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JUDICIARY

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
130TH LEGISLATURE
FIRST SPECIAL SESSION**

COMMITTEE AMENDMENT “ ” to H.P. 1247, L.D. 1676, “An Act To Limit Access to Juvenile Case Records and Protect the Confidentiality of Juvenile History Record Information”

Amend the bill in section 9 in §3010 in subsection 6 in the 2nd and 3rd lines (page 4, lines 2 and 3 in L.D.) by striking out the following: "or knowingly disseminates confidential juvenile history record information" and inserting the following: 'disseminates confidential juvenile history record information knowing it to be in violation of any provision of this chapter'

Amend the bill in section 18 in subsection 7 in the 2nd and 3rd lines (page 6, lines 20 and 21 in L.D.) by striking out the following: "or knowingly disseminates confidential juvenile intelligence and investigative record information" and inserting the following: 'disseminates confidential juvenile intelligence and investigative record information knowing it to be in violation of any provision of this chapter'

Amend the bill in section 19 in §3308-C in subsection 2 in paragraph A in the 3rd line (page 6, line 36 in L.D.) by striking out the following: "if:" and inserting the following: 'if the Juvenile Court has found there is probable cause to believe the juvenile committed a juvenile crime that would be a violation of Title 17-A, section 201, 202 or 203 if the juvenile involved were an adult.'

Amend the bill in section 19 in §3308-C in subsection 2 in paragraph A by striking out all of subparagraphs (1) and (2) (page 6, lines 37 to 41 in L.D.)

Amend the bill in section 19 in §3308-C in subsection 2 in paragraph B in the 3rd line (page 7, line 6 in L.D.) by striking out the following: "if:" and inserting the following: 'if the Juvenile Court has found there is probable cause to believe the juvenile committed a juvenile crime that would be a Class A crime if the juvenile involved were an adult.'

Amend the bill in section 19 in §3308-C in subsection 2 in paragraph B by striking out all of subparagraphs (1) and (2) (page 7, lines 7 to 11 in L.D.)

COMMITTEE AMENDMENT

1 Amend the bill in section 19 in §3308-C in subsection 2 in paragraph B in the 2nd
2 blocked paragraph in the 6th line (page 7, line 20 in L.D.) by striking out the following:
3 "and" and inserting the following: 'interest in privacy, the'

4 Amend the bill in section 19 in §3308-C in subsection 2 in paragraph B in the 2nd
5 blocked paragraph in the 2nd to the last line (page 7, line 23 in L.D.) by inserting after the
6 following: "privacy" the following: 'or the alleged victim's interest in privacy'

7 Amend the bill in section 19 in §3308-C in subsection 2 in paragraph C by striking out
8 all of subparagraph (1) (page 7, lines 30 and 31 in L.D.).

9 Amend the bill in section 19 in §3308-C in subsection 2 in paragraph C in subparagraph
10 (4) in the 5th line (page 7, line 41 in L.D.) by inserting after the following: "Part, the" the
11 following: 'juvenile's interest in privacy, the'

12 Amend the bill in section 19 in §3308-C in subsection 2 in paragraph C in subparagraph
13 (4) in the last line (page 8, line 2 in L.D.) by inserting after the following: "privacy" the
14 following: 'and the alleged victim's interest in privacy'

15 Amend the bill in section 19 in §3308-C in subsection 2 in paragraph C by renumbering
16 the subparagraphs to read consecutively.

17 Amend the bill in section 19 in §3308-C in subsection 2 by inserting after paragraph C
18 the following:

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

22 Amend the bill in section 19 in §3308-C in subsection 2 by striking out all of the first
23 and 2nd blocked paragraphs (page 8, lines 3 to 7 in L.D.) and inserting the following:

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

26 Amend the bill in section 19 in §3308-C in subsection 3 in the last 2 lines (page 8, lines
27 20 and 21 in L.D.) by striking out the following: "information regarding any additional
28 juvenile crimes must be redacted before allowing public inspection of the order of
29 adjudication" and inserting the following: 'the juvenile crime that would constitute the
30 highest class of crime if the juvenile were an adult determines whether the order of
31 adjudication is open to public inspection'

