

Maine Revised Statute Title 16: COURT PROCEDURE -- EVIDENCE

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Title 16: COURT PROCEDURE -- EVIDENCE

Chapter 1: WITNESSES

Subchapter 1: GENERAL PROVISIONS

16 §1. APPLICABILITY OF PROVISIONS TO EXECUTORS, ADMINISTRATORS OR HEIRS

(REPEALED)

SECTION HISTORY

1977, c. 564, §75 (RP).

Subchapter 2: QUALIFICATIONS, PRIVILEGES AND CREDIBILITY

16 §51. SHOWING OF INTEREST OR BIAS

If in the trial of a civil case there is a conflict of oral testimony or the contents of a written statement are denied or controverted by the person involved therein, it is competent to show in testimony the interest or bias of the person testifying orally or the person preparing the written statement.

16 §52. MENTALLY ILL PARTY

The rules of evidence which apply to actions by or against executors or administrators apply in actions where a person shown to the court to be mentally ill is solely interested as a party.

16 §53. PARTIES, HUSBANDS, WIVES AND OTHERS AS INTERESTED WITNESSES

No person is excused or excluded from testifying in any civil action by reason of his interest in the event thereof as party or otherwise, except as otherwise provided, but such interest may be shown to affect his credibility, and the husband or wife of either party may be a witness.

16 §53-A. PRIVILEGED COMMUNICATIONS TO SEXUAL ASSAULT COUNSELORS

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

A. Rape crisis center. "Rape crisis center" means any publicly or privately funded agency, institution or facility existing in this State, having as its purpose to reduce the trauma of sexual assault to sexual assault victims and their families through crisis intervention, counseling, medical and legal information and dissemination of educational information pertaining to sexual assault. [1983, c. 319, (NEW).]

B. Sexual assault counselor. "Sexual assault counselor" means a person who has:

- (1) Undergone a program of training from a rape crisis center which shall include, but not be limited to: Law, medicine, societal attitudes, crisis intervention, counseling techniques and referral services; and
- (2) Is either a staff member, paid or unpaid, or under the supervision of a staff member of a rape crisis center. [1983, c. 319, (NEW).]

[1983, c. 319, (NEW) .]

2. Privileged communications. Except with regard to reporting, cooperating in an investigation or giving evidence pursuant to Title 22, chapter 958-A or 1071, or except at the request, or with the consent of, the victim of sexual assault, a sexual assault counselor may not be required to testify in any civil or criminal action, suit or proceeding at law or in equity about any information that the sexual assault counselor may have acquired in providing sexual assault counseling services. A sexual assault counselor or a rape crisis center may not be required to disclose to the court any records, notes, memoranda or documents containing confidential communications. When a court in the exercise of sound discretion determines the disclosure necessary to the proper administration of justice, information communicated to, or otherwise learned by, that sexual assault counselor in connection with the provision of sexual assault counseling services is not privileged and disclosure may be required.

[2007, c. 577, §1 (AMD) .]

SECTION HISTORY

1983, c. 319, (NEW). 2007, c. 577, §1 (AMD).

16 §53-B. PRIVILEGED COMMUNICATIONS TO VICTIM ADVOCATE; FAMILY VIOLENCE

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

A. "Advocate" means an employee of or volunteer for a nongovernmental program for victims of domestic or family violence who:

- (1) Has undergone at least 30 hours of training; and
- (2) As a primary function with the program gives advice to, counsels or assists victims, supervises employees or volunteers who perform that function or administers the program. [1995, c. 128, §1 (NEW) .]

A-1. "Confidential communications" means all information, whether written or oral, transmitted between a victim and a domestic violence advocate in the course of the working relationship. "Confidential communications" includes, but is not limited to, information received or given by the advocate in the course of the working relationship, advice, records, reports, notes, memoranda, working papers, electronic communications, case files, history and statistical data, including name, date of birth and social security number, that personally identify the victim. [2005, c. 388, §1 (NEW) .]

B. "Victim" means a victim of domestic or family violence. [1995, c. 128, §1 (NEW) .]

[2005, c. 388, §1 (AMD) .]

