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H.P. 1070

House of Representatives, May 2, 2013

**An Act To Revise the Laws Concerning Criminal History Record
Information and Intelligence and Investigative Information**

Reported by Representative DION of Portland for the Criminal Law Advisory Commission pursuant to the Maine Revised Statutes, Title 17-A, section 1354, subsection 2.

Reference to the Committee on Criminal Justice and Public Safety suggested and ordered printed pursuant to Joint Rule 218.

Millicent M. MacFarland

MILLICENT M. MacFARLAND

Clerk

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

2 **PART A**

3 **Sec. A-1. 16 MRSA c. 3, sub-c. 8**, as amended, is repealed.

4 **Sec. A-2. 16 MRSA c. 7** is enacted to read:

5 **CHAPTER 7**

6 **CRIMINAL HISTORY RECORD INFORMATION ACT**

7 **§701. Short title**

8 This chapter may be known and cited as "the Criminal History Record Information
9 Act."

10 **§702. Scope; application**

11 This chapter governs the dissemination of criminal history record information by a
12 Maine criminal justice agency. This chapter establishes 2 distinct categories of criminal
13 history record information and provides for the dissemination of each:

14 **1. Public criminal history record information.** Public criminal history record
15 information, the dissemination of which is governed by section 704; and

16 **2. Confidential criminal history record information.** Confidential criminal
17 history record information, the dissemination of which is governed by section 705.

18 **§703. Definitions**

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

21 **1. Administration of criminal justice.** "Administration of criminal justice" means
22 activities relating to the apprehension or summoning, detention, pretrial release,
23 post-trial release, prosecution, adjudication, sentencing, correctional custody and
24 supervision or rehabilitation of accused persons or convicted criminal offenders.
25 "Administration of criminal justice" includes the collection, storage and dissemination of
26 criminal history record information.

27 **2. Confidential criminal history record information.** "Confidential criminal
28 history record information" means criminal history record information of the following
29 types:

30 A. Unless the person remains a fugitive from justice, summons and arrest
31 information without disposition if an interval of more than one year has elapsed since
32 the date the person was summonsed or arrested and no active prosecution of a
33 criminal charge stemming from the summons or arrest is pending;

- 1 B. Information disclosing that the responsible law enforcement agency or officer has
2 elected not to refer a matter to a prosecutor;
- 3 C. Information disclosing that the responsible prosecutorial office or prosecutor has
4 elected not to initiate or approve criminal proceedings;
- 5 D. Information disclosing that a grand jury has determined that there is insufficient
6 evidence to warrant the return of a formal charge;
- 7 E. Information disclosing that a criminal proceeding has been indefinitely postponed
8 or dismissed because the person charged is found by the court to be mentally
9 incompetent to stand trial or to be sentenced;
- 10 F. Information disclosing that a criminal charge has been filed, if the filing period is
11 indefinite or for more than one year;
- 12 G. Information disclosing that a criminal charge has been dismissed by a court with
13 prejudice or dismissed with finality by a prosecutor other than as part of a plea
14 agreement;
- 15 H. Information disclosing that a person has been acquitted of a criminal charge. A
16 verdict or accepted plea of not criminally responsible by reason of insanity, or its
17 equivalent, is not an acquittal of the criminal charge;
- 18 I. Information disclosing that a criminal proceeding has terminated in a mistrial with
19 prejudice;
- 20 J. Information disclosing that a criminal proceeding has terminated based on lack of
21 subject matter jurisdiction;
- 22 K. Information disclosing that a criminal proceeding has been terminated because the
23 court lacked jurisdiction over the defendant; and
- 24 L. Information disclosing that a person has been granted a full and free pardon or
25 amnesty.

26 **3. Criminal history record information.** "Criminal history record information"
27 means information of record collected by a criminal justice agency or at the direction of a
28 criminal justice agency or kept in the custody of a criminal justice agency that connects a
29 specific, identifiable person, including a juvenile treated by statute as an adult for
30 criminal prosecution purposes, with formal involvement in the criminal justice system
31 either as an accused or as a convicted criminal offender. "Criminal history record
32 information" includes, but is not limited to, identifiable descriptions or notations of:
33 summonses and arrests; detention; bail; formal criminal charges such as complaints,
34 informations and indictments; any disposition stemming from such charges; post-plea or
35 post-adjudication sentencing; involuntary commitment; execution of and completion of
36 any sentencing alternatives imposed; release and discharge from involuntary
37 commitment; any related pretrial and post-trial appeals, collateral attacks and petitions;
38 and petitions for and warrants of pardons, commutations, reprieves and amnesties.
39 "Criminal history record information" does not include: identification information such as
40 fingerprints, palmprints, footprints or photographic records to the extent that the
41 information does not indicate formal involvement of the specific individual in the
42 criminal justice system; information of record of civil proceedings, including traffic

1 infractions and other civil violations; intelligence and investigative record information as
2 defined in section 803; or information of record of juvenile crime proceedings or their
3 equivalent. Specific information regarding a juvenile crime proceeding is not criminal
4 history record information notwithstanding that a juvenile has been bound over and
5 treated as an adult or that by statute specific information regarding a juvenile crime
6 proceeding is usable in a subsequent adult criminal proceeding. "Formal involvement in
7 the criminal justice system either as an accused or as a convicted criminal offender"
8 means being within the jurisdiction of the criminal justice system commencing with
9 arrest, summons or initiation of formal criminal charges and concluding with the
10 completion of every sentencing alternative imposed as punishment or final discharge
11 from an involuntary commitment based upon a finding of not criminally responsible by
12 reason of insanity or its equivalent.

13 **4. Criminal justice agency.** "Criminal justice agency" means a federal, state or
14 State of Maine government agency or any subunit of a government agency at any
15 governmental level that performs the administration of criminal justice pursuant to a
16 statute or executive order. "Criminal justice agency" includes federal courts, Maine
17 courts, courts in any other state, the Department of the Attorney General, district
18 attorneys' offices and the equivalent departments or offices in any federal or state
19 jurisdiction. "Criminal justice agency" also includes any equivalent agency at any level
20 of Canadian government and the government of any federally recognized Indian tribe.

21 **5. Disposition.** "Disposition" means information of record disclosing that a criminal
22 proceeding has been concluded, although not necessarily finalized, and the specific nature
23 of the concluding event. "Disposition" includes, but is not limited to: an acquittal; a
24 dismissal, with or without prejudice; the filing of a charge by agreement of the parties or
25 by a court; the determination that a defendant is currently a fugitive from justice; a
26 conviction, including the acceptance by a court of a plea of guilty or nolo contendere; a
27 deferred disposition; a proceeding indefinitely continued or dismissed due to a
28 defendant's incompetence; a finding of not criminally responsible by reason of insanity or
29 its equivalent; a mistrial, with or without prejudice; a new trial ordered; an arrest of
30 judgment; a sentence imposition; a resentencing ordered; an execution of and completion
31 of any sentence alternatives imposed, including but not limited to fines, restitution,
32 correctional custody and supervision, and administrative release; a release or discharge
33 from a commitment based upon a finding of not criminally responsible by reason of
34 insanity or its equivalent; the death of the defendant; any related pretrial and post-trial
35 appeals, collateral attacks and petitions; a pardon, commutation, reprieve or amnesty; and
36 extradition. "Disposition" also includes information of record disclosing that the
37 responsible law enforcement agency or officer has elected not to refer a matter to a
38 prosecutor, that the responsible prosecutorial office or prosecutor has elected not to
39 initiate or approve criminal proceedings or that a grand jury has determined that there is
40 insufficient evidence to warrant the return of a formal charge.

41 **6. Dissemination.** "Dissemination" means the transmission of information by any
42 means, including but not limited to orally, in writing or electronically, by or to anyone
43 outside the criminal justice agency that maintains the information.

1 **7. Executive order.** "Executive order" means an order of the President of the United
2 States or the chief executive of a state that has the force of law and that is published in a
3 manner permitting regular public access.

4 **8. Public criminal history record information.** "Public criminal history record
5 information" means criminal history record information that is not confidential criminal
6 history record information, including information recorded pursuant to section 706.

7 **9. State.** "State" means any state of the United States, the District of Columbia, the
8 Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the
9 United States Virgin Islands, Guam and American Samoa. "State" also includes the
10 federal government of Canada and any provincial government of Canada and the
11 government of any federally recognized Indian tribe.

12 **10. Statute.** "Statute" means an Act of Congress or an act of a state legislature or a
13 provision of the Constitution of the United States or the constitution of a state.

14 **§704. Dissemination of public criminal history record information**

15 **1. Generally.** Public criminal history record information is public for purposes of
16 Title 1, chapter 13. Public criminal history record information may be disseminated by a
17 Maine criminal justice agency to any person or public or private entity for any purpose.
18 Public criminal history record information is public whether it relates to a crime for
19 which a person is currently within the jurisdiction of the criminal justice system or it
20 relates to a crime for which a person is no longer within that jurisdiction. There is no
21 time limitation on dissemination of public criminal history record information.

22 **2. Required inquiry to State Bureau of Identification.** A Maine criminal justice
23 agency, other than a court, shall query the Department of Public Safety, State Bureau of
24 Identification before disseminating any public criminal history record information for a
25 noncriminal justice purpose to ensure that the most up-to-date disposition information is
26 being used. "Noncriminal justice purpose" means a purpose other than for the
27 administration of criminal justice or criminal justice agency employment.

