

130th Maine Legislature – 1st Regular Session & 1st Special Session

2021 NEW LAW UPDATE

New and Amended Statutes Relevant to Law Enforcement Officers

First Regular Session Effective June 29, 2021 (Chapters 1-41)
First Special Session Effective October 18, 2021 (Chapters 42-486)

The year 2021 is displayed in a large, bold, black font. The zeros are solid black, while the 2s are filled with a diagonal hatching pattern.

**Maine Criminal Justice Academy
Maine Chiefs of Police Association
Maine Office of the Attorney General**

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This publication and the 2021 Case Law Update constitute the training outline of the Maine Criminal Justice Academy for recertification training in law updates for the year 2021.

Preparer's Note

This New Law Update contains summaries of selected public laws of interest to most Maine law enforcement officers. The Update includes the new or amended statutory citations as well as links to the chaptered laws and the LDs that started it all. It is strongly recommended that the entire text of the chaptered law be examined for a more comprehensive understanding, and particularly before taking any enforcement action.

As you know, there are many types of law enforcement officers in Maine. New or amended laws that may be of interest to only a specialized type of law enforcement are not included in this Update to keep the length of the document manageable.

The summaries are those of the preparer and do not represent legal opinions of the Office of the Attorney General or interpretations by the Maine Criminal Justice Academy or the Maine Chiefs of Police Association.

The preparer wishes to recognize the assistance of Assistant Attorney General Laura Yustak of the Attorney General's Criminal Division, who reviewed this document and offered meaningful comments and suggestions, and Assistant District Attorney Christine Thibeault for her significant contributions regarding changes to the Juvenile Code.

Links to Chaptered Laws

First Regular Session – Chapters 1-41

<https://legislature.maine.gov/ros/LawsOfMaine/#Law/130/R1/ACTPUB/41>

First Special Session – Chapters 41-486

<https://legislature.maine.gov/ros/LawsOfMaine/#Law/130/S1/ACTPUB/102>

Link to LDs

https://legislature.maine.gov/bills/billdirectory_ps.asp?snum=130&ldFrom=1

Questions, suggestions, or other comments?

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CRIMES & CRIMINAL CODE

Chapter 170 – LD 491

An Act to Give Special Weight to Discriminatory Motive in Sentencing for False Public Alarm or Report

This law permits consideration at sentencing of the discriminatory motive of the person making a false public alarm or report the sentence of a person convicted of false public alarm or report.

Amends 17-A MRS §1501, sub-§8

Chapter 308 – LD 841

An Act Regarding Deferred Disposition

This law makes Class B drug crimes eligible for deferred disposition, in addition to the current eligibility for Class C, Class D, or Class E crimes.

Amends 17-A MRS §1901

Chapter 315 – LD 1455

An Act to Support Survivors of Sex Trafficking and Exploitation

This law amends the crime of prostitution by changing from an affirmative defense to a “defense” that a person engaged in prostitution because the person was compelled to do so, and adding the defense that a person engaged in prostitution to prevent bodily injury, serious economic hardship, or another threat to the person or another person. This reduces the defendant’s burden of establishing the defense and increases the State’s burden (now must disprove the defense beyond a reasonable doubt where the defense is sufficiently raised).

Amends 17-A MRS §853-A, sub-§4

Enacts 17-A MRS §853-A, sub-§5

Chapter 338 – LD 957

An Act to Authorize Expanded Deferred Disposition Requirements

This law authorizes a court to include in the deferred disposition requirements that the person participate for a specified number of days in a program run by a county sheriff that may involve overnight housing, community service work, and education. It also authorizes the participation in public works projects by those subject to a deferred disposition.

Amends 17-A MRS §1902, sub-§1

30-A MRS §1606, sub-§1

Chapter 360 – LD 549

An Act to Amend the Laws Prohibiting Teachers, Employees and Other Officials from Engaging in Sexual Activity with Students

This law prohibits sexual acts, sexual contact, and sexual touching between a student and a substitute teacher who had instructional, supervisory, or disciplinary authority over the student at any time during the 12 months prior to the sexual act, sexual contact or sexual touching. It also amends the statute on parental rights and responsibilities to require the court to consider, in

establishing the conditions of awards of parent-child contact and residence, a sexual offense by a substitute teacher under these new laws.

Amends 17-A MRS §253, sub-§2, ¶F
Amends 17-A MRS §253, sub-§2, ¶G
Amends 17-A MRS §255-A, sub-§1, ¶K

Amends 17-A MRS §255-A, sub-§1, ¶L
Amends 17-A MRS §260, sub-§1, ¶F
Amends 19-A MRS §1653, sub-§6-A, ¶A

Chapter 373 – LD 1021

An Act to Expand the Crime of Violation of Privacy to Include Observing or Photographing Images Inside a Private Place

The law adds to the crime of violation of privacy installing or using outside a private place without the consent of the person or persons entitled to privacy therein any device for observing or photographing images originating in that place that would not ordinarily be visible outside that place.

Amends 17-A MRS §511, sub-§1, ¶C

Chapter 374 – LD 1023

An Act Regarding the Outdoor Release or Abandonment of Balloons

This law amends the State's litter control law to clarify that waste materials resulting from the outdoor release or abandonment of a balloon constitute litter under that law. It provides that it is a violation of the littering law for a person to intentionally release outdoors a balloon that is inflated or filled with a gas that is lighter than air, except for a balloon carrying scientific instrumentation, a balloon used for meteorological observation by a governmental or scientific organization, or a hot air balloon that is recovered after launching. It applies a graduated civil penalty dependent on the number of balloons for the illegal intentional release of balloons.

Amends 17 MRS §2263, sub-§2
Amends 17 MRS §2263-A, sub-§1

Amends 17 §2264-A

Chapter 388 – LD 759

An Act to Amend the Child Endangerment Laws to Include Certain Unauthorized Access to a Loaded Firearm

This law establishes a Class D crime if, acting with criminal negligence, a person stores or leaves on premises that are under the person's control a loaded firearm in a manner that allows a child under 16 years of age to gain access to the loaded firearm without the permission of the child's parent, foster parent or guardian and the child in fact gains access to the loaded firearm and uses the loaded firearm in a reckless or threatening manner, or uses the loaded firearm during the commission of a crime, or discharges the loaded firearm. The law provides for a number of affirmative defenses to prosecution.

Amends 17-A MRS §554, sub-§1, ¶B-3

Enacts 17-A MRS §554, sub-§1, ¶B-4

Chapter 266 – LD 1170

An Act Regarding Unauthorized Possession of a Firearm in a Correctional Facility or Jail

This law makes the unauthorized possession of a firearm in or on the premises of a correctional facility or jail a Class D crime. It exempts a law enforcement or corrections officer engaged in the performance of the officer's public duty, an employee of a courier or security service in the course and scope of employment for the courier or security service, or a person who has stored a firearm out of sight in a locked motor vehicle that is on the premises of a correctional facility or jail. The fact that a person holds a valid permit to carry a concealed handgun is not a defense to a prosecution.