32 Amend the bill in section 19 in §3308-C in subsection 10 in paragraph C in the 4th line
33 (page 11, line 41 in L.D.) by striking out the following: "immediately" and inserting the
34 following: 'within 5 business days'

35 Amend the bill in section 19 in §3308-C in subsection 10 in paragraph C in
36 subparagraph (3) in the last line (page 12, line 12 in L.D.) by inserting after the following:
37 "records." the following: 'In all juvenile cases adjudicated subsequent to January 1, 2000,
38 but prior to January 1, 2022, the Juvenile Court may grant the request of the juvenile or the
39 juvenile's attorney for automatic sealing of all juvenile case records pertaining to the
40 juvenile crime and its disposition when notice is provided to the court and the prosecuting
41 attorney pursuant to this subparagraph.'

1 Amend the bill in section 19 in §3308-C in subsection 10 in paragraph C by inserting
2 at the end 2 new blocked paragraphs to read:

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

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

14 Amend the bill in section 19 in §3308-C in subsection 10 in paragraph E in the 2nd line
15 (page 12, line 20 in L.D.) by striking out the following: "immediate" and inserting the
16 following: 'automatic'

17 Amend the bill in section 19 in §3308-C in subsection 11 in the 2nd and 3rd lines (page
18 12, lines 34 and 35 in L.D.) by striking out the following: "or knowingly disseminates
19 information contained in confidential juvenile case records" and inserting the following:
20 'disseminates information contained in confidential juvenile case records knowing it to be
21 in violation of any provisions of this chapter'

22 Amend the bill in section 20 in §3308-D in subsection 2 in the 3rd and 4th lines (page
23 12, lines 42 and 43 in L.D.) by striking out the following: "subsequent to the juvenile's first
24 appearance in the Juvenile Court after the juvenile petition" and inserting the following:
25 'for which the petition'

26 Amend the bill in section 22 in subsection 7 in the 5th, 6th, 7th and 8th lines (page 13,
27 lines 38 to 41 in L.D.) by striking out the following: "public. Only counsel for the State,
28 counsel for the juvenile, the juvenile, the juvenile's parent or parents, guardian or legal
29 custodian, the juvenile community corrections officer and witnesses presenting testimony
30 may be present in a hearing to determine a juvenile's competency to proceed in the Juvenile
31 Court." and inserting the following: 'public or persons listed in section 3308-D, subsection
32 4.'

33 Amend the bill by striking out all of section 23 and inserting the following:

34 '**Sec. 23. 15 MRSA §3318-C** is enacted to read:

35 **§3318-C. Competency orders**

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

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

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

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

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

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

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

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

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

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

19 Amend the bill in section 25 in c. 514 in §3701 by striking out all of subsection 1 (page
20 14, lines 32 to 36 in L.D.) and inserting the following:

21 **'1. Authorization.** A person about whom confidential records or information has been
22 intentionally disclosed when the disclosure was made knowing it was in violation of section
23 3010, subsection 6, section 3308-A, subsection 7 or section 3308-C, subsection 11 or that
24 person's parent or parents, guardian or legal custodian, may initiate and prosecute in that
25 person's own name and on that person's own behalf a civil action for the relief described in
26 this section.'

27 Amend the bill by inserting after section 36 the following:

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

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

31 SUMMARY

32 This amendment is the majority report of the committee.

33 The amendment allows automatic public inspection of a juvenile petition only if the
34 petition alleges murder, felony murder or manslaughter and the juvenile has attained 13
35 years of age at the time of the offense. A juvenile petition that alleges a Class A crime and
36 the juvenile has attained 13 years of age at the time of the offense, is open to public
37 inspection unless the court orders the petition confidential. A juvenile petition alleging that
38 a juvenile under 13 years of age committed murder or a Class A crime and a petition
39 alleging a juvenile of any age committed a Class B or Class C crime are confidential unless
40 the Juvenile Court authorizes public inspection.

1 This amendment provides that competency orders may be inspected by the victim of
2 the juvenile crime in all cases. The public may inspect competency orders only when the
3 proceeding to which the order relates is publicly accessible.

4 The amendment adds an effective date for the law of January 1, 2022.

5 **FISCAL NOTE REQUIRED**

6 **(See attached)**