28 **§705. Dissemination of confidential criminal history record information**

29 **1. Generally.** A Maine criminal justice agency, whether directly or through any
30 intermediary, may disseminate confidential criminal history record information only to:

31 A. Other criminal justice agencies for the purpose of the administration of criminal
32 justice and criminal justice agency employment;

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

37 C. Any person with a specific agreement with a criminal justice agency to provide
38 services required for the administration of criminal justice or to conduct
39 investigations determining the employment suitability of prospective law
40 enforcement officers. The agreement must specifically authorize access to data, limit

1 the use of the data to purposes for which given, ensure security and confidentiality of
2 the data consistent with this chapter and provide sanctions for any violations;

3 D. Any person for the express purpose of research, evaluation or statistical purposes
4 or under an agreement with the criminal justice agency. The agreement must
5 specifically authorize access to confidential criminal history record information, limit
6 the use of the information to research, evaluation or statistical purposes, ensure the
7 confidentiality and security of the information consistent with this chapter and
8 provide sanctions for any violations;

9 E. Any person who makes a specific inquiry to the criminal justice agency as to
10 whether a named individual was summonsed, arrested or detained or had formal
11 criminal charges initiated on a specific date;

12 F. The public for the purpose of announcing the fact of a specific disposition that is
13 confidential criminal history record information, other than that described in section
14 703, subsection 2, paragraph A, within 30 days of the date of occurrence of that
15 disposition or at any point in time if the person to whom the disposition relates
16 specifically authorizes that it be made public; and

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

19 **2. Confirming existence or nonexistence of information.** A Maine criminal justice
20 agency may not confirm the existence or nonexistence of confidential criminal history
21 record information to any person or public or private entity that would not be eligible to
22 receive the information itself.

23 **3. Required inquiry to State Bureau of Identification.** A Maine criminal justice
24 agency, other than a court, shall query the Department of Public Safety, State Bureau of
25 Identification before disseminating any confidential criminal history record information
26 for a noncriminal justice purpose to ensure that the most up-to-date disposition
27 information is being used. "Noncriminal justice purpose" means a purpose other than for
28 the administration of criminal justice or criminal justice agency use.

29 **§706. Public information about persons detained following arrest**

30 **1. Requirement of record.** A Maine criminal justice agency that maintains a
31 holding facility, as defined in Title 34-A, section 1001, subsection 9, or other facility for
32 pretrial detention shall record the following information concerning each person delivered
33 to it for pretrial detention for any period of time:

34 A. The identity of the arrested person, including the person's name, year of birth,
35 residence and occupation, if any;

36 B. The statutory or customary description of the crime or crimes for which the
37 person was arrested including the date and geographic location where the crime is
38 alleged to have occurred;

39 C. The date, time and place of the arrest; and

40 D. The circumstances of the arrest including, when applicable, the physical force
41 used in making the arrest, the resistance made to the arrest, what weapons were

1 involved, the arrested person's refusal to submit and the pursuit by the arresting
2 officers.

3 **2. Time and method of recording.** A Maine criminal justice agency shall record
4 the information under subsection 1 immediately upon delivery of an arrested person to
5 the criminal justice agency for detention. The criminal justice agency shall record and
6 maintain the information in chronological order and keep the information in a suitable,
7 permanent record. The information required by this section may be combined by a sheriff
8 with the record required by Title 30-A, section 1505.

9 **3. Information public.** The information required to be recorded and maintained by
10 this section is public criminal history record information.

11 **§707. Unlawful dissemination of confidential criminal history record information**

12 **1. Offense.** A person is guilty of unlawful dissemination of confidential criminal
13 history record information if the person intentionally disseminates confidential criminal
14 history record information knowing it to be in violation of any of the provisions of this
15 chapter.

16 **2. Classification.** Unlawful dissemination of confidential criminal history record
17 information is a Class E crime.

18 **§708. Inapplicability of this chapter to criminal history record information**
19 **contained in certain records**

20 This chapter does not apply to criminal history record information contained in:

21 **1. Posters, announcements, lists.** Posters, announcements or lists used for
22 identifying or apprehending fugitives from justice or wanted persons;

23 **2. Records of entry.** Records of entry, such as calls for service, formerly known as
24 "police blotters," that are maintained by criminal justice agencies, that are compiled and
25 organized chronologically and that are required by law or long-standing custom to be
26 made public;

27 **3. Records of public judicial proceedings.** Records of public judicial proceedings:

28 A. Retained at and by the District Court, Superior Court or Supreme Judicial Court.
29 Public access to and dissemination of such records for inspection and copying are as
30 provided by rule or administrative order of the Supreme Judicial Court; and

31 B. From federal courts and courts of other states;

32 **4. Published opinions.** Published court or administrative opinions not impounded
33 or otherwise declared confidential;

34 **5. Records of public proceedings.** Records of public administrative or legislative
35 proceedings;

36 **6. Records of traffic crimes.** Records of traffic crimes maintained by the Secretary
37 of State or by a state department of transportation or motor vehicles or the equivalent

1 thereof for the purposes of regulating the issuance, suspension, revocation or renewal of a
2 driver's, pilot's or other operator's license; and

3 **7. Pardons, commutations, reprieves and amnesties.** Petitions for and warrants of
4 pardons, commutations, reprieves and amnesties.

5 **§709. Right to access and review**

6 **1. Inspection.** If a Maine criminal justice agency maintains criminal history record
7 information about a person, the person or the person's attorney may inspect the criminal
8 history record information. A criminal justice agency may prescribe reasonable hours
9 and locations at which the right may be exercised and any additional restrictions,
10 including satisfactory verification of identity by fingerprint comparison, as are reasonably
11 necessary to ensure the security and confidentiality of the criminal history record
12 information and to verify the identity of the person seeking to inspect that information.
13 The criminal justice agency shall supply the person or the person's attorney with a copy
14 of the criminal history record information pertaining to the person on request and
15 payment of a reasonable fee.

16 **2. Review.** A person or the person's attorney may request amendment or correction
17 of criminal history record information concerning the person by addressing, either in
18 person or in writing, the request to the criminal justice agency in which the information is
19 maintained. The request must indicate the particular record involved, the nature of the
20 amendment or correction sought and the justification for the amendment or correction.

21 On receipt of a request, the criminal justice agency shall take necessary steps to
22 determine whether the questioned criminal history record information is accurate and
23 complete. If investigation reveals that the questioned criminal history record information
24 is inaccurate or incomplete, the criminal justice agency shall immediately correct the
25 error or deficiency.

26 Not later than 15 days, excluding Saturdays, Sundays and legal public holidays, after the
27 receipt of a request, the criminal justice agency shall notify the requesting person in
28 writing either that the criminal justice agency has corrected the error or deficiency or that
29 it refuses to make the requested amendment or correction. The notice of refusal must
30 include the reasons for the refusal, the procedure established by the criminal justice
31 agency for requesting a review by the head of the criminal justice agency of that refusal
32 and the name and business address of that official.

33 **3. Administrative appeal.** If there is a request for review, the head of the criminal
34 justice agency shall, not later than 30 days from the date of the request, excluding
35 Saturdays, Sundays and legal public holidays, complete the review and either make the
36 requested amendment or correction or refuse to do so. If the head of the criminal justice
37 agency refuses to make the requested amendment or correction, the head of the criminal
38 justice agency shall permit the requesting person to file with the criminal justice agency a
39 concise statement setting forth the reasons for the disagreement with the refusal. The head
40 of the criminal justice agency shall also notify the person of the provisions for judicial
41 review of the reviewing official's determination under subsection 4.

1 Disputed criminal history record information disseminated by the criminal justice agency
2 with which the requesting person has filed a statement of disagreement must clearly
3 reflect notice of the dispute after the filing of such a statement. A copy of the statement
4 must be included, along with, if the criminal justice agency determines it appropriate, a
5 copy of a concise statement of the criminal justice agency's reasons for not making the
6 amendment or correction requested.

7 **4. Judicial review.** If an administrative appeal brought pursuant to subsection 3 is
8 denied by the head of the criminal justice agency, or the requesting person believes the
9 decision of the head of the criminal justice agency to be otherwise unsatisfactory, the
10 person may, within 30 days of the decision rendered by the head of the criminal justice
11 agency, appeal to the Superior Court in accordance with Title 5, chapter 375, subchapter
12 7 and the Maine Rules of Civil Procedure, Rule 80C.

13 **5. Notification.** When a criminal justice agency has amended or corrected a person's
14 criminal history record information in response to a written request as provided in
15 subsection 2 or a court order, the criminal justice agency shall, within 30 days thereof,
16 advise all prior recipients who have received that information within the year prior to the
17 amendment or correction that the amendment or correction has been made. The criminal
18 justice agency shall also notify the person who is the subject of the amended or corrected
19 criminal history record information of compliance with this subsection and the prior
20 recipients notified.

21 **6. Right of release.** The provisions of this chapter do not limit the right of a person
22 to disseminate criminal history record information pertaining to that person to any other
23 person.

24 **§710. Application to prior Maine criminal history record information**

25 The provisions of this chapter apply to criminal history record information in
26 existence before July 29, 1976, including that which has been previously expunged under
27 any other provision of Maine law, as well as to criminal history record information in
28 existence on July 29, 1976 and thereafter.

29 **Sec. A-3. 16 MRSA c. 9** is enacted to read:

30 **CHAPTER 9**

31 **INTELLIGENCE AND INVESTIGATIVE RECORD INFORMATION ACT**

32 **§801. Short title**

33 This chapter may be known and cited as "the Intelligence and Investigative Record
34 Information Act."

35 **§802. Application**

36 This chapter applies to a record that is or contains intelligence and investigative
37 record information and that is collected by or prepared at the direction of or kept in the
38 custody of any Maine criminal justice agency.

1 **§803. Definitions**

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

4 **1. Administration of civil justice.** "Administration of civil justice" means activities
5 relating to the anticipation, prevention, detection, monitoring or investigation of known,
6 suspected or possible civil violations and prospective and pending civil actions. It
7 includes the collection, storage and dissemination of intelligence and investigative record
8 information relating to the administration of civil justice. "Administration of civil
9 justice" does not include known, suspected or possible traffic infractions.

10 **2. Administration of criminal justice.** "Administration of criminal justice" means
11 activities relating to the anticipation, prevention, detection, monitoring or investigation of
12 known, suspected or possible crimes. It includes the collection, storage and
13 dissemination of intelligence and investigative record information relating to the
14 administration of criminal justice.

15 **3. Administration of juvenile justice.** "Administration of juvenile justice" means
16 activities relating to the anticipation, prevention, detection, monitoring or investigation of
17 known, suspected or possible juvenile crimes. "Administration of juvenile justice"
18 includes the collection, storage and dissemination of intelligence and investigative
19 information relating to the administration of juvenile justice.