Enacts 17-A MRS §1059

Chapter 434 – LD 994

An Act to Promote Public Health by Eliminating Criminal Penalties for Possession of Hypodermic Apparatuses

This law amends the provisions regarding hypodermic apparatuses. It allows a person to possess a residual amount of a scheduled drug that is contained in one or more hypodermic apparatuses without committing the crime of unlawful possession of a scheduled drug. It repeals the law governing the crimes of trafficking in or furnishing hypodermic apparatuses, and the law governing the crime of illegal possession of hypodermic apparatuses. It removes from the definition of drug paraphernalia under Section 1111-A of the Criminal Code items used for testing, analyzing, injecting, ingesting, inhaling or otherwise introducing into the human body scheduled drugs. And, it removes similar provisions in the food and drug safety provisions of the Maine Revised Statutes and in the Maine Pharmacy Act.

Amends 17-A MRS §1106, sub-§6
Amends 17-A MRS §1107-A, sub-§5
Enacts 17-A MRS §1107-A, sub-§6
Repeals 17-A MRS §1110
Repeals 17-A MRS §1111
Amends 17-A MRS §1111-A, sub-§1
Amends 17-A MRS §1111-A, sub-§2

Amends 17-A MRS §1111-B
Amends 17-A MRS §1126, sub-§2
Amends 22 MRS §2383-B, sub-§2
Repeals 22 MRS §2383-B, sub-§6
Repeals 32 MRS §13787-A, sub-§3
Amends 32 MRS §13787-A, sub-§4

Chapter 447 – LD 1486

An Act to Improve Investigations of Child Sexual Abuse

This law amends the Criminal Code by providing that a person who poses as a minor is deemed a minor for the purposes of a sex crime that has as an element or aggravating factor of the crime that the victim or person other than the actor is a minor. It also adds as conduct punishable under the crime of patronizing prostitution of a minor that the person committing the crime believes that the person whose prostitution is sought is a minor, and it makes the new crime a Class C crime and changes the existing crime of patronizing prostitution of a person who has not in fact attained 18 years of age from a Class D crime to a Class C crime.

Enacts 17-A A §18
Amends 17-A A §855, sub-§1, ¶A
Repeals 17-A A §855, sub-§1, ¶B

Amends 17-A A §1802, sub-§1, ¶B
Amends 34-A A §11273, sub-§15, ¶C

Chapter 469 – LD 813

An Act to Create the Crime of Aggravated Sex Trafficking of a Person 14 Years of Age or Younger

This change in law provides that Aggravated Sex Trafficking is a Class B crime, except it is a Class A crime if the person being trafficked is 14 years of age or younger. Note the difference between this and other sex crimes, where the different offense levels are often based on the victim being under 14.

Amends 17-A MRS §852, sub-§1
Enacts 17-A MRSA §852, sub-§1-A

Repeals 17-A MRSA §852, sub-§3

DRUGS

Chapter 94 – LD 8

An Act to Support Collection and Proper Disposal of Unwanted Drugs

This law provides for the establishment of drug take-back stewardship programs. It requires certain drug manufacturers to operate a drug take-back stewardship program to collect and dispose of certain drugs.

Enacts 22 §2700, sub-§8
Enacts 38 §1612

Amends 38 §1776, sub-§11

Chapter 396 – LD 1675

An Act to Amend Certain Provisions of Maine's Drug Laws

This law alters the treatment of cocaine base, heroin, and fentanyl powder in the drug trafficking statutes. As for cocaine base, it removes any distinctions between cocaine HCL (powder) and cocaine base (crack), setting the same quantity thresholds for the permissible inference of trafficking, the offense of Aggravated Trafficking, and the offense of Aggravated Furnishing. As for heroin and fentanyl powder, it removes the possession of threshold amounts of those substances from the definition of “trafficking” and “furnishing,” eliminating the previous *per se* violations based on quantity alone. It replaces those *per se* violations with permissible inferences, similar to other controlled substances. The permissible inference of trafficking is set at four (4) grams of either heroin or fentanyl powder, and the permissible inference of furnishing is set at two (2) grams of either heroin or fentanyl powder.

Repeals 17-A MRS §1101, sub-§17, ¶¶E, F
Repeals 17-A MRS §1101, sub-§18, ¶¶C, D
Amends 17-A MRS §1103, sub-§3, ¶B
Amends 17-A MRS §1105-A, sub-§1, ¶D

Amends 17-A MRS §1105-C, sub-§1, ¶D
Amends 17-A MRS §1106, sub-§3, ¶B
Enacts 17-A MRS §1103, sub-§3, ¶¶C-1, C-2
Enacts 17-A MRS §1106, sub-§3, ¶¶C-1, C-2

Chapter 292 – LD 1718 (Effective June 21, 2021)

An Act to Establish the Accidental Drug Overdose Death Review Panel

This law establishes the Accidental Drug Overdose Death Review Panel to review a subset of deaths caused by accidental drug overdoses and to recommend to state, county, and local agencies methods of preventing deaths as the result of accidental drug overdoses including

modification or enactment of laws, rules, policies and procedures. The deaths selected for review must be recommended by the Chief Medical Examiner or designee or by an individual with whom the Office of the Attorney General contracts for services. The panel may review information surrounding an accidental drug overdose that was not fatal if review of such a case promotes the purpose of the panel under this section. The panel will consist of 15 members, some appointed by the Governor, others by the Attorney General, and others ex-officio.

Enacts 5 MRS §200-M

LAW ENFORCEMENT & COURT PROCEDURES

Chapter 164 – LD 12

An Act to Require Annual Reporting by the Maine Information and Analysis Center

The Maine Information and Analysis Center (MIAC) shall report annually in writing by April 1st beginning in 2022 to the legislature's Criminal Justice and Public Safety Committee regarding the performance of MIAC. The report must include a general narrative about the types of cases, crimes, incidents, and reports MIAC has reviewed and evaluated in a manner that protects personal privacy and the integrity of the work of MIAC. The report must include both privacy audits performed in the prior year and de-identified information from those audits regarding the cases, crimes, incidents and reports on which MIAC worked during the prior year that were reviewed during the audits.

Enacts 25 MRS c. 20

Chapter 267 – LD 1171

An Act to Curtail No-knock Warrants

This law defines "no-knock warrant" as a warrant that authorizes execution of the warrant without first announcing the authority for the execution of the warrant and the purpose of the warrant. It provides that any warrant that is executed without waiting at least 20 seconds after the announcement of authority and purpose before making entry is a no-knock warrant. The law prohibits the use of no-knock warrants, except in the event of imminent risk of death or bodily injury to persons and when a recognized exception to the warrant requirement, such as exigent circumstances, allows unannounced entry. It requires an officer executing a no-knock warrant to wear an official uniform and, if provided by the officer's law enforcement agency, a body-worn camera worn per agency policies. The law limits the use of stun grenade, stun, distraction or other similar devices during the execution of a no-knock warrant to only officers trained in the use of such a device during the execution of the warrant.

Enacts 15 MRS §57

Chapter 342 – LD 1043

An Act Concerning the Unannounced Execution of Search Warrants

This law adds to the list of mandatory law enforcement policies the requirement to have a written policy on the unannounced execution of search warrants, i.e., no-knock warrants that incorporates at a minimum the policy standards promulgated by the Board of Trustees of the Maine Criminal Justice Academy.