2. Privileged communication. Communications are privileged from disclosure as follows.

A. A victim may refuse to disclose and may deny permission to an advocate to disclose confidential written or oral communications between the victim and the advocate and written records, notes, memoranda or reports concerning the victim. [1995, c. 128, §1 (NEW) .]

B. Except as provided in subsection 3, a victim, advocate or advocate's agency may not be required through oral or written testimony or through production of documents to disclose to a court in criminal or civil proceedings or to any other agency or person confidential communications between the victim and the advocate. [1995, c. 128, §1 (NEW) .]

[1995, c. 128, §1 (NEW) .]

3. Exceptions. A person may not be required to publicly disclose the address or location of a domestic or family violence shelter or safe house, except that privileged communications may be disclosed in the following cases:

A. When disclosure is required under Title 22, chapter 958-A or 1071 and that disclosure is in accordance with the provisions of either chapter; [2007, c. 577, §2 (AMD).]

B. When a court in the exercise of its discretion determines the disclosure of the information necessary to the proper administration of justice, an inspection of records may be held in camera by the judge to determine whether those records contain relevant information. This proceeding does not entitle an opposing party to examine the records unless those records are made available by the court; or [1995, c. 128, §1 (NEW).]

C. When a victim dies or is incapable of giving consent and disclosure is required for an official law enforcement investigation or criminal proceeding regarding the cause of that victim's death or incapacitation. [1995, c. 128, §1 (NEW).]

[1995, c. 128, §1 (NEW); 2007, c. 577, §2 (AMD) .]

SECTION HISTORY

1995, c. 128, §1 (NEW). 2005, c. 388, §1 (AMD). 2007, c. 577, §2 (AMD).

16 §53-C. PRIVILEGED COMMUNICATIONS TO GOVERNMENTAL VICTIM WITNESS ADVOCATES OR COORDINATORS

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

A. "Crime" means a criminal offense in which there is a victim, as defined in this section. [1999, c. 369, §1 (NEW).]

B. "Victim" means:

(1) A person against whom a crime has been committed;

(2) The immediate family of a victim of a crime if:

(a) The underlying crime is one of domestic violence or sexual assault or one in which the family suffered serious physical trauma or serious financial loss; or

(b) Due to death, age or physical or mental disease, disorder or defect, the victim is unable to participate as allowed under this chapter. [1999, c. 369, §1 (NEW).]

C. "Victim witness advocate" or "victim witness coordinator" means an employee of or volunteer for a district attorney, the Attorney General or the United States Attorney whose primary job function is to advise, counsel or assist victims or witnesses of crimes, to supervise other employees or volunteers who perform that function or to administer the program. [1999, c. 369, §1 (NEW).]

[1999, c. 369, §1 (NEW) .]

2. Privileged communications. Communications are privileged from disclosure as follows.

A. A victim may refuse to disclose and may deny permission to a victim witness advocate or coordinator to disclose confidential written or oral communications between the victim and the advocate or coordinator and written records, notes, memoranda or reports concerning the victim. [1999, c. 369, §1 (NEW).]

B. Except as provided in subsection 3, a victim, advocate or coordinator or the victim advocate's or coordinator's employer may not be required, through oral or written testimony or through production of documents, to disclose to a court in criminal or civil proceedings or to any other agency or person confidential communications between the victim and the advocate or coordinator. [1999, c. 369, §1 (NEW).]

[1999, c. 369, §1 (NEW) .]

3. Exceptions. Privileged communications may be disclosed in the following cases:

- A. Disclosure may be made to the district attorney, Attorney General or the United States Attorney or their assistants; [1999, c. 369, §1 (NEW).]
- B. When disclosure is required under Title 22, chapter 958-A or 1071 and that disclosure is in accordance with either chapter; [2007, c. 577, §3 (AMD).]
- C. When a court in the exercise of its discretion determines the disclosure of information necessary to the proper administration of justice, an inspection of records may be held in camera by the judge to determine whether those records contain relevant information. This proceeding does not entitle an opposing party to examine the records unless those records are made available by the court; [1999, c. 369, §1 (NEW).]
- D. When a victim dies or is incapable of giving consent and disclosure is required for an official law enforcement investigation or criminal proceeding regarding the cause of that victim's death or incapacitation; or [1999, c. 369, §1 (NEW).]
- E. Evidence of an exculpatory nature must be disclosed to the criminal defendants pursuant to the Maine Rules of Criminal Procedure, Rule 16. [1999, c. 369, §1 (NEW).]