20 **4. Criminal justice agency.** "Criminal justice agency" means a federal, state or
21 State of Maine government agency or any subunit of a government agency at any
22 governmental level that performs the administration of criminal justice pursuant to a
23 statute or executive order. "Criminal justice agency" includes the Department of the
24 Attorney General, district attorneys' offices and the equivalent departments or offices in
25 any federal or state jurisdiction. "Criminal justice agency" also includes any equivalent
26 agency at any level of Canadian government and the government of any federally
27 recognized Indian tribe.

28 **5. Dissemination.** "Dissemination" means the transmission of information by any
29 means, including but not limited to orally, in writing or electronically, by or to anyone
30 outside the criminal justice agency that maintains the information.

31 **6. Executive order.** "Executive order" means an order of the President of the United
32 States or the chief executive of a state that has the force of law and that is published in a
33 manner permitting regular public access.

34 **7. Intelligence and investigative record information.** "Intelligence and
35 investigative record information" means information of record collected by or prepared
36 by or at the direction of a criminal justice agency or kept in the custody of a criminal
37 justice agency while performing the administration of criminal justice or, exclusively for
38 the Department of the Attorney General and district attorneys' offices, the administration
39 of civil justice. "Intelligence and investigative record information" includes information
40 of record concerning investigative techniques and procedures and security plans and
41 procedures prepared or collected by a criminal justice agency or other agency.

1 "Intelligence and investigative record information" does not include criminal history
2 record information as defined in section 703, subsection 3 and does not include
3 information of record collected or kept while performing the administration of juvenile
4 justice.

5 **8. State.** "State" means any state of the United States, the District of Columbia, the
6 Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the
7 United States Virgin Islands, Guam and American Samoa. "State" also includes the
8 federal government of Canada and any provincial government of Canada and the
9 government of any federally recognized Indian tribe.

10 **9. Statute.** "Statute" means an Act of Congress or an act of a state legislature or a
11 provision of the Constitution of the United States or the constitution of a state.

12 **§804. Limitation on dissemination of intelligence and investigative record**
13 **information**

14 Except as provided in sections 805 and 806, a record that contains intelligence and
15 investigative record information is confidential and may not be disseminated by a
16 criminal justice agency to any person or public or private entity if there is a reasonable
17 possibility that public release or inspection of the record would:

18 **1. Interfere with criminal law enforcement proceedings.** Interfere with law
19 enforcement proceedings relating to crimes;

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

24 **3. Constitute an invasion of privacy.** Constitute an unwarranted invasion of
25 personal privacy;

26 **4. Disclose confidential source.** Disclose the identity of a confidential source;

27 **5. Disclose confidential information.** Disclose confidential information furnished
28 only by a confidential source;

29 **6. Disclose trade secrets or other confidential commercial or financial**
30 **information.** Disclose trade secrets or other confidential commercial or financial
31 information designated as such by the owner or source of the information, by the
32 Department of the Attorney General or by a district attorney's office;

33 **7. Disclose investigative techniques or security plans.** Disclose investigative
34 techniques and procedures or security plans and procedures not known by the general
35 public;

36 **8. Endanger law enforcement or others.** Endanger the life or physical safety of
37 any individual, including law enforcement personnel;

1 **9. Disclose statutorily designated confidential information.** Disclose information
2 designated confidential by statute;

3 **10. Interfere with civil proceedings.** Interfere with proceedings relating to civil
4 violations, civil enforcement proceedings and other civil proceedings conducted by the
5 Department of the Attorney General or by a district attorney's office;

6 **11. Disclose arbitration or mediation information.** Disclose conduct of or
7 statements made or documents submitted by any person in the course of any mediation or
8 arbitration conducted under the auspices of the Department of the Attorney General; or

9 **12. Identify source of consumer or antitrust complaints.** Identify the source of a
10 complaint made to the Department of the Attorney General regarding a violation of
11 consumer or antitrust laws.

12 **§805. Exceptions**

13 This chapter does not preclude dissemination of intelligence and investigative record
14 information that is confidential under section 804 by a Maine criminal justice agency to:

15 **1. Another criminal justice agency.** Another criminal justice agency;

16 **2. A person or entity for purposes of intelligence gathering or ongoing**
17 **investigation.** A person or public or private entity as part of the criminal justice agency's
18 administration of criminal justice or the administration of civil justice by the Department
19 of the Attorney General or a district attorney's office;

20 **3. An accused person or that person's agent or attorney.** A person accused of a
21 crime or that person's agent or attorney for trial and sentencing purposes if authorized by:

22 A. The responsible prosecutorial office or prosecutor; or

23 B. A court rule or court order of this State or of the United States.

24 As used in this subsection, "agent" means a licensed professional investigator, an expert
25 witness or a parent, foster parent or guardian if the accused person has not attained 18
26 years of age;

27 **4. Court.** A federal court, the District Court, Superior Court or Supreme Judicial
28 Court or an equivalent court in another state; or

29 **5. An authorized person or entity.** A person or public or private entity expressly
30 authorized to receive the intelligence and investigative record information by statute,
31 executive order, court rule, court decision or court order. "Express authorization" means
32 language in the statute, executive order, court rule, court decision or court order that
33 specifically speaks of intelligence and investigative record information or specifically
34 refers to a type of intelligence or investigative record.

35 **§806. Exceptions subject to reasonable limitations**

36 Subject to reasonable limitations imposed by a Maine criminal justice agency to
37 protect against the harms described in section 804, this chapter does not preclude

1 dissemination of intelligence and investigative record information confidential under
2 section 804 by a Maine criminal justice agency to:

3 **1. A government agency responsible for investigating child or adult abuse,**
4 **neglect or exploitation.** A government agency or subunit of a government agency in this
5 State or another state that pursuant to statute is responsible for investigating abuse,
6 neglect or exploitation of children or incapacitated or dependent adults if the intelligence
7 and investigative record information is used in the investigation of suspected abuse,
8 neglect or exploitation;

9 **2. A crime victim or that victim's agent or attorney.** A crime victim or that
10 victim's agent or attorney. As used in this subsection, "agent" means a licensed
11 professional investigator or an immediate family member if due to death, age or physical
12 or mental disease, disorder or defect the victim cannot realistically act on the victim's
13 own behalf; or

14 **3. A counselor or advocate.** A sexual assault counselor, as defined in section 53-A,
15 subsection 1, paragraph B, or an advocate, as defined in section 53-B, subsection 1,
16 paragraph A, with a specific agreement with a criminal justice agency. An agreement
17 between a criminal justice agency and a sexual assault counselor or an advocate must, at a
18 minimum, include provisions that:

19 A. Permit the sexual assault counselor or advocate to use a report or record that
20 contains intelligence and investigative record information if the intelligence and
21 investigative record information is used in planning for the safety of a victim named
22 in the report or record;

23 B. Prohibit the sexual assault counselor or advocate from further disseminating a
24 report or record that contains intelligence and investigative record information;

25 C. Require the sexual assault counselor or advocate to ensure that a report or record
26 that contains intelligence and investigative record information remain secure and
27 confidential;

28 D. Require the sexual assault counselor or advocate to destroy a report or record that
29 contains intelligence and investigative record information within 30 days after the
30 sexual assault counselor's or advocate's receiving the report or record;

31 E. Permit the criminal justice agency to perform reasonable and appropriate audits in
32 order to ensure that a report or record containing intelligence and investigative record
33 information that are obtained by and that are in the custody of the sexual assault
34 counselor or advocate are maintained in accordance with the requirements of this
35 subsection;

36 F. Require the sexual assault counselor or advocate to indemnify and hold harmless
37 the criminal justice agency with respect to any litigation that may result from the
38 provision of reports or records that contain intelligence and investigative record
39 information;

40 G. Permit a criminal justice agency to immediately and unilaterally revoke an
41 agreement made under this subsection; and

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H. Provide sanctions for any violations of this subsection.

The Commissioner of Public Safety may adopt a model agreement pursuant to this subsection for use by criminal justice agencies, sexual assault counselors and advocates.

§807. Confirming existence or nonexistence of confidential intelligence and investigative record information

A criminal justice agency may not confirm the existence or nonexistence of intelligence and investigative record information confidential under section 804 to any person or public or private entity that is not eligible to receive the information itself.

§808. No right to access or review

A person who is the subject of intelligence and investigative record information maintained by a criminal justice agency has no right to inspect or review that information for accuracy or completeness.

§809. Unlawful dissemination of intelligence and investigative record information

1. Offense. A person is guilty of unlawful dissemination of intelligence and investigative record information if the person intentionally disseminates intelligence and investigative record information knowing it to be in violation of any of the provisions of this chapter.

2. Classification. Unlawful dissemination of intelligence and investigative record information is a Class E crime.

PART B

Sec. B-1. 1 MRSA §402, sub-§3-A, as amended by PL 2001, c. 477, §1, is further amended to read:

3-A. Public records further defined. "Public records" also includes the following criminal justice agency records:

- A. Records relating to prisoner furloughs to the extent they pertain to a prisoner's identity, ~~conviction data~~ public criminal history record information, as defined in Title 16, section 703, subsection 8, address of furlough and dates of furlough;
- B. Records relating to out-of-state adult probationer or parolee supervision to the extent they pertain to a probationer's or parolee's identity, ~~conviction data~~ public criminal history record information, as defined in Title 16, section 703, subsection 8, address of residence and dates of supervision; and
- C. Records to the extent they pertain to a prisoner's, adult probationer's or parolee's identity, ~~conviction data~~ public criminal history record information, as defined in Title 16, section 703, subsection 8, and current address or location, unless the Commissioner of Corrections determines that it would be detrimental to the welfare of a client to disclose the information.