Enacts 25 MRS §2803-B, sub-§1, ¶N

Chapter 381 – LD 448

An Act Regarding Recording of Witness Interviews

This law directs the Maine Criminal Justice Academy Board of Trustees to adopt minimum policy standards regarding the recording and preservation of witness interviews conducted by law enforcement officers in murder investigations and Class A, Class B and Class C crime investigations. Law enforcement agencies must adopt policies that incorporate at a minimum the promulgated standards. The policy may not require the recording of all witness interviews, but must factor in the feasibility of recording individual interviews, taking into account the circumstances of the witness, the time and place of the interview, and the crime, as well as the capability of the law enforcement agency to record the interview. Present law requires the recording of suspect interviews in murder, Class A, Class B, and Class C crimes. (See 25 MRS §2803-B, sub-§1, ¶K.)

Enacts 25 MRS §2803-B, sub-§1, ¶K-1

Chapter 384 – LD 884

An Act to Restrict the Collection of Surveillance Video, Information and Data Regarding Lawful Firearm Purchases

This new law prohibits the State Police from collecting in its records any surveillance video, information, or data concerning lawful firearm purchases obtained by the Maine Information and Analysis Center except as needed for purposes of investigating suspected criminal activity or terrorism, administering civil, criminal, or juvenile justice or protecting a person's health and welfare pursuant to the laws governing involuntary hospitalization.

Enacts 25 A §1510

Chapter 393 – LD 1478

An Act to Require the Use of Homelessness Crisis Protocols by Law Enforcement Agencies

This law directs the Attorney General to adopt a model homelessness crisis protocol by January 1, 2022 and directs law enforcement agencies to adopt protocols by March 1, 2022 that may, but are not required to, conform to the model protocol adopted by the Attorney General. The law requires a protocol that includes access and referral to crisis services, mental health, and substance use disorder professionals, emergency and transitional housing, and case management services. A law enforcement officer who responds to or encounters a situation involving a “listed offense” is required to inquire whether the person committing the offense is homeless and, if so, the officer is required to respond to the situation in accordance with the homelessness crisis

protocol. "Listed offenses" are (1) criminal trespass in violation of section 402, subsection 1, paragraph C or F; (2) disorderly conduct in violation of section 501-A, subsection 1, paragraph A; (3) indecent conduct in violation of section 854 that is based on urinating in public; (4) possession of a scheduled drug in violation of chapter 45 that is based on using the scheduled drug; and (5) public drinking in violation of Title 17, section 2003-A, subsection 2. The requirement to respond per the protocol does not constitute the exclusive means of dealing with a "listed offense" situation.

Enacts 17-A MRS §18

Chapter 394 – LD 1585 (Effective October 1, 2021)

An Act to Increase Privacy and Security by Regulating the Use of Facial Surveillance Systems by Departments, Public Employees and Public Officials

This law provides a structure for requests from state, county, and municipal government agencies, public employees, and public officials for facial surveillance searches and allowed uses of the results of facial surveillance searches and specifies the manner in which requests for searches must be made to the Bureau of Motor Vehicles and the State Police. The law continues current authority in the Bureau of Motor Vehicles to perform facial surveillance searches and to receive requests for searches. The law requires the State Police and the Bureau of Motor Vehicles to maintain de-identified records of searches requested and performed and designates those records as public records. The law states that facial surveillance data does not, without other evidence, establish probable cause justifying arrest, search, or seizure. The law includes enforcement provisions in case of a violation.

Enacts 25 MRS Pt. 14

Chapter 395 – LD 1612

An Act to Facilitate Children's Testimony in Certain Sex Crime Cases

This new law allows the court, upon motion by the State and with reasonable notice to the defendant, to permit a child 14 years of age or younger to provide direct testimony in certain sex crime cases outside the presence of the defendant in a criminal proceeding concerning a crime under Title 17-A, chapter 11 or 12 in which the child is the alleged victim. It gives the court discretion as to whether to allow the child to provide testimony using the procedure established in the law. The defendant's attorney must be provided an opportunity in real time to cross-examine the child after the child's direct testimony. It requires that the defendant be able to observe the child's testimony while it is happening and be able to communicate with the defendant's attorney during the testimony. This law does not apply if the defendant is an attorney *pro se* or if the positive identification of the defendant is required. Compare 15 MRS §1205.

Enacts 15 MRS §1321

Chapter 397 – LD 1703

An Act to Amend the Bail Code

This law provides that a defendant who is otherwise eligible to be released on personal recognizance or upon the execution of an unsecured appearance bond, whether or not accompanied by one or more conditions of bail, must be released even if the defendant cannot

afford to pay the bail commissioner fee. It clarifies that the bail commissioner fee is not a financial condition of release for the purposes of the prohibition on financial conditions of release for certain Class E crimes. The law removes from the list of potential conditions of release for preconviction bail the requirement to submit to a random search for possession or use of alcohol or use of illegal drugs when use or possession is prohibited by a condition of release, unless the defendant is a participant in a specialty court docket or as agreed to by the parties as a part of a deferred disposition. The law also eliminates the condition that requires the defendant to report on a regular basis to the defendant's attorney. It prohibits a judicial officer from imposing a financial condition of release on a defendant whose most serious crime charged is a Class E crime. However, the prohibition on financial conditions of release does not apply when the Class E crime was a violation of Chapter 11 of the Criminal Code (sexual assault crime), a crime committed against a family or household member or a dating partner, a violation of a condition of release when the underlying crime for which the defendant has been released on bail is a violation of Chapter 11 of the Criminal Code or a crime against a family or household member or a dating partner, a violation of a condition of release that is premised on an allegation of new criminal conduct, when a defendant fails to appear in court on a Class E crime, or when agreed to by the defendant and the State. The parties may not agree to a bail amount under this provision that is more than \$5. The law change revises the list of factors a judicial officer considers when setting preconviction bail; although the judicial officer is still required to consider the defendant's past conduct, the law eliminates the consideration of any history of substance use disorder. It also adds three new factors to be considered by the judicial officer: whether the defendant is the person primarily responsible for the care of another person; whether the defendant has a specific health care need, including a mental health care need, that is being met or would be better met outside of custody; and whether being placed or remaining in custody would prevent the defendant from maintaining employment. Finally, the amendment requires a judicial officer to state the reason for any financial condition the judicial officer imposes.

Amends 15 MRS §1023, sub-§5
Amends 15 MRS §1026, sub-§3, ¶A
Repeals 15 MRS §1026, sub-§3, ¶A(14)

Enacts 15 MRS §1026, sub-§3, ¶B-1
Amends 15 MRS §1026, sub-§4, ¶C
Amends 15 MRS §1026, sub-§5, ¶A

Chapter 454 – Chapter 1521

An Act to Strengthen Protections against Civil Asset Forfeiture

This law requires that, for property to be forfeited under the criminal forfeiture laws, the owner of the property be convicted of a crime in which the property was involved, and it prohibits a law enforcement agency or other entity from entering into an agreement to transfer or refer the property seized to a federal agency unless the seized property includes United States currency in excess of \$100,000. This law also requires that the records of forfeited property be posted by the Department of Public Safety on a publicly accessible website. A conviction is not required for seizure if property is being forfeited as part of a plea agreement, a grant of immunity or reduced punishment, with or without the filing of a criminal charge, in exchange for testifying or assisting a law enforcement investigation or prosecution. Moreover, the court may waive the conviction requirement and grant title to the property to the State if the State files a motion no fewer than 90 days after seizure and shows by a preponderance of the evidence that, before conviction, the defendant died, was deported, abandoned the property, or fled the jurisdiction. The law set out post-seizure proceedings by establishing that a defendant or any person with an interest in the property has a right to a prompt hearing. The court must order the return of seized property if it

finds that the seizure was invalid, a criminal charge has not been filed, the property is not reasonably required to be held as evidence, or the final judgment likely will be in the favor of the claimant.