[1999, c. 369, §1 (NEW); 2007, c. 577, §3 (AMD) .]

SECTION HISTORY

1999, c. 369, §1 (NEW). 2007, c. 577, §3 (AMD).

16 §54. ATTESTATION OF WILLS AND INSTRUMENTS NOT AFFECTED

(REPEALED)

SECTION HISTORY

1979, c. 540, §§24-A (RP).

16 §55. RELIGIOUS BELIEF AFFECTS CREDIBILITY ONLY; ATHEISTS MAY TESTIFY

(REPEALED)

SECTION HISTORY

1977, c. 564, §76 (RP).

16 §56. PRIOR CONVICTION AS AFFECTING CREDIBILITY

(REPEALED)

SECTION HISTORY

1973, c. 295, (AMD). 1977, c. 564, §77 (AMD). 1979, c. 127, §120 (RP).

16 §57. PRIVILEGED COMMUNICATIONS; CLERGYMEN

(REPEALED)

SECTION HISTORY

1965, c. 117, (NEW). 1977, c. 184, §1 (RP).

16 §58. EXCEPTION

(REPEALED)

SECTION HISTORY

1965, c. 117, (NEW). 1977, c. 184, §1 (RP).

16 §59. ACTIONS FOR INJURY TO OR DEATH OF PERSONS

(REPEALED)

SECTION HISTORY

1967, c. 406, (NEW). 1977, c. 564, §78 (RP).

16 §60. PSYCHIATRIST AND PATIENT

(REPEALED)

SECTION HISTORY

1973, c. 481, (NEW). 1977, c. 564, §79 (RP).

16 §61. SHIELDING JOURNALIST'S CONFIDENTIAL SOURCES

1. Compelled disclosure prohibited. A judicial, legislative, administrative or other body with the power to issue a subpoena may not compel a journalist to testify about, produce or otherwise disclose or adjudge the journalist in contempt for refusal to testify about, produce or disclose:

- A. The identity of a confidential source of any information; [2007, c. 654, §1 (NEW).]
- B. Any information that could be used to identify a confidential source; or [2007, c. 654, §1 (NEW).]
- C. Any information obtained or received in confidence by the journalist acting in the journalistic capacity of gathering, receiving, transcribing or processing news or information for potential dissemination to the public. [2007, c. 654, §1 (NEW).]

[2007, c. 654, §1 (NEW).]

2. Exceptions allowing compelled disclosure. A court may compel disclosure of the identity of a source or information described in subsection 1 if the court finds, after the journalist has been provided notice and the opportunity to be heard, that the party seeking the identity of the source or the information has established by a preponderance of the evidence:

- A. In all matters, whether criminal or civil, that:
 - (1) The identity of the source or the information is material and relevant;
 - (2) The identity of the source or the information is critical or necessary to the maintenance of a party's claim, defense or proof of an issue material to the claim or defense;
 - (3) The identity of the source or the information is not obtainable from any alternative source or cannot be obtained by alternative means or remedies less destructive of First Amendment rights; and
 - (4) There is an overriding public interest in the disclosure; and [2007, c. 654, §1 (NEW).]
- B. Based on information obtained from a source other than the journalist that:
 - (1) In a criminal investigation or prosecution, there are reasonable grounds to believe that a crime has occurred; or

(2) In a civil action or proceeding, there is a prima facie cause of action. [2007, c. 654, §1 (NEW) .]

[2007, c. 654, §1 (NEW) .]

