of the juvenile was transferred as a result of an adjudication. Juvenile case records must also be open to inspection by and, upon request, be disseminated to the Department of Health and Human Services prior to adjudication if commitment to the Department of Health and Human Services is a proposed disposition.

5. Victim access to juvenile case records. Notwithstanding confidentiality provisions of this section, the juvenile petition and order of adjudication may be inspected by:

A. The victim;

B. If the victim is a minor, the parent or parents, guardian or legal custodian of the victim; or

C. If the victim cannot act on the victim's own behalf due to death, age, physical or mental disease or disorder or intellectual disability or autism or other

reason, an immediate family member, guardian, legal custodian or attorney representing the victim.

Notwithstanding any provision of this section to the contrary, juvenile case records must be open to inspection by or may be disseminated to the Victims' Compensation Board established in Title 5, section 12004-J, subsection 11 if a juvenile is alleged to have committed an offense upon which an application to the board is based.

6. Access to juvenile case records by other persons. With the consent of the Juvenile Court and subject to reasonable limitations to protect the identity, privacy and safety of 3rd parties, including, but not limited to, victims and other accused or adjudicated juveniles, and the interests of justice, juvenile case records, excluding the names of the juvenile and the juvenile's parent or parents, guardian or legal custodian, the juvenile's attorney or any other parties, may be inspected by or disseminated to persons having a legitimate interest in the proceedings or by persons conducting pertinent research studies.

7. Order following determination that juvenile case records are open to public inspection, disclosure or dissemination. Following a determination that a juvenile petition, order of adjudication or other juvenile case records are open to public inspection, disclosure or dissemination under this section, the Juvenile Court shall enter an order specifying which juvenile case records may be inspected, disclosed or disseminated and identifying the individual or agency granted access to those juvenile case records. The Juvenile Court may restrict the further disclosure, dissemination or inspection of the juvenile case records in any manner the court determines necessary or appropriate.

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

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

9. Transmission of information about a committed juvenile. Information regarding a juvenile committed to the custody of the Department of Corrections or

the custody of the Department of Health and Human Services must be provided as follows.

A. The Juvenile Court shall transmit with the commitment order a copy of the petition, the order of adjudication, copies of any social studies, any clinical or educational reports and information pertinent to the care and treatment of the juvenile.

B. The Department of Corrections or the Department of Health and Human Services shall provide the Juvenile Court with any information concerning the juvenile committed to either department's custody that the court at any time may request.

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

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

- (1) At least 3 years have passed since the person's discharge from the disposition ordered for that juvenile crime;
- (2) Since the date of disposition, the person has not been adjudicated as having committed a juvenile crime and has not been convicted of committing a crime; and
- (3) There are no current adjudicatory proceedings pending for a juvenile or other crime.

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

C. At the time a person adjudicated to have committed a juvenile crime other than a crime listed in paragraph A is finally discharged from the disposition imposed for that juvenile crime, the court, upon receipt of appropriate notice of the discharge, shall within 5 business days enter an order sealing from public inspection all records pertaining to the juvenile crime and its disposition. Appropriate notice that the juvenile is discharged from the disposition:

- (1) Must be provided to the court by the Department of Corrections if the juvenile's disposition involved either commitment to the

custody of a Department of Corrections juvenile correctional facility, a period of confinement not to exceed 30 days or any suspended disposition with a period of probation;

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

(3) May be provided to the court by the juvenile or the juvenile's attorney. If the notice is provided by the juvenile or the juvenile's attorney, the juvenile or the juvenile's attorney shall serve a copy of the notice on the office of the prosecuting attorney before the court may enter the order sealing the juvenile case records. In all juvenile cases adjudicated subsequent to January 1, 2000, but prior to January 1, 2022, the Juvenile Court may grant the request of the juvenile or the juvenile's attorney for automatic sealing of all juvenile case records pertaining to the juvenile crime and its disposition when notice is provided to the court and the prosecuting attorney pursuant to this subparagraph.

When an order of adjudication includes multiple juvenile crimes, the juvenile crime that would constitute the highest class of crime if the juvenile were an adult determines whether a petition for sealing of juvenile records must be filed pursuant to paragraph A and a finding made pursuant to paragraph B before all juvenile case records pertaining to all of the juvenile crimes adjudicated may be ordered sealed.