Amends 15 MRS §5821, first ¶
Amends 15 MRS §5821, sub-§3-A
Amends 15 MRS §5821, sub-§3-B
Amends 15 MRS §5821, sub-§7-A
Amends 15 MRS §5825

Enacts 15 MRS §5826, sub-§9
Enacts 15 MRS §5828
Repeals 5 MRS §5822, sub-§1; 15 MRS §5822, sub-§2; 15 MRS §5822, sub-§3; 15 MRS §5822, sub-§4; 15 MRS §5822, sub-§5, 15 MRS §5823

Chapter 460 – LD 132

An Act to Implement Law Enforcement Data Collection to Eliminate Profiling

This law provides that beginning on July 1, 2023, a law enforcement agency must record and retain the following information regarding traffic infractions occurring in this State: (1) the number of persons stopped for traffic infractions; (2) the characteristics of race, color, ethnicity, gender and age of each person stopped with the identification of such characteristics based on the observation and perception of the law enforcement officer; (3) the nature of each alleged traffic infraction that resulted in a stop; (4) whether a warning or citation was issued, an arrest was made, or a search was conducted as a result of each stop for a traffic infraction; and (5) any additional information the law enforcement agency determines appropriate. A law enforcement agency must report the information to the Attorney General per rules adopted by the Attorney General.

Enacts 5 MRS c. 337-D

Chapter 480 – LD 1685

An Act to Protect the Constitutional Rights of Indigent Defendants

This law prohibits a prosecutor from speaking with a unrepresented defendant until the defendant has been apprised of the right to an attorney, has had an arraignment/first appearance in court during which certain required notices are provided, AND the defendant has executed a written waiver of the right to counsel in each prosecution. However, a prosecutor may communicate with an unrepresented defendant to offer the defendant an opportunity to participate in an established pre-charge diversion program, the successful completion of which results in the prosecutor not prosecuting the defendant. Talk with your local DA about procedures they have implemented to prevent inadvertent violations of this prohibition.

Enacts 15 MRS §815

MAINE CRIMINAL JUSTICE ACADEMY

Chapter 196 – LD 513

An Act Regarding the Citizen Members and the Complaint Review Committee of the Board of Trustees of the Maine Criminal Justice Academy

This law defines a “citizen member” of the MCJA Board of Trustees as a citizen, educator, or municipal official appointed to the board who is not and has never been a sworn member of a law enforcement agency. The law also increases from three to five members the Complaint Review

Committee of the Board; two of the five members must be citizen members of the Board. A majority of the committee members, including at least one citizen member, must be present for deliberations.

Enacts 25 MRS §2801-A, sub-§1-A

Amends 25 MRS §2805-C, sub-§1

Chapter 255 – LD 505

An Act to Expand the Disciplinary Authority of the Board of Trustees of the Maine Criminal Justice Academy

This law amends the powers and duties of the Board of Trustees of the Maine Criminal Justice Academy to include that the Board adopt rules for standards of conduct that subject an applicant for a certificate or a certificate holder to disciplinary action for a violation. The amendment authorizes the board to act against an applicant for a certificate or a certificate holder for violation of the standards of conduct established by the Board. Any such action taken must be supported by a statement of findings and must be issued as a written decision of the Board, both of which are public records under the Freedom of Access Act.

Enacts 25 MRS §2803-A, sub-§15-A
Amends 25 MRS §2806-A, sub-§5, ¶K,
Amends 25 MRS §2806-A, sub-§5, ¶L

Enacts 25 MRS §2806-A, sub-§5, ¶M
Amends 25 MRS §2806-A, sub-§10

Chapter 256 – LD 573

An Act Concerning Records of the Employment of Law Enforcement Officers and Corrections Officers

The application of this new law is for those situations when a law enforcement officer or corrections officer who is employed by a law enforcement agency, correctional facility, or county or regional jail, or who was so employed within 90 days prior to making an application for employment, applies for employment as a law enforcement officer or corrections officer with a different agency. The applicant must sign a request that an employing agency release all employment records to a hiring agency. The MCJA Board of Trustees must adopt rules establishing a standard request and waiver form. An employing agency that receives a request must promptly release all employment records to the hiring agency. The agency that releases the information is immune from civil or criminal liability for releasing the requested information to a hiring agency. A hiring agency that receives information must treat that information in the same manner as it treats employment records of the employees of the hiring agency. A hiring agency is immune from civil or criminal liability for receiving the requested information. When a polygraph examination has been performed on a law enforcement officer or corrections officer and the results indicate probable cause to believe that the officer is or has been involved in criminal activity, the agency that conducted the examination or for whom the examination was performed must release the results of the examination to the head of the agency that employs the officer.

Enacts 25 MRS §2805-B, sub-§4

Enacts 25 MRS §2805-B, sub-§5

PROTECTION ORDERS

Chapter 432 – LD 803

An Act Regarding Violation of a Protective Order

Under existing law, a person who violates a protective order issued by a Maine court through conduct that is reckless and that creates a substantial risk of death or serious bodily injury to the person named in the protective order or who assaults that person commits a Class C crime. The same conduct that violates a protective order issued by another jurisdiction would only constitute a Class D crime. This change in law provides for the same Class C crime if the violation is of an order that is similar to a protective order and that is issued by a court of the United States or of another state, territory, commonwealth or tribe.

Amends 19-A MRS §4011, sub-§4

PROTECTIVE CUSTODY

Chapter 377 – LD 785

An Act to Change the Standard for Taking a Person into Protective Custody

This law revises the standard for a law enforcement officer to take a person into protective custody. Current law is based on probable cause to believe that a person may be mentally ill and, because of that condition, presents a threat of imminent and substantial physical harm to that person or to another person. This law changes that standard to probable cause to believe the person is mentally ill and, due to that condition, the person poses a “likelihood of serious harm.” “Likelihood of serious harm” is the existence of (1) a substantial risk of physical harm to the person as manifested by recent suicide attempts or threats or serious self-inflicted harm; or (2) a substantial risk of physical harm to other persons as manifested by recent homicidal or violent behavior or by recent conduct placing others in reasonable fear of serious physical harm; or (3) a reasonable certainty that the person will suffer severe physical or mental harm as manifested by recent behavior demonstrating an inability to avoid risk or to protect the person adequately from impairment or injury.

Amends 34-B MRS §3862, sub-§1

PUBLIC RECORDS & FREEDOM OF ACCESS ACT

Chapter 153 – LD 894

An Act to Increase Government Accountability by Removing the Restriction on the Dissemination of Information Regarding Investigations

This law repeals Section 807 of Title 16, the so-called “Glomar response,” which prohibited a Maine criminal justice agency from confirming the existence or nonexistence of confidential intelligence and investigative record information to anyone not otherwise eligible by law to receive the information.

Repeals 16 MRS §807

Chapter 252 – LD 58

An Act to Improve Information Sharing by Criminal Justice Agencies with Government Agencies Responsible for Investigating Child or Adult Abuse

This law amends the provision of section 806 of Title 16 that delineates exceptions to the confidentiality of Intelligence & Investigative Record Information to clarify that a government entity responsible for licensing or regulating the programs or facilities that provide care to children or incapacitated or dependent adults is entitled to the information (subject to reasonable limitations to protect against the harms contemplated in section 804) if the information concerns the investigation of suspected abuse, neglect or exploitation. The law also enacts a new provision that permits disclosure of information to a government entity responsible for investigating child or adult abuse if the information is being provided in response to a request for records regarding a particular person or persons and the information relates to alleged or proven conduct that is criminal under Title 17-A, chapters 9, 11, 12, 13, 21, 23, 33, 35, 41, 43 or 45 by the person.