3. Compelled disclosure from 3rd parties. The protection from compelled disclosure contained in subsection 1 also applies with respect to any subpoena issued to, or other compulsory process against, a 3rd party that seeks records, information or other communications relating to business transactions between the 3rd party and the journalist for the purpose of discovering the identity of the source or obtaining information described in subsection 1. Whenever a subpoena is issued to, or other compulsory process is issued against, a 3rd party that seeks records, information or other communications on business transactions with the journalist, the affected journalist must be given reasonable and timely notice of the subpoena or compulsory process before it is executed or initiated and an opportunity to be heard. In the event that the subpoena issued to, or other compulsory process against, the 3rd party is in connection with a criminal investigation in which the journalist is the express target and advance notice as provided in this section would pose a clear and substantial threat to the integrity of the investigation, the governmental authority shall so certify to such a threat in court and notification of the subpoena or compulsory process must be given to the affected journalist as soon as it is determined that the notification will no longer pose a clear and substantial threat to the integrity of the investigation.

[2007, c. 654, §1 (NEW) .]

4. Waiver. A journalist waives the protection provided by this section if the journalist voluntarily discloses or consents to disclosure of the protected information described in subsection 1, paragraphs A and B.

[2007, c. 654, §1 (NEW) .]

SECTION HISTORY

2007, c. 654, §1 (NEW) .

Subchapter 3: ATTENDANCE

16 §101. SUBPOENAS FOR WITNESSES

The clerks of the several courts and notaries public may issue subpoenas for witnesses to attend before any court or before persons authorized to examine witnesses, to give evidence concerning any pending matter. [1981, c. 456, Pt. A, §58 (AMD) .]

SECTION HISTORY

1981, c. 456, §A58 (AMD) .

16 §102. FAILURE OF WITNESS TO APPEAR; CONTEMPT; LIABILITY

When a person, summoned and obliged to attend before any judicial tribunal, fails to do so without reasonable excuse, he is liable to the party aggrieved for all damages sustained thereby. The judge or justice of such tribunal may issue a writ of capias to apprehend and bring such delinquent before him, and he shall be punished by a fine of not more than \$100 and costs of attachment, and committed until the same and costs are paid.

Subchapter 4: EXAMINATION

16 §151. OATHS

A person to whom an oath is administered shall hold up his hand unless he believes that an oath administered in that form is not binding, and then it may be administered in a form believed by him to be binding. One believing any other than the Christian religion may be sworn according to the ceremonies of his religion.

16 §152. AFFIRMATION

Persons conscientiously scrupulous of taking an oath may affirm as follows: "I affirm under the pains and penalties of perjury," which affirmation is of the same force and effect as an oath.

16 §153. TESTIMONY TO BE TAKEN ORALLY IN OPEN COURT

In all civil actions the testimony of witnesses shall be taken orally in open court, unless otherwise provided by rule.

16 §154. IMPEACHING OF OWN WITNESS

When a party either nominal or real or the husband or wife of a party is used as a witness by an adverse party, testimony may be introduced by such adverse party to contradict or discredit him.

16 §155. REFUSAL TO ANSWER

When a witness in court refuses to answer such questions as the court allows to be put, he shall be punished by a fine of not more than \$100 or by imprisonment for not more than 3 months.

Subchapter 5: IMMUNITIES

16 §201. SELF-INCRIMINATION; WAIVER

No defendant shall be compelled to testify in any action when the pleadings in that action imply or charge an offense against the criminal law or a traffic infraction or a violation of Title 22, section 2383, on his part. If he offers himself as a witness, he waives his privilege of not incriminating or testifying against himself, but his testimony shall not be used in evidence against him in any criminal prosecution, or other traffic infraction proceeding or in any other civil violation proceeding arising under Title 22, section 2383, involving the same subject matter. [1975, c. 740, §2-A (RPR).]

SECTION HISTORY

1975, c. 430, §22 (AMD). 1975, c. 740, §§2-A (RPR).