1 **Sec. B-2. 5 MRSA §19506, sub-§1**, as amended by PL 2001, c. 357, §13, is
2 further amended to read:

3 **1. Records.** Agency personnel must be granted access to all records, reports and
4 supporting information, other than records, reports and supporting information created in
5 the course of an ongoing criminal investigation by the Attorney General, a district
6 attorney's office or a law enforcement agency or records, reports and supporting
7 information designated as confidential by Title 16, section ~~614~~ 804, that:

8 A. Pertain to a person who is a client of the agency, if the person or the person's legal
9 guardian or other legal representative has authorized the agency to have that access;

10 C. Describe incidents of abuse, exploitation, neglect or injury, and the steps taken to
11 investigate those incidents, prepared by any staff person of any facility serving
12 persons with disabilities or by any agency charged with investigating allegations of
13 abuse, exploitation, neglect and injury occurring at facilities that serve persons with
14 disabilities; or

15 D. Pertain to an individual who is or was a person with a disability and who is the
16 subject of a complaint received by the agency or who, as a result of monitoring or
17 other activities resulting from a complaint or other evidence, the agency has probable
18 cause to believe has been or is being abused, exploited or neglected and who:

19 (1) By reason of a mental or physical condition is unable to authorize the agency
20 to have access and is either under public guardianship or without a legal guardian
21 or other representative who may authorize the agency to have access;

22 (2) Has a legal guardian, conservator or other legal representative who has been
23 contacted by the agency upon receipt of the name and address of the guardian,
24 conservator or representative, and the agency has offered assistance to that person
25 to resolve the situation, and that person has failed or refused to act on behalf of
26 the individual; or

27 (3) Is deceased or whose whereabouts are unknown.

28 Agency personnel must be given access to the records of a person with a disability and
29 other records relevant to conducting an investigation within 3 business days of the agency
30 making a written request. When the agency determines there is probable cause to believe
31 that the health or safety of the person is in serious or immediate jeopardy or in event of
32 the death of a person with a disability, the agency must be given access to records within
33 24 hours of the agency making a written request.

34 **Sec. B-3. 9-A MRSA §13-115, sub-§1, ¶A**, as enacted by PL 2009, c. 362, Pt.
35 B, §1, is amended to read:

36 A. Criminal, civil and administrative information, including ~~nonconviction data~~
37 confidential criminal history record information as defined in Title 16, section ~~611~~
38 703, subsection ~~9~~ 2;

39 **Sec. B-4. 10 MRSA §8003-B, sub-§3**, as amended by PL 1993, c. 719, §4 and
40 affected by §12, is further amended to read:

1 **3. Attorney General records.** The provision or disclosure of investigative records
2 of the Department of the Attorney General to a departmental employee designated by the
3 commissioner or to a complaint officer of a board or commission does not constitute a
4 waiver of the confidentiality of those records for any other purposes. Further disclosure
5 of those investigative records is subject to Title 16, section ~~614~~ 804 and the discretion of
6 the Attorney General.

7 **Sec. B-5. 15 MRSA §709, sub-§1-A,** as enacted by PL 1987, c. 680, §1, is
8 amended to read:

9 **1-A. Administration of criminal justice.** "Administration of criminal justice" has
10 the same meaning as in Title 16, section ~~614~~ 703, subsection 1.

11 **Sec. B-6. 15 MRSA §3308, sub-§7, ¶A,** as enacted by PL 1985, c. 426, is
12 amended to read:

13 A. For purposes of this subsection the following terms have the following meanings.

14 (1) "Administration of criminal justice" has the same meaning as found in Title
15 16, section ~~614~~ 703, subsection 1.

16 (2) "Administration of juvenile criminal justice" means ~~detection, activities~~
17 related to the apprehension or summoning, detention, conditional or
18 unconditional release, informal adjustment, initial appearance, bind over,
19 adjudication ~~or~~, disposition, custody and supervision or rehabilitation of accused
20 juveniles or adjudicated juvenile criminal offenders. It includes ~~juvenile crime~~
21 ~~identification activities and~~ the collection, storage and dissemination of juvenile
22 crime information.

23 (3) "Criminal justice agency" has the same meaning as found in Title 16, section
24 ~~614~~ 703, subsection 4.

25 (4) "Dissemination" has the same meaning as found in Title 16, section ~~614~~ 703,
26 subsection 6.

27 **Sec. B-7. 16 MRSA §632,** as enacted by PL 1993, c. 346, §1, is amended to read:

28 **§632. Definitions**

29 As used in this subchapter, unless the context otherwise indicates, the following
30 terms have the following meanings.

31 **1. Administration of criminal justice.** "Administration of criminal justice" has the
32 same meaning as defined in section ~~614~~ 703, subsection 1.

33 ~~**2. Conviction data.** "Conviction data" has the same meaning as defined in section~~
34 ~~611, subsection 2.~~

35 **2-A. Confidential criminal history record information.** "Confidential criminal
36 history record information" has the same meaning as defined in section 703, subsection 2.

1 **3. Criminal history record information.** "Criminal history record information" has
2 the same meaning as defined in section ~~611~~ 703, subsection 3.

3 **4. Criminal justice agency.** "Criminal justice agency" has the same meaning as
4 defined in section ~~611~~ 703, subsection 4.

5 **5. Criminal record information system.** "Criminal record information system"
6 means a system including equipment, facilities, procedures and agreements for the
7 collection, processing, preservation and dissemination of criminal record information
8 including criminal history record information.

9 **6. Disposition.** "Disposition" has the same meaning as defined in section ~~611~~ 703,
10 subsection 5.

11 **7. Executive order.** "Executive order" has the same meaning as defined in section
12 ~~611~~ 703, subsection 7.

13 ~~**8. Nonconviction data.** "Nonconviction data" has the same meaning as defined in~~
14 ~~section 611, subsection 9.~~

15 **9. Offender.** "Offender" means an individual, juvenile or adult, accused or
16 convicted of a criminal offense under the laws of this State or federal law.

17 **10. Offender-based tracking information.** "Offender-based tracking information"
18 means information collected during the administration of criminal justice by criminal
19 justice agencies related to an identifiable person who has been determined to be an
20 offender.

21 ~~**11. Person.** "Person" has the same meaning as defined in section 611, subsection~~
22 ~~10.~~

23 **11-A. Public criminal history record information.** "Public criminal history record
24 information" has the same meaning as defined in section 703, subsection 8.

25 **12. State.** "State" has the same meaning as defined in section ~~611~~ 703, subsection
26 ~~11~~ 9.

27 **13. Statute.** "Statute" has the same meaning as defined in section ~~611~~ 703,
28 subsection ~~12~~ 10.

29 **Sec. B-8. 17 MRSA §1023, sub-§3**, as enacted by PL 2001, c. 422, §13, is
30 amended to read:

31 **3. Cooperation between agencies.** For the purposes of this section, law
32 enforcement officers, the commissioner or the commissioner's designee, humane agents, a
33 state veterinarian and certified animal control officers may exchange information and
34 reports pertaining to an investigation of cruelty to animals pursuant to ~~Title 16, chapter 3,~~
35 ~~subchapter VIII~~ subsection 4 and Title 7, section 3909, subsection 6.

1 **Sec. B-9. 18-A MRSA §9-304, sub-§(a-1), ¶(2)**, as corrected by RR 2001, c. 1,
2 §21, is amended to read:

3 (2). The court shall request a background check for each prospective adoptive parent
4 who is not the biological parent of the child. The background check must include a
5 screening for child abuse cases in the records of the department and criminal history
6 record information obtained from the Maine Criminal Justice Information System and
7 the Federal Bureau of Investigation.

8 (i) The criminal history record information obtained from the Maine Criminal
9 Justice Information System must include a record of ~~Maine conviction data~~
10 public criminal history record information as defined in Title 16, section 703,
11 subsection 8.

12 (ii) The criminal history record information obtained from the Federal Bureau of
13 Investigation must include other state and national criminal history record
14 information.

15 (iii) Each prospective parent who is not the biological parent of the child shall
16 submit to having fingerprints taken. The State Police, upon receipt of the
17 fingerprint card, may charge the court for the expenses incurred in processing
18 state and national criminal history record checks. The State Police shall take or
19 cause to be taken the applicant's fingerprints and shall forward the fingerprints to
20 the State Bureau of Identification so that the bureau can conduct state and
21 national criminal history record checks. Except for the portion of the payment, if
22 any, that constitutes the processing fee charged by the Federal Bureau of
23 Investigation, all money received by the State Police for purposes of this
24 paragraph must be paid over to the Treasurer of State. The money must be
25 applied to the expenses of administration incurred by the Department of Public
26 Safety.

27 (iv) The subject of a Federal Bureau of Investigation criminal history record
28 check may obtain a copy of the criminal history record check by following the
29 procedures outlined in 28 Code of Federal Regulations, Sections 16.32 and 16.33.
30 The subject of a state criminal history record check may inspect and review the
31 criminal history record information pursuant to Title 16, section ~~620~~ 709.

32 (v) State and federal criminal history record information may be used by the
33 court for the purpose of screening prospective adoptive parents in determining
34 whether the adoption is in the best interests of the child.

35 (vi) Information obtained pursuant to this paragraph is confidential. The results
36 of background checks received by the court are for official use only and may not
37 be disseminated outside the court except as required under Title 22, section
38 4011-A.

39 (vii) The expense of obtaining the information required by this paragraph is
40 incorporated in the adoption filing fee established in section 9-301. The Probate
41 Court shall collect the total fee and transfer the appropriate funds to the
42 Department of Public Safety and the department.

1 **Sec. B-10. 18-A MRSA §9-304, sub-§(a-2), ¶(1)**, as enacted by PL 2003, c.
2 575, §2, is amended to read:

3 (1). The department may request a background check for each prospective adoptive
4 parent who is not the biological parent of the child. The background check must
5 include criminal history record information obtained from the Maine Criminal Justice
6 Information System and the Federal Bureau of Investigation.

7 (i) The criminal history record information obtained from the Maine Criminal
8 Justice Information System must include a record of ~~Maine conviction data~~
9 public criminal history record information as defined in Title 16, section 703,
10 subsection 8.

11 (ii) The criminal history record information obtained from the Federal Bureau of
12 Investigation must include other state and national criminal history record
13 information.