Amends 16 MRS §806, sub-§1

Enacts 16 MRS §806, sub-§1-A

Chapter 313 – LD 1345

An Act to Implement the Recommendations of the Right to Know Advisory Committee

Current law provides for the imposition of a “reasonable fee” to cover the cost of copying public records per a Freedom of Access Act request. This law sets a reasonable fee to cover the cost of copying at no more than 10¢ per page for a standard 8 1/2 inches by 11 inches black and white copy of a record, and provides that a per-page copy fee may not be charged for records provided electronically.

Amends 1 MRS §408-A, sub-§8, ¶A

Chapter 353 – LD 1480

An Act Regarding the Review of Law Enforcement Use of Deadly Force

This law amends the Intelligence & Investigative Record Information Act to make it clear that the Act does not preclude the public dissemination of that portion of a video in the custody of the Attorney General depicting the use of deadly force by law enforcement when the public interest in the evaluation of the use of deadly force by law enforcement and the review and investigation of those incidents by the Attorney General outweighs the harms contemplated in Title 16, section 804. The law also requires the Attorney General to complete an investigation of and submit the findings regarding the use of deadly force by a law enforcement officer to the Deadly Force Review Panel within 180 days of receiving notice of the use of deadly force. The Attorney General is required to provide notice to the panel if the investigation and findings are not complete within 180 days and provide a summary of the investigation up to the date of the notice, identify the reason for the delay and provide an anticipated conclusion date for the investigation and findings, which may not exceed 270 days from receiving notice of the use of deadly force.

Enacts 16 MRS §806-A

Enacts 5 MRS §200-K, sub-§8

Chapter 375 – LD 1346

An Act to Implement the Recommendations of the Right to Know Advisory Committee Concerning Fees Charged for Responding to Public Records Requests

This change in law extends the time period for which an agency or official may not charge a fee for searching for, retrieving and compiling a requested public record from the first hour of staff time per request to the first two hours of staff time per request. It also increases the fee that may be charged after the first two hours of staff time per request from not more than \$15 per hour to not more than \$25 per hour.

Amends 1 MRS §408-A, sub-§8, ¶B

Enacts 1 MRS §408-A, sub-§12

SHERIFFS

Chapter 202 – LD 1065

An Act to Clarify the Qualifications and Oversight of Sheriffs

This law requires a candidate for Sheriff to submit written certification from the Maine Criminal Justice Academy that the candidate is currently certified as a law enforcement officer and has met the basic law enforcement training standards or was previously certified as a law enforcement officer and agrees to meet the basic law enforcement training standards within one year of taking office. It also provides that a Sheriff continually meet the in-service law enforcement training standards and any other statutory requirements of preservice, basic or in-service law enforcement training required for certification or continued certification as a law enforcement officer. Excepted is any person who served as a full-time law enforcement officer employed by a municipal police department or a state agency, including the University of Maine System, on or before July 1, 1990 or is serving in the office of sheriff on June 26, 2021 or who served prior to that date.

Amends 30-A MRS §371-B, sub-§3
Enacts 30-A MRS §371-B, sub-§3-A

Amends 30-A MRS §371-B, sub-§4

TRAFFIC & MOTOR VEHICLE CODE

Chapter 26 – LD 73 (Effective June 29, 2021)

An Act to Allow Harbor Masters and Deputy Harbor Masters to Auxiliary Lights

A municipality may authorize a harbor master or deputy harbor master to use one red or combination red and white flashing light mounted in the windshield or on the dashboard at the front of a vehicle or 2 flashing red or combination red and white auxiliary lights mounted on the front of the vehicle above the front bumper and below the hood and one red auxiliary light mounted in the rear window area. The lights may be used only while the harbor master or deputy harbor master is responding to a watercraft emergency. A light mounted on the dashboard or in the windshield must be shielded so that the emitted light does not interfere with the operator's vision.

Amends 29-A MRS §2054, sub-§2, ¶F

Chapter 85 – LD 1078

An Act to Promote Traffic Safety in Emergency Situations

This law enables a trained nonsworn member of a law enforcement agency to serve as a public safety traffic flagger to control vehicular traffic at emergency scenes in the same manner as firefighters and members of emergency medical services control vehicular traffic.

Amends 29-A MRS §2091, sub-§1

Chapter 113 – LD 662

An Act to Allow the Use of an Additional Light on the Roof of Vehicles of Active Members of a Municipal or Volunteer Fire Department

The municipal officers or municipal official designated by the municipal officers, with the approval of the fire chief, may authorize an active member of a municipal or volunteer fire department to use one red light bar no more than 8 inches in length on the roof of the vehicle so that the light is visible to approaching traffic from the front and the rear of the vehicle.

29-A MRS §2054, sub-§2, ¶F

Chapter 204 – LD 1313

An Act to Clarify a Certificate Stating the Results of a Breath-alcohol Test

This law clarifies that a certificate of a chemical analysis of a breath-alcohol test with respect to a motor vehicle offense may be used as prima facie evidence only if the certificate is issued by the qualified person who administered the test. A person qualified to operate a self-contained, breath-alcohol testing apparatus may issue a certificate stating the results of an analysis of a test that the person administered.

Amends 29-A MRS §2431, sub-§2, ¶B

Chapter 205 – LD 1400

An Act to Protect Towing Operators by Allowing the Use of a Flashing Green Light

A wrecker may be equipped with a flashing green auxiliary light mounted on top of the vehicle in such a manner as to emit a green light over a 360-degree angle. A flashing green auxiliary light on a wrecker equipped in accordance with this subparagraph may be used only when the operator is assisting another vehicle operator or loading a vehicle onto the wrecker and the wrecker is pulled to the side of, or off, a public way and has halted in a location where it can safely remain stationary.

Amends 29-A MRS §2054, sub-§2, ¶C

Chapter 379 – LD 821

An Act to Improve the Investigation and Prosecution of Cases Involving Vulnerable Road Users

This new law requires a law enforcement officer who investigates a reportable accident involving a vulnerable user or an incident resulting in bodily injury or death to a vulnerable user, when

there is probable cause to believe that a traffic infraction, civil violation, or criminal violation is connected to that accident or incident, to inform the district attorney of the investigation within five days and submit a final report as soon as is practicable but no later than 60 days after the accident or incident. A “vulnerable user” is a person on a public way who is more vulnerable to injury than a person in a motor vehicle. See 29-A MRS §101(91-A). Additional evidence may be submitted as soon as it becomes available after the submission of the final accident report. Evidence submitted later than 60 days after the accident or incident is not precluded from being used in the prosecution of a criminal violation or civil violation, and failure of an officer to inform a district attorney does not affect any authority of a district attorney to take any action or preclude a private citizen from notifying a district attorney about an accident or incident.