When a juvenile petition alleges multiple juvenile crimes and the court holds separate hearings resulting in multiple orders of adjudication, the order of adjudication with the highest class of crime if the juvenile were an adult determines whether a petition for sealing of juvenile records must be filed pursuant to paragraph A and a finding made pursuant to paragraph B before all juvenile case records pertaining to all of the juvenile crimes adjudicated may be ordered sealed.

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

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

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

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

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

11. Unlawful dissemination of confidential juvenile case record information. Any person who intentionally disseminates information contained in confidential juvenile case records knowing it to be in violation of any provisions of this chapter commits a civil violation for which a fine of not more than \$1,000 may be adjudged. The District Court has jurisdiction over violations under this subsection.

Sec. 20. 15 MRSA §3308-D is enacted to read:
§3308-D. Confidentiality of Juvenile Court proceedings

1. Record. A verbatim record must be made of all Juvenile Court proceedings.

2. Certain hearings public. Unless proceedings on a juvenile petition are suspended under section 3318-A, subsection 5, the general public may not be excluded from any Juvenile Court hearing for which the petition is open to public inspection under section 3308-C, subsection 2 or from any Juvenile Court hearing on a State's motion for bind-over under section 3101, subsection 4.

3. Hearings on petitions alleging multiple juvenile crimes. When a juvenile petition open to public inspection under section 3308-C, subsection 2 alleges a juvenile crime that would constitute a Class D or Class E crime if the juvenile involved were an adult or a violation of section 3103, subsection 1, paragraph B or C arising from the same course of conduct, the Juvenile Court may order that charges alleging conduct that would be a Class D or Class E crime if the juvenile

involved were an adult or a violation of section 3103, subsection 1, paragraph B or C be adjudicated in a separate hearing. When the Juvenile Court so orders, the general public must be excluded from the hearing on alleged conduct that would constitute a Class D or Class E crime if the juvenile were an adult or a violation of section 3103, subsection 1, paragraph B or C.

4. Victim presence at hearings. Regardless of whether a Juvenile Court proceeding is open to the general public, the following persons may be present in court:

A. The victim;

B. If the victim is a minor, the victim's parent or parents, guardian or legal custodian; or

C. If the victim cannot act on the victim's own behalf due to death, age, physical or mental disease or disorder or intellectual disability or autism or other reason, an immediate family member, guardian, legal custodian or attorney representing the victim.

Sec. 21. 15 MRSA §3318-A, sub-§5, as enacted by PL 2011, c. 282, §4, is amended to read:

5. Suspension of juvenile proceedings. Pending a competency examination, the Juvenile Court shall suspend the proceeding on the petition. All juvenile case records, including a petition that is otherwise open to public inspection under section 3308-C, subsection 2, are confidential and are not subject to inspection, dissemination or release by the court. The suspension remains in effect pending the outcome of a competency determination hearing pursuant to subsection 7. Suspension of the proceeding does not affect the Juvenile Court's ability to detain or release the juvenile pursuant to section 3203-A, subsection 5.

Sec. 22. 15 MRSA §3318-A, sub-§7, as enacted by PL 2011, c. 282, §4, is amended to read:

7. Post-examination report and hearing. Following receipt of the competency examination report from the State Forensic Service examiner, the Juvenile Court shall provide copies of the report to the parties and hold a competency determination hearing. All hearings conducted pursuant to this subsection are confidential and not open to the general public or persons listed in section 3308-D, subsection 4. If the Juvenile Court finds that the juvenile is competent to proceed based upon the burden and standard of proof pursuant to subsection 8, the Juvenile Court shall set a time for the resumption of the proceedings. If the Juvenile Court is not satisfied that the juvenile is competent to proceed, the Juvenile Court shall determine how to proceed pursuant to section 3318-B.

The court may consider the report of the State Forensic Service examiner, together with all other evidence relevant to the issue of competency, in its determination whether the juvenile is competent to proceed. No single

criterion set forth in subsection 6 may be binding on the court's determination.