Subchapter 6: FEES

16 §251. FEES OF WITNESSES

Witnesses, other than law enforcement officers testifying in their official capacity, in the Supreme Judicial Court, the Superior Court, the District Court or in the Probate Court, unless the court otherwise orders, must receive \$10, and before referees, auditors or commissioners specially appointed to take testimony or special commissioners on disputed claims appointed by Probate Courts, \$10, or before the county commissioners, \$10 for each day's attendance and 22¢ a mile for each mile's travel going and returning home. The party calling the witness shall pay the witness. Payments made under this section to witnesses called on behalf of the State must be made from the county treasury upon authorization of the prosecuting attorney, unless otherwise directed by law. The court in its discretion may allow at the trial of any cause, civil or criminal, in the Supreme Judicial Court, the Superior Court or the District Court, a reasonable sum for each day's attendance of any expert witness or witnesses at the trial, in taxing the costs of the prevailing party, and the expense of all expert witnesses for the State in murder cases must be paid by the State and charged against the appropriation for the Department of the Attorney General. Such party or the attorney of record shall first file an affidavit within 30 days after entry of judgment and before the cause is settled, stating the name, residence, number of days in attendance and the actual amount paid or to be paid each expert witness in

attendance at such trial. No more than \$10 per day may be allowed or taxed by the clerk of courts in the costs of any civil action for the per diem attendance of a witness, unless the affidavit is filed, and the per diem is determined and allowed by the presiding justice. [2007, c. 539, Pt. JJ, §7 (AMD); 2007, c. 539, Pt. JJ, §10 (AFF).]

SECTION HISTORY

1967, c. 286, (AMD). 1971, c. 199, (AMD). 1971, c. 261, §2 (AMD).
1971, c. 544, §52 (AMD). 1975, c. 731, §16 (AMD). 1983, c. 538, §1
(AMD). 1985, c. 384, §6 (AMD). 2007, c. 539, Pt. JJ, §7 (AMD). 2007,
c. 539, Pt. JJ, §10 (AFF).

16 §252. FEES OF POLICE OFFICER OR CONSTABLE

No police officer or constable paid a salary or paid upon a per diem basis by a municipality shall receive any fee as a complainant or witness, or for making an arrest or for attendance at court, while on duty and being compensated therefor, but shall be reimbursed by such municipality for his actual costs of arrest and actual expenses of travel and attendance. Whenever any fines or penalties are imposed by any court in any proceeding in which such a police officer or constable is a complainant or a witness, said court may tax costs for such complainant or witness in the usual manner to be paid by the Treasurer of State to the municipality employing such police officer or constable; such costs shall not exceed his actual expenses, paid by the municipality for his travel to and attendance at the court. Notwithstanding any other provisions of law, all law enforcement officers appearing at the order of a prosecuting official before the Superior Court or grand jury, whether or not called upon to give testimony, at times other than their regular working hours shall be compensated on an hourly basis equal to their present rate of employment to be paid by the respective county treasurer. [1975, c. 408, §35 (AMD).]

In the event that any police officer or constable is compensated by the municipality for attendance at court on an hourly basis equal to his present rate of employment, then he shall not be compensated by the county as provided in this section, but the county shall compensate the municipality for that amount paid to the police officer or constable for his attendance at court. [1973, c. 301, (NEW).]

SECTION HISTORY

1971, c. 261, §3 (AMD). 1973, c. 301, (AMD). 1973, c. 625, §87 (AMD).
1975, c. 369, §3 (AMD). 1975, c. 383, §22 (AMD). 1975, c. 408, §35
(AMD).

16 §253. WITNESS NOT OBLIGATED UNLESS FEES PAID OR TENDERED

No person is obliged to attend any court as a witness in a civil action or at any place to have his deposition taken unless his legal fees for travel to and from the place and for one day's attendance are first paid or tendered. His fees for each subsequent day's attendance must be paid at the close of the preceding day if he requests it.