29-A MRS §2251, sub-§12

Chapter 427 – LD 644

An Act Regarding Motor Vehicle Registration Violations (Effective July 1, 2022)

It is a traffic infraction for which a fine of not more than \$50 may be adjudged for a first offense if the vehicle was registered and the registration has been expired more than 30 days but less than 150 days; a traffic infraction for which a fine of not more than \$100 may be adjudged for a first offense if the vehicle was registered and the registration has been expired for 150 days or more and for which a fine of not more than \$500 may be adjudged for each subsequent offense; and a Class E crime if the vehicle has never been registered by the current owner of the vehicle. The law also provides that a person served with a Violation Summons and Complaint charging a violation of failure to register a vehicle may have the complaint dismissed if that person shows satisfactory evidence of registration that was in effect at the time of the alleged violation or that the person subsequently registered the vehicle prior to the date required for filing an answer to the complaint. It provides the following penalties for a violation of failure to change out-of-state registrations: A fine of not more than \$50 for a first offense if more than 30 days but less than 150 days has elapsed since establishing residency; a fine of not more than \$500 may be adjudged for each subsequent offense.

Amends 29-A MRS §351, sub-§1
Amends 29-A MRS §351, sub-§1-A

Amends 29-A MRS §351, sub-§2, ¶A

MISCELLANEOUS

Chapter 62 – LD 28

An Act to Update the Silver Alert Program to Include Missing Endangered Persons

This law updates the existing Silver Alert Program within the Department of Public Safety to include missing endangered persons. "Missing endangered person" is defined as a person who is believed to be in danger because of the person's age, mental or physical health or intellectual or developmental disability, because of environmental or weather conditions or because the person is missing in dangerous, unexplained, involuntary or suspicious circumstances as determined by a local law enforcement agency.

Amends 25 MRS §§2201 & 2202

Chapter 116 – LD 778

An Act to Enable Electronic Reporting of Suspected Child Abuse and Neglect for Certain Mandated Reporters

Medical professionals, hospitals and hospital staff, school personnel and law enforcement personnel may submit reports electronically. DHHS shall provide a portal through which these electronic reports may be submitted that is linked to the department's comprehensive child welfare information system.

Amends 22 MRS §4012, sub-§1

Chapter 198 – LD 537

An Act to Dedicate Sections of Maine's State Highway System to Fallen State Troopers

This law establishes the Fallen State Trooper Dedication Program, which designates one mile of the state highway system to a state police officer who died in the performance of that officer's duty. The one-mile section must be located as close as possible to the patrol area of the fallen officer, and appropriate signs shall be erected in both directions of the roadway.

Enacts 23 MRS §1952

Chapter 419 – LD 467

An Act to Support E-9-1-1 Dispatchers and Corrections Officers Diagnosed with Post-traumatic Stress Disorder

This law change adds corrections officers and E-9-1-1 dispatchers to the list of employees for whom there is a rebuttable presumption under the laws governing workers' compensation that when the employee is diagnosed by a licensed psychiatrist or psychologist as having post-traumatic stress disorder resulting from work stress that was extraordinary and unusual, the post-traumatic stress disorder is presumed to have arisen out of and in the course of the worker's employment.

Amends 39-A MRS §201, sub-§3-A, ¶B

JUVENILES & JUVENILE CODE

Contributed by Christine Thibeault, Assistant District Attorney, Cumberland County

Changes most relevant to law enforcement are highlighted.

Chapter 23 – LD 27

[Amendment to 15 MRS §3402]

Allows juveniles to immediately appeal a Juvenile Court's decision to bind over a juvenile to be tried as an adult. The juvenile may elect to file an appeal immediately upon granting a State's motion for bind-over or following conviction in the adult criminal court but not both.

Chapter 98 – LD 81

[Amendment to 22 MRS §8101, sub-§2]

Extends authorized homeless shelter placements for youth age 10 to 21 from 30 days to 90 days.

Chapter 326 – LD 320

Makes several substantive changes to the Maine Juvenile Code:

1. [Amendment to 15 MRS §3003, sub-§14]
Amends the definition of “juvenile” to include persons 18 or older during the period of disposition that includes probation or commitment to Long Creek Youth Development Center. This definition does not apply when that person engages in new criminal conduct and is 18 or older at the time of the new alleged criminal conduct.
2. [Enactment of 15 MRS §3203-A, sub-§4, ¶G]
Prohibits secure detention of any juvenile under age 12 for more than seven days “except by agreement of the parties.”
3. [Amendment to 15 MRS §3203-A, sub-§5]
Requires the Juvenile Court to assign counsel for a juvenile when a petition for review of detention is filed and indicates that the attorney continues to represent the juvenile if a petition is filed, but the assignment must be reviewed at the juvenile’s first appearance.
4. [Amendment to 15 MRS §3301, sub-§6]
Allows appointment of counsel for a juvenile at any time upon motion of the State, the juvenile or *sua sponte* by the court. The assignment must be reviewed at the juvenile’s first appearance.
5. [Amendment to 15 MRS §3306, sub-§1]
Requires the court to appoint counsel for a juvenile committed to Long Creek and that representation continues until the juvenile is discharged from the disposition.
6. [Amendment to 15 MRS §3313, sub-§2, ¶F]
Adds as one of the factors a court shall consider withholding placement in a secure institution that restitution be in an amount the court determines the juvenile is able to pay.
7. [Enactment of 15 MRS §3313, sub-§2, ¶L]
Adds as one of the factors a court shall consider when withholding placement in a secure institution whether the juvenile was under age 14 when the adjudicated conduct occurred.
8. [Enactment of 15 MRS §3313, sub-§2, ¶M]
Adds as one of the factors a court shall consider when withholding placement in a secure institution whether the juvenile crime adjudicated would be considered a Class D or E crime and “based upon both the written agreement of the parties and a court finding, the facts and circumstances of the underlying juvenile criminal episode giving rise to the adjudication did not generate probable cause to believe the juvenile had committed (a Class A, B or C crime).
9. [Amendment to 15 MRS §3314, sub-§1, ¶F]
Beginning October 1, 2021, only juveniles age 12 years and older may be committed to Long Creek.

10. [Amendment to 15 MRS §3315, sub-§3]
“Reasonable efforts” determinations by the court following commitment must occur at least once every 12 months until the juvenile reaches age 21, is discharged from commitment, or is no longer residing outside of the juvenile’s home. The juvenile must be represented by an attorney at the reasonable efforts review and “if an appropriate treatment or appropriate and less restrictive placement is not being provided or offered to the juvenile, the court may order (DOC or DHHS) or both to demonstrate the reasonableness of the current treatment or placement provided or offered.”
11. [Amendment to 15 MRS §3316, sub-§2, ¶A]
Allows the court to order indeterminate commitment of a juvenile for ANY period by removing the language requiring indeterminate commitments be for at least one year.
12. [Amendment to 15 MRS §3317]
Allows juveniles, as well as the State, to petition the court for entry of a new disposition whenever a juvenile is committed to the custody of DOC, the custody of DHHS, or placed on probation and allows the court to “make any of the dispositions otherwise provided in section 3314 and Title 34-A, section 3805, subsection 2.” [This section of Title 34-A simply limits the age at which a juvenile may be committed to Long Creek and doesn’t need to be stated here.] “Absent extraordinary circumstances, the juvenile may file a petition no more than once every 180 days.”
13. [Amendment to 15 MRS §3402, sub-§1]
Authorizes appeal of a judicial review pursuant to section 3317 (request for new disposition).
14. [Enactment of 34-A MRS §3805, sub-§1-A]
Beginning October 1, 2021, only juveniles age 12 years and older may be committed to Long Creek.