Sec. 23. 15 MRSA §3318-C is enacted to read:
§3318-C. Competency orders

1. Contents of competency order. Competency orders issued by the court may include only the following information.

A. The order must include a finding of whether the juvenile is competent to proceed based on whether the juvenile has a rational, as well as factual, understanding of the proceedings and a sufficient present ability to consult with legal counsel with a reasonable degree of rational understanding.

B. If the court finds that the juvenile is competent to proceed, the order must specify the day on which the proceedings on the juvenile petition will resume.

C. If the court finds that the juvenile is not competent but there is a substantial probability that the juvenile may be competent in the foreseeable future, the order must direct compliance with section 3318-B, subsection 1, paragraph A.

D. If the court finds that the juvenile is not competent to proceed and there is no substantial probability that the juvenile will be competent in the foreseeable future, the order must set a date for a further hearing pursuant to section 3318-B, subsection 2.

All findings of fact made by the court in association with the issuance of a competency order are confidential and may not be included in the order.

2. Access to competency orders. Competency orders may be inspected by the following persons:

A. The victim of the juvenile crime or, if the victim is a minor, the victim's parent or parents, guardian or legal custodian;

B. If the victim cannot act on the victim's own behalf due to death, age, physical or mental disease or disorder or intellectual disability or autism or other reason, an immediate family member, guardian, legal custodian or attorney representing the victim; and

C. The public, but only if the juvenile proceeding to which the order relates is publicly accessible pursuant to section 3308-C, subsection 2.

Sec. 24. 15 MRSA §3506-A, sub-§7, as enacted by PL 1989, c. 126, §2, is amended to read:

7. Public proceeding; exception. ~~Notwithstanding section 3307, subsection 2, paragraph B, the~~ The court shall may not exclude the public unless the minor or the minor's parent or parents, guardian or legal custodian, requests that the public be excluded and the minor or the minor's parent or parents, guardian or legal

custodian, does not object. If the public is excluded, only the parties, their attorneys, court officers and witnesses may be present.

Sec. 25. 15 MRSA c. 514 is enacted to read:

CHAPTER 514

CIVIL REMEDY FOR UNLAWFUL DISCLOSURE OF CONFIDENTIAL RECORDS, INFORMATION

§3701. Civil actions by aggrieved persons authorized

1. Authorization. A person about whom confidential records or information has been intentionally disclosed when the disclosure was made knowing it was in violation of section 3010, subsection 6, section 3308-A, subsection 7 or section 3308-C, subsection 11 or that person's parent or parents, guardian or legal custodian, may initiate and prosecute in that person's own name and on that person's own behalf a civil action for the relief described in this section.

2. Jurisdiction. An action under subsection 1 must be instituted in the District Court for the county where the alleged violator resides or has a principal place of business.

3. Relief. A person who brings and prevails in a civil action pursuant to this section is entitled to injunctive relief, reimbursement of court costs and reasonable attorney's fees, an award of actual damages of up to \$5,000 and award of punitive damages.

Sec. 26. 16 MRSA §803, sub-§3, as enacted by PL 2013, c. 267, Pt. A, §3, is amended to read:

3. Administration of juvenile justice. ~~"Administration of juvenile justice" means activities relating to the anticipation, prevention, detection, monitoring or investigation of known, suspected or possible juvenile crimes. "Administration of juvenile justice" includes the collection, storage and dissemination of intelligence and investigative information relating to the administration of juvenile justice has the same meaning as in Title 15, section 3003, subsection 1-A.~~

Sec. 27. 20-A MRSA §1055, sub-§12, as amended by PL 2003, c. 205, §7, is further amended to read:

12. Reintegration team. Within 10 days after receiving information from the Department of Corrections pursuant to Title 15, section 3009, the superintendent shall convene a reintegration team to carry out reintegration planning pursuant to section 254, subsection 12. The reintegration team must consist of the administrator of the school or the administrator's designee; at least one classroom teacher to whom the student will be assigned or who is involved in the school's student assistance team; a parent, guardian or custodian of the student; and a guidance counselor. The reintegration team is entitled to receive the information

described in Title 15, section ~~3308~~ 3308-C, subsection 7 4, paragraph B-1 C, subparagraph (3) and Title 34-A, section 1216, subsection 1, paragraph F. The reintegration team shall also determine, on the basis of need, which school employees may receive that information.