Chapter 3: RECORDS AND OTHER DOCUMENTS

Subchapter 1: GENERAL PROVISIONS

16 §351. TESTIMONY OF DECEASED SUBSCRIBING WITNESS OR MAGISTRATE

When the testimony of a subscribing witness to a deed or of the magistrate who took the acknowledgment thereof has been taken in the trial of any civil action in relation to the execution, delivery or registry of such deed, and such witness has since died, proof of such former testimony is admissible in the trial of any other civil action involving the same question if the parties are the same or if one of the parties is the same and the adverse party acted as agent or attorney for the adverse party in the former action, but such testimony may be impeached like the testimony of a living witness.

16 §352. WRITINGS DATED SUNDAY

(REPEALED)

SECTION HISTORY

1979, c. 11, §1 (RP).

16 §353. AVOIDANCE OF LORD'S DAY CONTRACTS; RESTORATION OF CONSIDERATION; TORTS ON LORD'S DAY

(REPEALED)

SECTION HISTORY

1979, c. 11, §1 (RP).

16 §353-A. CONTRACTS AND TORTS ON LORD'S DAY

No deed, contract, receipt or other instrument in writing shall be voidable only because it was made, executed, dated or delivered on the Lord's Day. [1979, c. 11, §2 (NEW).]

Title 17, chapter 105, relating to the observance of the Lord's Day shall not affect the rights or remedy of either party in any action for a tort or injury suffered on that day. [1979, c. 11, §2 (NEW).]

SECTION HISTORY

1979, c. 11, §2 (NEW).

16 §354. PROOF OF SIGNATURE

(REPEALED)

SECTION HISTORY

1977, c. 564, §80 (RP).

16 §355. AFFIDAVIT OF PLAINTIFF AS PRIMA FACIE EVIDENCE

In all actions brought on an itemized account annexed to the complaint, the affidavit of the plaintiff, made before a notary public using a seal, that the account on which the action is brought is a true statement of the indebtedness existing between the parties to the action with all proper credits given and that the prices or items charged therein are just and reasonable shall be prima facie evidence of the truth of the statement made in such affidavit and shall entitle the plaintiff to the judgment unless rebutted by competent and sufficient

evidence. When the plaintiff is a corporation, the affidavit may be made by its president, vice-president, secretary, treasurer or other person authorized by the corporation. [1981, c. 470, Pt. A, §34 (AMD).]

SECTION HISTORY

1977, c. 564, §81 (AMD). 1977, c. 696, §364 (AMD). 1981, c. 470, §A34 (AMD).

16 §356. ACCOUNTS ADMISSIBLE THOUGH HEARSAY OR SELF-SERVING

An entry in an account kept in a book or by a card system or by any other system of keeping accounts shall not be inadmissible in any civil proceeding as evidence of the facts therein stated because it is transcribed or because it is hearsay or self-serving, if the court finds that the entry was made in good faith in the regular course of business and before the beginning of the civil proceeding. The court in its discretion, before admitting such entry in evidence, may, to such extent as it deems practicable or desirable but to no greater extent than the law required before June 30, 1933, require the party offering the same to produce and offer in evidence the original entry, writing, document or account from which the entry offered or the facts therein stated were transcribed or taken, and to call as his witness any person who made the entry offered or the original or any other entry, writing, document or account from which the entry offered or the facts therein stated were transcribed or taken or who has personal knowledge of the facts stated in the entry offered.

16 §357. HOSPITAL RECORDS AND COPIES OF RECORDS

Records kept by hospitals and other medical facilities licensed under the laws of this State and records which the court finds are required to be kept by the laws of any other state or territory, or the District of Columbia, or by the laws and regulations of the United States of America pertaining to the Department of National Defense and the Veterans Administration, by hospitals and other medical facilities similarly conducted or operated or which, being incorporate, offer treatment free of charge, shall be admissible, as evidence in the courts of this State so far as such records relate to the treatment and medical history of such cases and the court shall admit copies of such records, if certified by the persons in custody thereof to be true and complete, but nothing therein contained shall be admissible as evidence which has reference to the question of liability. Copies of photographic or microphotographic records so kept by hospitals and medical facilities, when duly certified by the person in charge of the hospital and other medical facility, shall be admitted in evidence equally with the original photographs or microphotographs. [1973, c. 788, §66 (AMD).]