14 (iii) Each prospective parent who is not the biological parent of the child shall
15 submit to having fingerprints taken. The State Police, upon receipt of the
16 fingerprint card, may charge the department for the expenses incurred in
17 processing state and national criminal history record checks. The State Police
18 shall take or cause to be taken the applicant's fingerprints and shall forward the
19 fingerprints to the State Bureau of Identification so that the bureau can conduct
20 state and national criminal history record checks. Except for the portion of the
21 payment, if any, that constitutes the processing fee charged by the Federal Bureau
22 of Investigation, all money received by the State Police for purposes of this
23 paragraph must be paid over to the Treasurer of State. The money must be
24 applied to the expenses of administration incurred by the Department of Public
25 Safety.

26 (iv) The subject of a Federal Bureau of Investigation criminal history record
27 check may obtain a copy of the criminal history record check by following the
28 procedures outlined in 28 Code of Federal Regulations, Sections 16.32 and 16.33.
29 The subject of a state criminal history record check may inspect and review the
30 criminal history record information pursuant to Title 16, section ~~620~~ 709.

31 (v) State and federal criminal history record information may be used by the
32 department for the purpose of screening prospective adoptive parents in
33 determining whether the adoption is in the best interests of the child.

34 (vi) Information obtained pursuant to this paragraph is confidential. The results
35 of background checks received by the department are for official use only and
36 may not be disseminated outside the department except to a court considering an
37 adoption petition under subsection (a-1).

38 **Sec. B-11. 20-A MRSA §6103, sub-§1**, as amended by PL 1997, c. 452, §3, is
39 further amended to read:

40 **1. Criminal history record information obtained; reliance.** The commissioner
41 shall obtain criminal history record information containing a record of ~~conviction data~~
42 confidential criminal history record information as defined in Title 16, section 703,

1 subsection 2 from the Maine Criminal Justice Information System for any person
2 applying for certification, authorization, approval or renewal. The commissioner may
3 rely on information provided by the Maine Criminal Justice Information System within
4 24 months prior to the issuance of a certificate, authorization, approval or renewal.

5 **Sec. B-12. 20-A MRSA §6103, sub-§8**, as enacted by PL 1997, c. 452, §3, is
6 amended to read:

7 **8. Applicant's access to criminal history record check.** The subject of a Federal
8 Bureau of Investigation criminal history record check may obtain a copy of a criminal
9 history record check by following the procedures outlined in 28 Code of Federal
10 Regulations, Sections 16.32 and 16.33. The subject of a state criminal record check may
11 inspect and review criminal record information pursuant to Title 16, section ~~620~~ 709.

12 **Sec. B-13. 22 MRSA §3022, sub-§14**, as enacted by PL 2001, c. 221, §5, is
13 amended to read:

14 **14. Access to report documents.** Report documents, as defined in section 3035,
15 subsection 2, in the possession or custody of a medical examiner or the Office of the
16 Chief Medical Examiner constitute investigative information. Release and inspection are
17 governed by Title 16, section ~~614~~ 804. Release and inspection are also contingent upon
18 the person's request specifying a specific decedent or decedents and the payment of any
19 required fee under section 3035.

20 **Sec. B-14. 22 MRSA §3480, sub-§1, ¶B**, as corrected by RR 2009, c. 2, §56, is
21 amended to read:

22 B. Obtain ~~noneonviction data~~ confidential criminal history record information and
23 other criminal history record information under Title 16, section ~~614~~ 703, which the
24 commissioner, the commissioner's delegate or the legal counsel for the department
25 ~~deems~~ considers relevant to a case of alleged abuse, neglect or exploitation.

26 **Sec. B-15. 22 MRSA §4007, sub-§1-A, ¶D**, as enacted by PL 2007, c. 351, §2,
27 is amended to read:

28 D. Records that are required to be maintained by the court as confidential under this
29 subsection may be disclosed to:

- 30 (1) A state agency if necessary to carry out the statutory function of that agency;
31 (2) A guardian ad litem appointed to the case; or
32 (3) A criminal justice agency, as defined by Title 16, section ~~614~~ 703, subsection
33 4, if necessary to carry out the administration of criminal justice or the
34 administration of juvenile justice, and such disclosure is otherwise permitted
35 pursuant to section 4008.

36 In making such disclosure, the court shall order the party receiving the information to
37 maintain the information as confidential.

38 **Sec. B-16. 22 MRSA §4021, sub-§1, ¶B**, as amended by PL 2007, c. 586, §15,
39 is further amended to read:

1 B. Obtain ~~nonconviction data~~ confidential criminal history record information and
2 other criminal history record information under Title 16, chapter 3, ~~subchapter 8~~ 7
3 that the commissioner, the commissioner's delegate or the legal counsel for the
4 department considers relevant to an abuse or neglect case or the investigation of a
5 suspicious child death.

6 **Sec. B-17. 22 MRSA §4038-E, sub-§7, ¶A**, as enacted by PL 2011, c. 402, §15,
7 is amended to read:

8 A. The department may, pursuant to rules adopted pursuant to Title 18-A, section
9 9-304, subsection (a-2), request a background check for each permanency guardian.
10 The background check must include criminal history record information obtained
11 from the Maine Criminal Justice Information System and the Federal Bureau of
12 Investigation.

13 (1) The criminal history record information obtained from the Maine Criminal
14 Justice Information System must include a record of ~~Maine conviction data~~
15 public criminal history record information as defined in Title 16, section 703,
16 subsection 8.

17 (2) The criminal history record information obtained from the Federal Bureau of
18 Investigation must include other state and national criminal history record
19 information.

20 (3) Each permanency guardian of the child shall submit to having fingerprints
21 taken. The State Police, upon receipt of the fingerprint card, may charge the
22 department for the expenses incurred in processing state and national criminal
23 history record checks. The State Police shall take or cause to be taken the
24 applicant's fingerprints and shall forward the fingerprints to the State Bureau of
25 Identification so that the bureau can conduct state and national criminal history
26 record checks. Except for the portion of the payment, if any, that constitutes the
27 processing fee charged by the Federal Bureau of Investigation, all money
28 received by the State Police for purposes of this paragraph must be paid over to
29 the Treasurer of State. The money must be applied to the expenses of
30 administration incurred by the Department of Public Safety.

31 (4) The subject of a Federal Bureau of Investigation criminal history record
32 check may obtain a copy of the criminal history record check by following the
33 procedures outlined in 28 Code of Federal Regulations, Sections 16.32 and 16.33.
34 The subject of a state criminal history record check may inspect and review the
35 criminal history record information pursuant to Title 16, section ~~620~~ 709.

36 (5) State and federal criminal history record information may be used by the
37 department for the purpose of screening each permanency guardian in
38 determining whether the adoption is in the best interests of the child.

39 (6) Information obtained pursuant to this paragraph is confidential. The results
40 of background checks received by the department are for official use only and
41 may not be disseminated outside the department except to a court considering an
42 adoption petition under this section.

1 **Sec. B-18. 25 MRSA §1541, sub-§3, ¶B**, as enacted by PL 2001, c. 372, §1, is
2 amended to read:

3 B. Notwithstanding chapter 199, the fingerprints and descriptive information of any
4 person that have been submitted to the Federal Bureau of Investigation for the
5 purpose of conducting a criminal history record check for noncriminal justice
6 purposes through the interstate identification index system, as defined in section
7 1703, subsection 12, are not a criminal history record, as defined by section 1703,
8 subsection 5, or criminal history record information, as defined by Title 16, section
9 ~~644 703~~, subsection 3, and such submittal is not an activity related to criminal justice,
10 as defined by section 1703, subsection 6, or the administration of criminal justice, as
11 defined by Title 16, section ~~644 703~~, subsection 1.

12 **Sec. B-19. 25 MRSA §1541, sub-§6**, as amended by PL 2007, c. 539, Pt. PPP,
13 §1, is further amended to read:

14 **6. Establishment of fees.** The State Bureau of Identification may charge a fee to
15 individuals, nongovernmental organizations, governmental organizations that are engaged
16 in licensing and governmental organizations that are not a governmental entity of the
17 State, a county of the State or a municipality of the State for each criminal history record
18 check requested for noncriminal justice purposes pursuant to Title 16, chapter ~~3,~~
19 ~~subchapter 8~~ 7. The requestor shall provide a name and date of birth for each record
20 being requested. A request made pursuant to 5 United States Code, Section 9101 must be
21 accompanied by fingerprints. A governmental organization that is engaged in licensing
22 may charge an applicant for the cost of the criminal history record check. The
23 commissioner shall establish a schedule of fees that covers the cost of providing these
24 services. One dollar of each fee generated under this subsection must be deposited to the
25 Other Special Revenue account within the Bureau of State Police to offset the cost of
26 maintenance and replacement of both hardware and software associated with the criminal
27 history record check system. The remaining revenues generated from these fees must be
28 credited to the General Fund.

29 **Sec. B-20. 29-A MRSA §2117-A, sub-§5**, as enacted by PL 2009, c. 605, §1, is
30 amended to read:

31 **5. Data retention.** Data collected or retained through the use of an automated
32 license plate recognition system in accordance with subsection 3 that are not considered
33 intelligence and investigative record information as defined by Title 16, section ~~644 803~~,
34 subsection ~~8~~ 7, or data collected for the purposes of commercial motor vehicle screening,
35 may not be stored for more than 21 days.

36 **Sec. B-21. 32 MRSA §85, sub-§3**, as amended by PL 2011, c. 271, §8, is further
37 amended to read:

38 **3. Minimum requirements for licensing.** In setting rules for the licensure of
39 emergency medical services persons, the board shall ensure that a person is not licensed
40 to care for patients unless that person's qualifications are at least those specified in this
41 subsection. Any person who meets these conditions is considered to have the credentials
42 and skill demonstrations necessary for licensure to provide emergency medical treatment.

1 A. The person must have completed successfully the training specified in rules
2 adopted by the board pursuant to the Maine Administrative Procedure Act.

3 C. The person must have successfully completed a state cognitive test for basic
4 emergency medical treatment and a board-approved practical evaluation of
5 emergency medical treatment skills.