Confidentiality of the ~~criminal justice~~ information regarding juveniles received from the Department of Corrections must be ensured at all times and the information may be released by a member of the reintegration team only under the conditions of this subsection. The superintendent shall ensure that confidentiality training is provided to all school employees who have access to the information.

Sec. 28. 20-A MRSA §6001-B, sub-§3-A, as amended by PL 2003, c. 205, §8, is further amended to read:

3-A. Determination of status of juvenile applying for admission; discretion of school to accept juvenile. If the receiving school administrative unit receives information under Title 15, section ~~3308~~ 3308-C, subsection 7 4, paragraph B-1 C, subparagraph (3) and Title 34-A, section 1216, subsection 1, paragraph F that a student is not in compliance with a condition of an individualized plan for the juvenile's rehabilitation and that condition is relevant to the juvenile's reintegration into the school, the receiving school administrative unit may deny admission or participation in public school programs, facilities or activities as part of an equivalent instruction program pursuant to section 5021 until the school administrative unit is satisfied that the condition has been met.

Sec. 29. 25 MRSA §2929, sub-§2, ¶B, as amended by PL 2019, c. 339, §6, is further amended to read:

B. A public safety answering point may disclose confidential information to a criminal justice agency, as defined in Title 16, section 803, subsection 4, for the purposes of the administration of criminal justice, as defined in Title 16, section 803, subsection 2, and the administration of juvenile justice, as defined in Title 15, section ~~3308-A~~ 3003, subsection 1, ~~paragraph A 1-A~~, related to a 9-1-1 call;

Sec. 30. 25 MRSA §2929, sub-§4, ¶B, as amended by PL 2019, c. 339, §7, is further amended to read:

B. To a criminal justice agency, as defined in Title 16, section 803, subsection 4, for the purposes of the administration of criminal justice, as defined in Title 16, section 803, subsection 2, and the administration of juvenile justice, as defined in Title 15, section ~~3308-A~~ 3003, subsection 1, ~~paragraph A 1-A~~, related to a 9-1-1 call;

Sec. 31. 34-A MRSA §1001, sub-§10-A, as amended by PL 2015, c. 470, §14, is further amended to read:

10-A. Investigative officer. "Investigative officer" means an employee of the department designated by the commissioner as having the authority to conduct investigations of crimes or juvenile crimes relating to the security or orderly management of a facility administered by the department and engage in any other activity that is related to the administration of criminal justice as defined in Title 16, section 703, subsection 1 for the purposes of the Criminal History Record Information Act or as defined in Title 16, section 803, subsection 2 for the purposes of the Intelligence and Investigative Record Information Act, ~~the administration of juvenile criminal justice~~ or the administration of juvenile justice and who is certified by the Board of Trustees of the Maine Criminal Justice Academy as a full-time law enforcement officer.

Sec. 32. 34-A MRSA §1001, sub-§21, as enacted by PL 1987, c. 633, §1, is repealed.

Sec. 33. 34-A MRSA §1001, sub-§22, as enacted by PL 2015, c. 470, §16, is amended to read:

22. Administration of juvenile justice. "Administration of juvenile justice" has the same meaning as in Title 15, section ~~3308-A~~ 3003, subsection 1, ~~paragraph A 1-A~~.

Sec. 34. 34-A MRSA §1214, sub-§4, as amended by PL 2015, c. 470, §17, is further amended to read:

4. Confidentiality. Requests for action by the office must be treated confidentially and may be disclosed only to a state agency if necessary to carry out the statutory functions of that agency or to a criminal justice agency if necessary to carry out the administration of criminal justice as defined in Title 16, section 703, subsection 1 or the administration of juvenile ~~criminal~~ justice. In no case may a victim's request for notice of release be disclosed outside the department and the office of the attorney for the State with which the request was filed.