Chapter 398 – LD 546/LD 221

This bill was enacted as part of the State budget, L.D. 221, and all provisions became effective as emergency legislation on July 1, 2021. Part KKKK of the budget contains, in part:

Repeal of 15 MRS §3203-A, sub-§4, ¶C, thereby REMOVING the authorized purpose of detention “to provide physical care for a juvenile who cannot return home because there is no parent or other suitable person willing and able to supervise and care for the juvenile adequately.”

Other provisions of Part KKKK:

- ~ Requires DOC to annually report to the Criminal Justice and Public Safety Committee on the reductions in the numbers of detained and committed juveniles, diversion efforts, and a number of other juvenile justice related efforts.
- ~ Requires the JJAG to reestablish the Juvenile Justice Task Force and work with the Task Force and stakeholders to implement the recommendations of the Maine Juvenile Justice System Assessment and Reinvestment Task Force report. The Task Force shall work with JJAG on the development of strategic interventions and investments in a community-based continuum of therapeutic services for justice-involved youths.
- ~ Requires DOC to report to the CJ/PS Committee by January 1, 2022, on possible sites and locations of two to four (one must be in Cumberland County, one must be in

Penobscot County) “small, secure, therapeutic residences for youths for the purposes of providing confinement and detention in a therapeutic setting for a maximum occupancy of a total of 20 youths across all sites and locations.”

Chapter 339 – LD 963

Requires DOC to provide culturally appropriate services for juveniles:

1. [Enactment of 34-A A §1402, sub-§10-A]
Requires DOC to ensure that any residential or nonresidential treatment or recovery programs established by DOC to serve adjudicated juveniles provide “culturally informed treatment plans and modalities and culturally informed community reintegration services and provide language services for that juvenile and the juvenile’s family and support system; and
2. [Enactment of 34-A A §1402, sub-§10-B]
Requires DOC to ensure that any prevention, diversion or restorative justice programs established by DOC to serve adjudicated juveniles provide “culturally informed services, including, but not limited to, referrals to community based services and supports, housing, case management, education and employment resources, and provide language services for that juvenile and the juvenile’s family and support system, as necessary.”

Chapter 156 – LD 1040

[Enactment of 20-A §6556]

Requires school resource officers to complete “diversity, equity and inclusion training or implicit bias training at least once during that officer's first year of employment as a school resource officer.”

Chapter 355 – LD 1617

[Enactment of 34-A §1001, sub-§15-B]

Provides a statutory definition of “restorative justice” as “a practice in which offenders take responsibility for causing harm and engage in a facilitated process with victims, family members, community members, advocates, and others impacted by the harm that focuses on repairing the harm, addressing needs, and preventing future harm.”

Chapter 365 – LD 1676

Enacts many substantive changes to how juvenile justice records are managed and disseminated effective January 1, 2022:

1. [Amendment of 15 MRS §709, sub-§1-B, and sub-§1-C]
Eliminates the definition and use of the term “administration of juvenile *criminal* justice” and adopts consistent use of the term “administration of juvenile justice.”
[Many statutes are amended to remove the term “juvenile *criminal* justice.”]
2. [Enactment of 15 MRS §3003, sub-§1-A]
Defines “administration of juvenile justice” and locates the definition in the Juvenile Code. This definition encompasses all juvenile justice related activity from prevention, diversion, detention, conditional or unconditional release, initial appearance, adjudication, disposition, supervision, and rehabilitation.
3. [Enactment of 15 MRS §3003, sub-§19-C]

Defines “order of adjudication” as “any document including but not limited to a judgment and commitment order including conditions of probation if imposed, any dismissal form, or any written order that constitutes final disposition of a juvenile petition.”

4. [Enactment of 15 MRS §3003, sub-§28]

Adopts the definition of “victim” used in the Maine Criminal Code, i.e., a person who is the victim of a crime, and the immediate family of the victim if the victim is unable to participate in the juvenile justice process due to age, physical or mental disease, disorder or defect.

5. [Enactment of 15 §3010]

Creates an entire new section in the Juvenile Code to govern management of “juvenile history record information” collected by or at the direction of a criminal justice agency. [Analogous to Maine’s Criminal History Record Information Act contained in Title 16, Chapter 7.]

~All juvenile history record information is *confidential* unless expressly defined as public. “Public juvenile history record information” is defined as “information indicating that a juvenile has been adjudicated as having committed a juvenile crime that would constitute murder or a Class A, B or C crime if the juvenile adjudicated were an adult and any resulting disposition imposed.”

~Criminal justice agencies may directly or through an intermediary disseminate confidential juvenile history record information to another criminal justice agency as defined in 16 MRS §703(4), which includes courts for the purpose of administration of juvenile or criminal justice; any person when expressly authorized by statute, court rule, court decision or court order; and “a public entity for purposes of international travel, such as issuing visas and granting of citizenship.

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

6. [Amendment of 15 MRS §3007]

Specifies that law enforcement, officers of the court, JCCO’s and other representatives of DOC may not disclose the identity of any juvenile involved in the juvenile justice system until a juvenile petition is open to public inspection. However, the identity of a juvenile may be disclosed to a victim, a criminal justice agency, or DHHS regardless of whether a petition has been or will be filed.

7. [Enactment of 15 MRS §3308-A, sub-§3, ¶B-2]

Authorizes dissemination of juvenile intelligence and investigative record information to government agencies responsible for investigating abuse, neglect, or exploitation of children or responsible for licensing childcare facilities, family childcare providers or children’s camps or their employees.

8. [Enactment of 15 MRS §3308-A, sub-§7]

Creates a new civil violation for unlawful dissemination of juvenile intelligence and investigative record information. “Any person who intentionally disseminates confidential juvenile intelligence and investigative record information knowing it to

be in violation of any provision of this chapter commits a civil violation for which a fine of not more than \$1,000 may be adjudged.” The District Court has jurisdiction over such violations.

9. [Repeal of 15 MRS §3008 and Enactment of 15 MRS §3008-C in its place]
Creates a new four-tier system of public access to juvenile petitions:
 - I. Always confidential
 - II. Always open to public inspection
 - III. Presumed open to public inspection but may be made confidential by court order
 - IV. Presumed NOT open to public inspection but may be made open by court order
10. [Enactment of 15 MRS §3308-C, sub-§1]
All juvenile case records are confidential unless expressly authorized to be open. The court may not disseminate any juvenile case records to the public by any paper or electronic means. (Inspection must occur at the court building)
11. [Enactment of 15 MRS §3308-C, sub-§2, ¶A]
Unless juvenile court proceedings are suspended to determine the juvenile’s competence, the following petitions are always open to public inspection:
 - I. Any petition alleging murder, felony murder or manslaughter IF the alleged juvenile offender was age 13 years or older at the time of the alleged juvenile crime and the court finds probable cause to believe the juvenile committed the alleged crime.
12. [Enactment of 15 MRS §3308-C, sub-§2, ¶B]
Unless juvenile court proceedings are suspended to determine the juvenile’s competence, the following petitions are presumed open to public inspection but may be made confidential by court order:
 - I. Any petition alleging a Class A crime IF the alleged juvenile offender was age 13 years or older at the time of the alleged juvenile crime and the court finds probable cause to believe the juvenile committed the alleged crime.
 - II. Anyone may request confidentiality of a petition alleging a juvenile age 13 years or older committed any Class A crime. The court must provide notice of such a request to the juvenile, the juvenile’s parents/guardian, the juvenile’s attorney, and the prosecuting attorney, and must determine whether the general public’s right to information does not substantially outweigh the juvenile’s or alleged victim’s interest in privacy after considering the following factors:
 - i. The purposes of the Maine Juvenile Code
 - ii. The juvenile’s interest in privacy
 - iii. The alleged victim’s interest in privacy
 - iv. The nature of the juvenile crime alleged
 - v. Characteristics of the juvenile
 - vi. Public safety concerns
13. [Enactment of 15 MRS §3308-C, sub-§2, ¶C]
Unless juvenile court proceedings are suspended to determine the juvenile’s competence, the following petitions are presumed confidential but may be made open to public inspection by court order:

- I. Any petition alleging murder, felony murder or manslaughter IF the juvenile was under age 13 years at the time of the alleged juvenile crime and the court finds probable cause to believe the juvenile committed the alleged crime.
 - II. Any petition alleging a Class B or C crime committed by a juvenile of any age.
 - III. Anyone may request a petition under this section be made open to public inspection. The court must provide notice of such a request to the juvenile, the juvenile’s parents/guardian, the juvenile’s attorney and the prosecuting attorney and must determine whether the general public’s right to information substantially outweighs the juvenile’s or alleged victim’s interest in privacy after considering the following factors:
 - i. The purposes of the Maine Juvenile Code
 - ii. The juvenile’s interest in privacy
 - iii. The alleged victim’s interest in privacy
 - iv. The nature of the juvenile crime alleged
 - v. Characteristics of the juvenile
 - vi. Public safety concerns
14. [Enactment of 15 MRS §3308-C, sub-§2, ¶D]
Clarifies that the when multiple juvenile crimes are alleged on a single petition, the highest class of crime determines whether the petition is open to public inspection.
- I. Prosecutors must ensure that names and identifying information of alleged victims are redacted prior to filing a juvenile petition.
 - II. When a request to allow public inspection of a petition is filed with the court, the judge must advise the juvenile and the juvenile’s parents/guardian of the juvenile’s right to be represented by counsel.
15. [Enactment of 15 MRS §3308-C, sub-§2, ¶D]
Allows public inspection of orders of adjudication when a juvenile is adjudged to have committed murder or any Class A, B or C crime. If there are multiple juvenile crimes adjudged, the highest class of crime adjudged determines whether the order of adjudication is open to public inspection.
16. [Enactment of 15 MRS §3308-C, sub-§5]
Allows victims to inspect the juvenile petition and order of adjudication even if they are not open to public inspection.
~Juvenile case records must be open to inspection by or may be disseminated to the Victims’ Compensation Board if an application to the Board is made based on a juvenile crime.
17. [Enactment of 15 MRS §3308-C, sub-§7]
Requires the court to enter an order specifying which juvenile case records may be inspected, disclosed, or disseminated and identifying the individual or agency granted access to the juvenile case records. The Court may restrict further disclosure, dissemination, or inspection in any manner it deems necessary or appropriate.
18. [Enactment of 15 MRS §3308-C, sub-§10, amendment of 15 MRS §3308, sub-§8]
Creates a two-tier system for sealing of juvenile case records:
- I. Retains the current law for sealing records related to adjudication of murder or Class A, B or C crimes, i.e., juvenile must petition the court at least three years after discharge from the disposition and have no subsequent juvenile

adjudications or criminal convictions and have no juvenile or criminal charges pending.

- II. Requires automatic (within 5 business days) sealing of juvenile case records related to all other adjudications when the juvenile is finally discharged from the disposition imposed.
- III. Notice that a juvenile has been finally discharged from disposition imposed by the Juvenile Court must be provided by:
 - a. DOC if the juvenile was placed on probation, ordered to serve a period of confinement up to 30 days or committed to Long Creek;
 - b. The prosecuting attorney if the disposition required restitution, community service or a restorative justice event and the court ordered proof of completion be provided to the prosecuting attorney; or
 - c. The juvenile or juvenile's attorney may provide proof that the disposition has been satisfied but must serve a copy of the notice with the prosecuting attorney. Adjudications that occurred after January 1, 2000, but before January 1, 2022 may be sealed pursuant to this section.
- IV. The court must provide SBI a copy of the written order certifying sealing of juvenile case records. SBI shall promptly update its records.

19. [Enactment of 15 §3308-C, sub-§11]

Creates a new civil violation for unlawful dissemination of juvenile case records. “Any person who intentional disseminates confidential juvenile information contained in confidential juvenile case records knowing it to be in violation of any provision of this chapter commits a civil violation for which a fine of not more than \$1,000 may be adjudged.” The District Court has jurisdiction over such violations.

20. [Enactment of 15 MRS §3308-D, sub-§2]

Prohibits exclusion of the general public from any Juvenile Court hearing regarding a petition that is open to public inspection or from any bind-over hearing.

21. [Enactment of 15 MRS §3308-D, sub-§3; amendment to 15 MRS §3308-D, sub-§2, ¶B]

Allows the Court to order separate adjudicatory hearings when a petition alleges both offenses that are open to the public and confidential.

22. [Enactment of 15 MRS §3308-D, sub-§4]

Allows victims to be present at juvenile court proceedings (other than competency hearings) even when the general public may not.

23. [Amendment to 15 MRS §3318-A, sub-§5]

Prohibits inspection or release of ANY juvenile case records, including those that would otherwise be open to public inspection, when juvenile court proceedings are suspended to determine a juvenile's competence.

24. [Amendment to 15 MRS §3318-A, sub-§7]

Prohibits the public and victims from being present at hearings to determine a juvenile's competence.

25. [Enactment of 15 MRS §3318-C, sub-1§]

Restricts the information that may be included in a court order regarding a juvenile's competence to the following:

- a. “A finding of whether the juvenile is competent to proceed based on whether the juvenile has a rational, as well as factual, understanding of the proceedings and a sufficient present ability to consult with legal counsel with a reasonable degree of rational understanding;”
- b. The day on which proceedings on the petition will resume if the juvenile is found competent to proceed;
- c. An order for compliance with section 33318-A(1)(A) [60, 180 and one-year re-evaluation] if the juvenile is found not competent but there is a substantial probability that the juvenile will become competent in the foreseeable future;
- d. The date for disposition pursuant to section 3318-B(2) if the juvenile is found not competent and there is no substantial probability that the juvenile will become competent in the foreseeable future.
- e. Finding of facts made by the court may NOT be included in the competence order.

26. [Enactment of 15 MRS §3318-C, sub-§2]

Allows inspection of orders regarding a juvenile’s competence to:

- a. The victim, and
- b. The public IF the juvenile proceeding to which the order relates is publicly accessible pursuant to section 3308-C (2).

27. [Enactment of 15 MRS §3701]

Creates a civil cause of action for persons aggrieved by unlawful disclosure of confidential juvenile intelligence and investigative record information, juvenile case records, or juvenile history record information.

- I. An action may be initiated by the juvenile or juvenile’s parents, guardian, or legal custodian.
- II. The action must be initiated in the District Court where the alleged violator resides or has a principal place of business.
- III. Remedies authorized include:
 - i. Injunctive relief
 - ii. Reimbursement of court costs
 - iii. Reimbursement of reasonable attorney’s fees
 - iv. Actual damages up to \$5,000
 - v. Punitive damages

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