6 The board shall obtain criminal history record information containing a record of
7 ~~conviction data~~ public criminal history record information as defined in Title 16, section
8 703, subsection 9 for an applicant seeking licensure under this subsection. Information
9 obtained pursuant to this subsection is confidential and may be used only to determine
10 suitability for issuance of a license to provide emergency medical services. The results of
11 criminal history record checks received by the board are for official use only and may not
12 be disseminated outside the board. The applicant for licensure shall pay the expense of
13 obtaining the information required by this subsection.

14 **Sec. B-22. 34-A MRSA §1001, sub-§§19 and 20**, as enacted by PL 1987, c.
15 633, §1, are amended to read:

16 **19. Administration of criminal justice.** "Administration of criminal justice" has
17 the same meaning as in Title 16, section ~~611~~ 703, subsection 1.

18 **20. Criminal justice agency.** "Criminal justice agency" has the same meaning as in
19 Title 16, section ~~611~~ 703, subsection 4.

20 **Sec. B-23. 34-A MRSA §1216, sub-§1**, as amended by PL 2011, c. 515, §2 and
21 c. 662, §22, is repealed and the following enacted in its place:

22 **1. Limited disclosure.** All orders of commitment, medical and administrative
23 records, applications and reports, and facts contained in them, pertaining to any person
24 receiving services from the department must be kept confidential and may not be
25 disclosed by any person, except that public records must be disclosed in accordance with
26 Title 1, section 408-A; criminal history record information may be disseminated in
27 accordance with Title 16, chapter 7; and documents other than those documents
28 pertaining to information obtained by the department for the purpose of evaluating a
29 client's ability to participate in a community-based program or from informants in a
30 correctional or detention facility for the purpose of determining whether facility rules
31 have been violated or pertaining to a victim's request for notice of release may, and must
32 upon request, be disclosed:

33 A. To any person if the person receiving services, that person's legal guardian, if any,
34 and, if that person is a minor, that person's parent or legal guardian give informed
35 written consent to the disclosure of the documents referred to in this subsection after
36 being given the opportunity to review the documents sought to be disclosed;

37 B. To any state agency if necessary to carry out the statutory functions of that
38 agency;

39 C. If ordered by a court of record, subject to any limitation in the Maine Rules of
40 Evidence, Rule 503;

1 D. To any criminal justice agency if necessary to carry out the administration of
2 criminal justice or the administration of juvenile criminal justice or for criminal
3 justice agency employment;

4 E. To persons engaged in research if:

5 (1) The research plan is first submitted to and approved by the commissioner;

6 (2) The disclosure is approved by the commissioner; and

7 (3) Neither original records nor identifying data are removed from the facility or
8 office that prepared the records.

9 The commissioner and the person doing the research shall preserve the anonymity of
10 the person receiving services from the department and may not disseminate data that
11 refer to that person by name or number or in any other way that might lead to the
12 person's identification;

13 F. To persons who directly supervise or report on the health, behavior or progress of
14 a juvenile, to the superintendent of a juvenile's school and the superintendent's
15 designees and to agencies that are or might become responsible for the health or
16 welfare of a juvenile if the information is relevant to and disseminated for the
17 purpose of creating or maintaining an individualized plan for the juvenile's
18 rehabilitation, including reintegration into the school; or

19 G. To any state agency engaged in statistical analysis for the purpose of improving
20 the delivery of services to persons who are or might become mutual clients if:

21 (1) The plan for the statistical analysis is first submitted to and approved by the
22 commissioner; and

23 (2) The disclosure is approved by the commissioner.

24 The commissioner and the state agency requesting the information shall preserve the
25 anonymity of the persons receiving services from the department and may not
26 disseminate data that refer to any person by name or number or that in any other way
27 might lead to a person's identification.

28 Notwithstanding any other provision of law, the department may release the names, dates
29 of birth and social security numbers of persons receiving services from the department
30 and, if applicable, eligibility numbers and the dates on which those persons received
31 services to any state or federal agency for the sole purpose of determining eligibility and
32 billing for services and payments under federally funded programs administered by the
33 agency. The department may also release to the agency information required for and to
34 be used solely for audit or research purposes, consistent with federal law, for those
35 services provided by or through the department. Agency personnel shall treat this
36 information as confidential in accordance with federal and state law and shall return the
37 records when their purpose has been served.

38 **Sec. B-24. 34-A MRS §11221, sub-§8,** as enacted by PL 2003, c. 371, §7, is
39 amended to read:

40 **8. Criminal justice agency access to information.** The bureau shall provide access
41 to the information described in subsection 1 to criminal justice agencies. For purposes of

1 this subsection, "criminal justice agency" has the same meaning as in Title 16, section
2 ~~611~~ 703, subsection 4.

3 **Sec. B-25. 34-A MRSA §11221, sub-§10**, as amended by PL 2011, c. 299, §2, is
4 further amended to read:

5 **10. Registrant access to information.** The bureau shall provide all information
6 described in subsection 1, paragraphs A to F to a registrant who requests that person's
7 own information. The process for access and review of that information is governed by
8 Title 16, section ~~620~~ 709.

9 **Sec. B-26. 34-A MRSA §11281, sub-§6**, as enacted by PL 2011, c. 663, §3, is
10 amended to read:

11 **6. Criminal justice agency access to information.** The bureau shall provide access
12 to the information described in subsection 1 to criminal justice agencies. For purposes of
13 this subsection, "criminal justice agency" has the same meaning as in Title 16, section
14 ~~611~~ 703, subsection 4.

15 **PART C**

16 **Sec. C-1. 7 MRSA §3909, sub-§6** is enacted to read:

17 **6. Confidential information.** The names of and other identifying information about
18 persons providing information pertaining to criminal or civil cruelty to animals to the
19 department are confidential information and may not be released.

20 **Sec. C-2. 17 MRSA §1023, sub-§4** is enacted to read:

21 **4. Confidential information.** The names of and other identifying information about
22 persons providing information pertaining to criminal or civil cruelty to animals to the
23 Department of Agriculture, Conservation and Forestry are confidential information and
24 may not be released.

25 **PART D**

26 **Sec. D-1. 15 MRSA §3308-A** is enacted to read:

27 **§3308-A. Dissemination of juvenile intelligence and investigative record information**
28 **by a Maine criminal justice agency**

29 The following provisions apply to the dissemination of juvenile intelligence and
30 investigative record information collected by or at the direction of or kept in the custody
31 of any Maine criminal justice agency.

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

34 A. "Administration of juvenile justice" means activities relating to the anticipation,
35 prevention, detection, monitoring or investigation of known, suspected or possible

1 juvenile crimes. "Administration of juvenile justice" includes the collection, storage
2 and dissemination of juvenile intelligence and investigative record information
3 relating to the administration of juvenile justice.

4 B. "Criminal justice agency" has the same meaning as in Title 16, section 803,
5 subsection 4.

6 C. "Dissemination" has the same meaning as in Title 16, section 803, subsection 5.

7 D. "Executive order" has the same meaning as in Title 16, section 803, subsection 6.

8 E. "Juvenile intelligence and investigative record information" means information of
9 record collected by a criminal justice agency or at the direction of a criminal justice
10 agency or kept in the custody of a criminal justice agency while performing the
11 administration of juvenile justice. "Juvenile intelligence and investigative record
12 information" includes information of record concerning investigative techniques and
13 procedures and security plans and procedures prepared or collected by a criminal
14 justice agency or another agency. "Juvenile intelligence and investigative record
15 information" does not include criminal history record information as defined in Title
16 16, section 703, subsection 3 or intelligence and investigative record information as
17 defined in Title 16, section 803, subsection 7.

18 F. "State" has the same meaning as in Title 16, section 803, subsection 8.

19 G. "Statute" has the same meaning as in Title 16, section 803, subsection 9.

20 **2. Information part of proceeding.** To the extent the juvenile intelligence and
21 investigative record information has been made part of the court records of a juvenile
22 proceeding, dissemination of that juvenile intelligence and investigative record
23 information by a Maine criminal justice agency must be as provided by section 3307 and
24 section 3308.

25 **3. Limited dissemination.** Except as otherwise provided in subsection 2, juvenile
26 intelligence and investigative record information is confidential and may be disseminated
27 by a Maine criminal justice agency only to:

28 A. Another criminal justice agency;

29 B. A person or public or private entity as part of performing the administration of
30 juvenile justice;

31 C. A juvenile accused of a juvenile crime or that juvenile's agent or attorney for
32 adjudicatory or dispositional purposes if authorized by:

33 (1) The responsible prosecutorial office or prosecutor; or

34 (2) A court rule or court order of this State or of the United States.

35 As used in this paragraph, "agent" means a licensed professional investigator, an
36 expert witness or the juvenile's parents, guardian or legal custodian;

37 D. A juvenile crime victim or that victim's agent or attorney if authorized by:

38 (1) Statute; or

39 (2) A court order.

1 As used in this paragraph, "agent" means a licensed professional investigator or an
2 immediate family member if, due to death, age, physical or mental disease, disorder
3 or intellectual disability or autism, the victim cannot realistically act on the victim's
4 own behalf;

5 E. A federal court, the District Court, including when it is exercising the jurisdiction
6 conferred by section 3101, the Superior Court or the Supreme Judicial Court and an
7 equivalent court in another state; and

8 F. A person or public or private entity expressly authorized to receive the juvenile
9 intelligence and investigative record information by statute, executive order, court
10 rule, court decision or court order. "Express authorization" means language in the
11 statute, executive order, court rule, court decision or court order that specifically
12 speaks to intelligence or investigative record information or specifically refers to a
13 type of intelligence or investigative record.

14 **SUMMARY**

15 This bill implements the recommendations of the Criminal Law Advisory
16 Commission to revise the criminal history record information laws, currently allocated to
17 the Maine Revised Statutes, Title 16, chapter 3, subchapter 8.

18 Part A of the bill repeals chapter 3, subchapter 8, which includes sections 611 to 623,
19 and enacts 2 new chapters within Title 16. The creation of 2 chapters allows for the
20 separate treatment of the 2 mutually exclusive information-of-record categories of
21 criminal history record information and intelligence and investigative record information.
22 Their consolidated treatment in chapter 3, subchapter 8 resulted in significant confusion
23 as to their differing meanings and applications.