Sec. 35. 34-A MRSA §1216, sub-§1, ¶D, as amended by PL 2017, c. 432, Pt. F, §2, is further amended to read:

D. To any criminal justice agency if necessary to carry out the administration of criminal justice as defined in Title 16, section 703, subsection 1, the administration of criminal justice as defined in Title 16, section 803, subsection 2, ~~the administration of juvenile criminal justice as defined in Title 15, section 3308, subsection 7, paragraph A, subparagraph (2)~~, or the administration of juvenile justice as defined in Title 15, section ~~3308-A~~ 3003, subsection 1, ~~paragraph A 1-A~~ or for criminal justice agency employment;

Sec. 36. 34-A MRSA §3011, sub-§1, as amended by PL 2015, c. 470, §19, is further amended to read:

1. Exercise of law enforcement powers. Investigative officers and other employees of the department who are certified by the Board of Trustees of the Maine Criminal Justice Academy as law enforcement officers may exercise the powers of other law enforcement officers with respect to crimes or juvenile crimes relating to the security or orderly management of a facility and engage in any other activity that is related to the administration of criminal justice as defined in Title 16, section 703, subsection 1 for the purposes of the Criminal History Record Information Act or as defined in Title 16, section 803, subsection 2 for the purposes of the Intelligence and Investigative Record Information Act, ~~the administration of juvenile criminal justice or the administration of juvenile justice,~~ if authorized to exercise these powers by the commissioner. These employees may issue administrative subpoenas, if authorized to exercise these powers by the commissioner and by the Attorney General or the Attorney General's designee. These powers are in addition to any powers the employees may otherwise have as employees of the department. Internal investigations of employees of the department must be conducted pursuant to any applicable collective bargaining agreement.

Sec. 37. Effective date. This Act takes effect January 1, 2022.

Effective January 1, 2022.

CHAPTER 366

S.P. 544 - L.D. 1688

An Act To Improve Consistency in Terminology and within the Maine Human Rights Act

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

Sec. 1. 5 MRSA §4552, as amended by PL 2005, c. 10, §1, is further amended to read:

§4552. Policy

To protect the public health, safety and welfare, it is declared to be the policy of this State to keep continually in review all practices infringing on the basic human right to a life with dignity, and the causes of these practices, so that corrective measures may, where possible, be promptly recommended and implemented, and to prevent discrimination in employment, housing, education, extension of credit or access to public accommodations on account of an individual's actual or perceived race, color, sex, sexual orientation or gender identity, physical or mental disability, religion, ancestry

or national origin and in employment, extension of credit and access to public accommodations on the basis of age; and in employment and housing on the basis of familial status; and in employment, ~~discrimination on account of age or~~ because of the previous assertion of a claim or right against a prior employer under former Title 39 or Title 39-A ~~and in housing because of familial status; and to prevent discrimination in the extension of credit on account of age, race, color, sex, sexual orientation, marital status, religion, ancestry or national origin; and to prevent discrimination in education on account of sex, sexual orientation or physical or mental disability and because of protected activity under Title 26, chapter 7, subchapter 5-B; and to prevent discrimination or retaliation on the basis of an assertion of rights under this Act or interference with an individual's right to be free from discrimination prohibited under this Act.~~

Sec. 2. 5 MRSA §4553, sub-§5-A, as amended by PL 2019, c. 464, §1, is further amended to read:

5-A. Familial status. "Familial status" means ~~that~~ a family unit ~~may contain one or more individuals who have not attained 18 years of age and are living with that~~ contains:

A. ~~A~~ One or more individuals who have not attained 18 years of age and are living with a parent or another person having legal custody of the individual or individuals or the designee of the parent or other person having custody with the written permission of the parent or other person; or

B. ~~The designee of the parent or other person having custody, with the written permission of the parent or other person.~~

B-1. One or more individuals 18 years of age or older who lack the ability to meet essential requirements for physical health, safety or self-care because the individual or individuals are unable to receive and evaluate information or make or communicate decisions.

The protections afforded against discrimination on the basis of familial status apply to any person who is pregnant or who is in the process of securing legal custody of any individual who has not attained 18 years of age.

Sec. 3. 5 MRSA §4553, sub-§10, ¶G, as amended by PL 2019, c. 464, §1, is further amended by amending subparagraph (3) to read:

(3) Educational opportunity, ~~as is more fully set forth in section 4602, subsection 4.~~

Sec. 4. 5 MRSA §4571, as amended by PL 2005, c. 10, §10, is further amended to read:

§4571. Right to freedom from discrimination in employment

The opportunity for an individual to secure employment without discrimination because of race,