24 1. This bill enacts Title 16, chapter 7, which:

25 A. Designates, in section 701, the new chapter as the Criminal History Record
26 Information Act;

27 B. Outlines, in section 702, the chapter's scope and application, which had no
28 counterpart in former subchapter 8. It makes clear that when criminal history record
29 information is public information, the term "public criminal history record
30 information" is used. Similarly, when criminal history record information is
31 confidential, it is labeled as "confidential criminal history record information";

32 C. Defines, in section 703, like in former section 611, technical terms used
33 throughout the subchapter, including:

34 (1) A definition of "administration of criminal justice," which mirrors former
35 section 611, subsection 1, except that the word "detection" has been eliminated
36 from the first sentence and "criminal identification activities" has been eliminated
37 from the 2nd sentence because such activities are now addressed in the new
38 chapter 9 regarding intelligence and investigative record information;

39 (2) A definition of "confidential criminal history record information," which
40 replaces former section 611, subsection 9. What was formerly identified as

1 "nonconviction data" is now identified as "confidential criminal history record
2 information." The types of criminal history record information described in
3 former section 611, subsection 9 are included in section 703, subsection 2 and
4 have been modified for purposes of clarity and completeness. Section 703,
5 subsection 2, paragraphs D, I, J and K have no counterpart in former section 611,
6 subsection 9;

7 (3) A definition of "criminal history record information," which replaces former
8 section 611, subsection 3 with a new section 703, subsection 3 and expands on
9 the former definition. The new subsection 3 employs and refers to formal
10 involvement in the criminal justice system either as an accused or as a convicted
11 criminal defendant and defines the term to specifically include "a juvenile treated
12 by statute as an adult for criminal prosecution purposes" and expands on
13 examples of criminal history record information. The new definition expressly
14 excludes civil proceedings of any kind, intelligence and investigative record
15 information and any information of record of juvenile crime proceedings;

16 (4) A definition of "criminal justice agency," which replaces former section 611,
17 subsection 4 with a new section 703, subsection 4 and differs in 4 substantive
18 respects. First, the definition now specifies that the only jurisdictions to which it
19 applies are the Federal Government, a state as defined in the new section 703,
20 subsection 9 and the State of Maine. Foreign countries, other than Canada, are
21 not included. Second, as to the included jurisdictions, the applicable government
22 agencies or subunits are at all governmental levels. The former references to
23 state, district, county or local have been replaced by "at any governmental level"
24 because although these governmental divisions are appropriate insofar as Maine
25 is concerned, they are not necessarily correct in describing the governmental
26 divisions in the other named jurisdictions. Third, the definition no longer
27 conditions government agency or subunit qualification on whether the criminal
28 justice agency allocates a substantial part of its annual budget to the
29 administration of criminal justice. It also adds an equivalent agency of any
30 federally recognized Indian tribe. Fourth, it replaces the word "courts" with
31 "federal courts, Maine courts, courts in any other state";

32 (5) A definition of "disposition," which replaces former section 611, subsection
33 5;

34 (6) A definition of "dissemination," which parallels former section 611,
35 subsection 6, but expands the listed means of transmission by adding the phrase
36 "by any means";

37 (7) A definition of "executive order," which parallels former section 611,
38 subsection 7 but makes 3 nonsubstantive changes;

39 (8) A definition of "public criminal history record information," which replaces
40 former section 611, subsection 9. What was formerly identified as "conviction
41 data" is now identified as "public criminal history record information." It defines
42 "public criminal history record information" to mean "criminal history record
43 information that is not confidential criminal history record information";

1 (9) A definition of "state," which parallels former section 611, subsection 11, but
2 specifically identifies what formerly was described as "any territory or possession
3 of the United States." It includes in the definition of "state" the federal and any
4 provincial government of Canada and any federally recognized Indian tribe, both
5 of which are a "criminal justice agency"; and

6 (10) A definition of "statute," which mirrors the content of the former definition
7 in section 611, subsection 12;

8 D. Collects in section 704 in a single comprehensive section addressing the
9 dissemination of public criminal history record information by a Maine criminal
10 justice agency what formerly was contained in former sections 612, subsection 3,
11 section 615 and section 616. It is made up of 2 subsections. The first subsection
12 elaborates on former section 612, subsection 3 and former section 615. It makes
13 clear that public criminal history record information is public for purposes of the
14 Freedom of Access Act; that no time limitation exists for the dissemination of it; and
15 that "no time limitation" means that dissemination is authorized whether the
16 information relates to a crime for which a person is currently within the jurisdiction
17 of the criminal justice system or instead, is no longer within that jurisdiction. The
18 2nd subsection parallels former section 616, but differs in 3 respects. First, a Maine
19 court is exempted from making inquiry of the State Bureau of Identification before
20 dissemination because a court's own records already contain the most up-to-date
21 disposition information. Second, only dissemination of public criminal history record
22 information for a noncriminal justice purpose is addressed. Confidential criminal
23 history record information in this context is now addressed in section 705, subsection
24 3. Third, the term "noncriminal justice purpose" is now defined to mean "a purpose
25 other than the administration of criminal justice or criminal justice agency
26 employment";

27 E. Collects in section 705 in a single comprehensive section addressing the
28 dissemination of confidential criminal history record information by a Maine criminal
29 justice agency what formerly was contained in former section 612, subsection 3 and
30 sections 613, 616 and 618. Subsection 1 establishes the general rule that
31 dissemination of such information directly or through an intermediary by a Maine
32 criminal justice agency is only to authorized persons or entities and lists the
33 authorized persons and entities. Paragraphs A to D mirror former section 613,
34 subsections 1 to 4. Paragraph E parallels former section 612, subsection 3, paragraph
35 B, but does not require that the information disseminated be based upon data
36 excluded by section 708, former section 612, subsection 2, as unnecessary. The
37 remaining issue contained in the final sentence of former paragraph B is controlled by
38 new paragraph F. Paragraph F expands and clarifies former section 612, subsection
39 3, paragraph A. It expressly allows dissemination by a Maine criminal justice agency
40 to the public for the purpose of announcing the fact of a specific disposition that is
41 confidential criminal history record information, other than that contained in section
42 703, subsection 2, paragraph A, within 30 days of the date of occurrence of that
43 disposition. Further, it also allows for public dissemination at any point in time if the
44 person to whom the disposition relates specifically authorizes that it be made public.
45 Paragraph G replaces former section 612, subsection 3, paragraph C and parallels its
46 content. Section 705, subsection 2 replaces former section 618 and parallels its

1 content. Section 705, subsection 3 replaces former section 616. It mirrors the
2 content of section 704, subsection 2 except that it addresses only the dissemination of
3 confidential criminal history information. Public criminal history record information
4 in this context is addressed in section 704, subsection 2;

5 F. Enacts section 706 to replace former section 612-A. Like its predecessor, it serves
6 the dual purpose of helping to guard against secret arrests and to provide public
7 access to information concerning the crime or crimes for which a person is arrested
8 and the time, place and circumstances of the arrest itself. Although section 706
9 parallels former section 612-A, changes have been made in subsection 1 to enhance
10 clarity and completeness. The former requirement in section 612-A, subsection 2 that
11 the permanent record be in a bound volume has been removed in light of current
12 electronic recording methods, and the former exception respecting juveniles in
13 section 612-A, subsection 3 has been deleted as unnecessary in light of section 703,
14 subsection 3;

15 G. Enacts section 707 to replace former section 619. Although it parallels former
16 section 619, it limits the crime to the unlawful dissemination of confidential criminal
17 history record information and conditions criminality upon the person intentionally
18 disseminating and knowing it to be in violation of any of the provisions of chapter 7;

19 H. Enacts section 708 to replace former section 612, subsection 2. It retains each of
20 the former exceptions to which the subchapter does not apply. Except for subsection
21 3, changes were made to the former law only to enhance clarity and completeness.
22 Subsection 3 has been redrafted to clarify that access to and dissemination of Maine
23 trial and appellate court records of public judicial proceedings is as the Supreme
24 Judicial Court provides by rule or administrative order;

25 I. Enacts section 709 to replace former section 620, makes the language gender
26 neutral and removes language addressing intelligence and investigative record
27 information because chapter 9 now addresses that information. In addition, language
28 addressing judicial review has been updated to rely upon the Maine Administrative
29 Procedure Act and Rule 80C of the Maine Rules of Civil Procedure; and

30 J. Enacts section 710, which replaces former section 622 and mirrors its content.

31 2. The bill enacts Title 16, chapter 9, which:

32 A. Enacts section 801, which designates chapter 9 as the Intelligence and
33 Investigative Record Information Act;

34 B. Enacts section 802, which replaces that portion of former section 614, subsection
35 1 that applied the section 614 limitations on dissemination of intelligence and
36 investigative information of record to specifically identified Maine criminal justice
37 agencies, rather than to all Maine criminal justice agencies. Section 802 applies the
38 chapter to all Maine criminal justice agencies;

39 C. Defines in section 803, like in former section 611, technical terms used
40 throughout the chapter, including:

41 (1) A definition of "administration of civil justice," which had no counterpart in
42 former subchapter 8. It addresses the same types of criminal justice agency
43 activities described in the new subsection 2 but in the context of "civil violations"

1 and "civil actions" rather than in the context of crimes. It does not include
2 known, suspected or possible traffic infractions;

3 (2) A definition of "administration of criminal justice," which is wholly different
4 from former section 611, subsection 1 except to the extent former subsection 1
5 included the activities of "detection" and "criminal identification." It includes
6 criminal justice agency activities "relating to the anticipation, prevention,
7 detection, monitoring or investigation of known, suspected or possible crimes,"
8 activities that generally predate the activities addressed in former section 611,
9 subsection 1. However, particularly in the context of "known" crimes,
10 investigation can continue well after a specific, identifiable person is formally
11 involved with the criminal justice system as an accused in anticipation of trial
12 and sentencing;

13 (3) A definition of "administration of juvenile justice," which had no counterpart
14 in former subchapter 8. It addresses the same types of criminal justice agency
15 activities described in the new subsections 1 and 2 but in the context of juvenile
16 crimes. The administration of juvenile justice is distinct from the administration
17 of criminal justice and the administration of civil justice because a juvenile crime
18 is, strictly speaking, neither a crime nor is it civil. It is a hybrid of both. As a
19 consequence, the administration of juvenile justice is expressly excluded from the
20 definition of "intelligence and investigative record information" and is instead
21 addressed in a new section 3308-A of the Maine Juvenile Code;

22 (4) A definition of "criminal justice agency," which replaces former section 611,
23 subsection 4 and mirrors new section 703, subsection 4, except it does not
24 include courts. Courts are now addressed in section 805, subsection 4;

25 (5) A definition of "dissemination," which replaces former section 611,
26 subsection 6 and mirrors new section 703, subsection 6;

27 (6) A definition of "executive order," which replaces former section 611,
28 subsection 7 and mirrors new section 703, subsection 7;

29 (7) A definition of "intelligence and investigative record information," which
30 replaces former section 611, subsection 8 and modifies the former definition to
31 better clarify the scope of the definition. It speaks both in terms of information of
32 record collected or kept by any Maine criminal justice agency while performing
33 the "administration of criminal justice," which is included as subsection 1, and in
34 terms of information of record collected or kept by the Department of the
35 Attorney General or by district attorneys' offices when they are performing the
36 administration of civil justice, included as subsection 2. The definition of
37 "intelligence and investigative record information" includes the Department of
38 the Attorney General's records relating to the administration of civil justice in
39 order to perpetuate Public Law 1993, chapter 719, "An Act to Bring the
40 Department of the Attorney General into Conformity with the Criminal History
41 Record Information Laws." District attorneys' offices have been added because
42 they too have records relating to the administration of civil justice that merit
43 similar treatment. Further, it expands the former reference to operation plans to
44 reflect new section 804, subsection 7 and former section 614, subsection 1,
45 paragraph G. See also Title 1, section 402, subsection 3, paragraph L.

1 Subsection 7, like former section 611, subsection 8, expressly excludes criminal
2 history record information as defined in section 703. It expressly addresses the
3 "administration of juvenile justice" and makes clear that information of record
4 collected or kept while a criminal justice agency is performing the administration
5 of juvenile justice is not included and thus is not addressed further in this chapter;

6 (8) A definition of "state," which replaces former section 611, subsection 11 and
7 mirrors new section 703, subsection 9; and

8 (9) A definition of "statute," which replaces former section 611, subsection 12
9 and mirrors new section 703, subsection 10;

10 D. Enacts section 804, which contains that portion of former section 614, subsection
11 1 that prohibits a criminal justice agency from disseminating intelligence and
12 investigative record information to the public if there is a reasonable possibility that
13 public release or inspection of the information would result in one or more
14 enumerated harms in section 614, subsection 1. Section 804 lists 12 harms, 9 of
15 which mirror the content of the formerly listed harms in section 614, subsection 1.
16 Two of the remaining 12 were formerly listed harms, but with slightly changed
17 content. Subsection 1 parallels former section 614, subsection 1, paragraph A, but
18 the clarifying phrase "relating to crimes" has been added to draw the necessary
19 distinction between the subsection 1 harm of interference with criminal proceedings
20 and the new subsection 10 harm of interference with civil proceedings conducted by
21 the Department of the Attorney General or by a district attorney. Section 804,
22 subsection 6 parallels former section 614, subsection 1, paragraph F but the phrase
23 "or by a district attorney's office" has been added to make clear that such offices, in
24 carrying out their prosecutorial responsibilities, must also have the same authority as
25 the Department of the Attorney General to designate information as a trade secret or
26 as confidential commercial or financial information. Lastly, section 804, subsection
27 10 has been added and has no counterpart in former section 614, subsection 1. The
28 specific harm identified is interfering with proceedings relating to civil violations,
29 civil enforcement proceedings and other civil proceedings conducted by the
30 Department of the Attorney General or by a district attorney's office. Subsections 11
31 and 12 apply solely to the Department of the Attorney General because these harms
32 are unique to that department. Section 804 does not contain the content of former
33 section 614, subsection 1-A relating to information about reports of cruelty to
34 animals; instead its substance has been relocated to both Title 7, section 3909,
35 subsection 6 and Title 17, section 1023, subsection 4;

36 E. Enacts section 805, which, along with section 806, replaces former section 614,
37 subsection 3. Section 805 lists certain disseminations of confidential intelligence and
38 investigative record information by a Maine criminal justice agency that are excepted
39 from section 804. These exceptions, unlike those listed in section 806, are not subject
40 to reasonable limitations to protect against the harms described in section 804. The
41 first unconditional exception in subsection 1 mirrors former section 614, subsection
42 3, paragraph A. The 2nd unconditional exception in subsection 2 has no counterpart
43 in former section 614, subsection 3. It has been added to make clear that criminal
44 justice agencies, when carrying out the administration of criminal justice, often
45 disseminate intelligence and investigative record information to persons and public or
46 private entities for intelligence gathering purposes and for ongoing investigative

1 purposes and that such disseminations are authorized under chapter 9. Additionally,
2 subsection 2 has been added to make clear that the Department of the Attorney
3 General and district attorneys' offices are authorized under chapter 9 to make similar
4 disseminations to carry out the administration of civil justice. The 3rd unconditional
5 exception in subsection 3 parallels former section 614, subsection 3, but with 4
6 modifications. First, the phrase "an accused person" is replaced by a "person accused
7 of a crime" for trial and sentencing purposes. Second, the person's "agent" is defined.
8 Third, the required authorization contained in subsection 3, paragraph A merges
9 former subsection 3, paragraph C, subparagraphs (1) and (3). Fourth, the required
10 authorization contained in subsection 3, paragraph B slightly modifies the wording of
11 subsection 3, paragraph A, subparagraph (2). The 4th unconditional exception in
12 subsection 4 has no counterpart in former section 614, subsection 3. It has been
13 added to make clear that criminal justice agencies may disseminate confidential
14 intelligence and investigative record information to a federal court, the District Court,
15 Superior Court or Supreme Judicial Court, and the equivalent courts in another state.
16 The 5th and final unconditional exception in subsection 5 has no counterpart in
17 former section 614, subsection 3. It is modeled after section 705, subsection 1,
18 paragraph B but redrafted to address intelligence and investigative record information
19 rather than confidential criminal history record information. It allows dissemination
20 of confidential intelligence and investigative record information by a Maine criminal
21 justice agency to a person or public entity expressly authorized to receive the
22 information by statute, executive order, court rule, court decision or court order.
23 "Express authorization" is defined;

24 F. Enacts section 806, which replaces that portion of former section 614, subsection
25 3 that listed certain disseminations of confidential intelligence or investigative record
26 information by a Maine criminal justice agency that were excepted from former
27 section 614, subsection 1, but nonetheless were subject to reasonable limitations to
28 protect the interests against the harms described in subsection 1. The first conditional
29 exception in section 806, subsection 1 parallels former subsection 3, paragraph B but
30 broadens its scope to include a "government agency or subunit of a government
31 agency in this State or another state that pursuant to statute is responsible for
32 investigating abuse, neglect or exploitation of children or incapacitated or dependent
33 adults" for use in the investigation of suspected abuse, neglect or exploitation. The
34 2nd conditional exception in section 806, subsection 2 mirrors former subsection 3,
35 paragraph D except the victim's "agent," previously undefined, is now defined to
36 mean "a licensed professional investigator or an immediate family member if due to
37 death, age or physical or mental disease, disorder or defect the victim cannot
38 realistically act on the victim's own behalf." The 3rd and final conditional exception
39 in section 806, subsection 1 mirrors former subsection 3, paragraph E;

40 G. Enacts section 807, which has no former counterpart in subchapter 8, but it
41 parallels section 705, subsection 2 respecting a criminal justice agency confirming
42 the existence or nonexistence of confidential criminal history record information to
43 any person or public or private entity that would not be eligible to receive the
44 information itself;

1 H. Enacts section 808, which carries forward that portion of former section 620,
2 subsection 1 that denied to a person who is the subject of intelligence and
3 investigative record information the right to inspect or review that information; and

4 I. Enacts section 809 to replace former section 614, subsection 4 establishing the
5 Class E crime of unlawful dissemination of intelligence and investigative record
6 information. In addition to restructuring the crime, section 809 adds the additional
7 element of knowing it to be in violation. These changes make the crime parallel with
8 section 707 addressing the unlawful dissemination of confidential criminal history
9 record information.

10 Part B corrects cross-references in existing law to reflect the new Criminal History
11 Record Information Act and the new Intelligence and Investigative Record Information
12 Act.

13 Part C moves the confidentiality protection for reports of animal cruelty from the
14 former section governing intelligence and investigative record information to the animal
15 welfare laws in Titles 7 and 17.

16 Part D adds a new section 3308-A to the Maine Juvenile Code, addressing
17 dissemination of juvenile intelligence and investigative record information by a Maine
18 criminal justice agency.

19 Title 15, section 3308-A, subsection 1 contains technical terms used in that section.
20 The terms "administration of juvenile justice," "criminal justice agency," "dissemination,"
21 "executive order," "state" and "statute" mirror the meanings found in the new Title 16,
22 section 803, subsections 3 to 6, 8 and 9, respectively. The term "juvenile intelligence and
23 investigative record information" has no counterpart in Title 16, section 803 because the
24 "administration of juvenile justice" is expressly excluded from the definition of
25 "intelligence and investigative record information" in section 803, subsection 7.

26 Title 15, section 3308-A, subsection 2 clarifies that, to the extent a criminal justice
27 agency has juvenile intelligence and investigative record information that has been made
28 part of the court records of a juvenile proceeding, dissemination of that information by
29 the criminal justice agency must be as provided by section 3307 and section 3308.

30 Title 15, section 3308-A, subsection 3 clarifies that juvenile intelligence and
31 investigative record information is confidential other than as provided in subsection 2.
32 Additionally, subsection 3 lists certain disseminations of confidential juvenile intelligence
33 and investigative record information that are expressly authorized. These parallel those
34 contained in Title 16, section 805.