Notwithstanding this section, the result of a laboratory or any other test kept by a hospital or other medical facility that reflects an alcohol level, a detectable urine-drug level and a detectable blood-drug level may not be excluded as evidence in a criminal or civil proceeding by reason of any claim of confidentiality or privilege and may be admitted as long as the result is relevant and reliable evidence if the proceeding is one in which the operator of a motor vehicle, snowmobile, all-terrain vehicle or watercraft is alleged to have operated under the influence of intoxicating liquor or drugs and the court is satisfied that probable cause exists to believe that the operator committed the offense charged. [2009, c. 447, §17 (AMD).]

SECTION HISTORY

1969, c. 384, (NEW). 1973, c. 788, §66 (AMD). 1987, c. 791, §3 (AMD). 2005, c. 477, §26 (AMD). 2007, c. 63, §1 (AMD). 2009, c. 447, §17 (AMD).

Subchapter 2: JUDICIAL NOTICE**16 §401. CONSTRUCTION TO EFFECTUATE PURPOSE**

This subchapter shall be so interpreted and construed as to effectuate their general purpose to make uniform the law of those states which enact them and may be cited as the "Uniform Judicial Notice of Foreign Law Act."

16 §402. COMMON LAW AND STATUTES

Every court of this State shall take judicial notice of the common law and statutes of every state, territory and other jurisdiction of the United States.

16 §403. INFORMATION FOR COURT

The court may inform itself of such laws in such manner as it may deem proper and the court may call upon counsel to aid it in obtaining such information.

16 §404. DETERMINATION OF LAWS BY COURT IS REVIEWABLE

The determination of such laws shall be made by the court and not by the jury and shall be reviewable.

16 §405. ADMISSIBILITY OF LAWS OF OTHER JURISDICTIONS

Any party may present to the trial court any admissible evidence of such laws, but to enable a party to offer evidence of the law in another jurisdiction or to ask that judicial notice be taken thereof, reasonable notice shall be given to the adverse parties, if any, either in the pleadings or otherwise.

16 §406. LAWS OF FOREIGN COUNTRIES

The law of a jurisdiction other than those referred to in section 402 shall be an issue for the court but shall not be subject to sections 402 to 405, concerning judicial notice.

Subchapter 3: PUBLIC RECORDS**16 §451. COURT RECORDS AS EVIDENCE**

The records and proceedings of any court of the United States or of any state, authenticated by the attestation of the clerk or officer having charge thereof and by the seal of such court, are evidence.

16 §452. ADMISSIBILITY; ATTESTED COPIES OF DEEDS

(REPEALED)

SECTION HISTORY

1977, c. 564, §82 (RP).

16 §453. -- COPIED RECORDS OF DEEDS

Copies made from any portion of either of the volumes of the early records in the York County registry of deeds published by the authority of the Legislature and placed in each registry, when attested by any register of deeds having lawful custody of such printed volume, and records duplicated from originals or from copies of originals in any registry of deeds and filed in such registry of deeds or in any other registry of deeds by authority of law and copies made from such records when attested by the register of deeds of the county or district where such records are filed, may be used in evidence like attested copies of the original records.

16 §454. -- PHOTOSTATS OF PUBLIC RECORDS

Copies made by photographic process from public records shall be received as evidence in the courts of this State under existing laws if duly attested by the officials required by law to keep said records.

16 §455. AUTHORIZATION OF PHOTOSTATS

Whenever any officer or employee of the State or of any county, city or town is required or authorized by law, or otherwise, to record or copy any document, plat, paper or instrument in writing, he may do such recording or copying by any photostatic, photographic or other mechanical process which produces a clear, accurate and permanent copy or reproduction of the original document, plat, paper or instrument in writing.

16 §456. PHOTOSTATIC AND MICROFILM REPRODUCTIONS ADMISSIBLE

If, in the regular course of any business or governmental activity, there is kept or recorded any memorandum, writing, entry, print, representation or combination thereof, of any act, transaction, occurrence or event, and in the regular course of any business or governmental activity, causes any or all of the same to be recorded, copied or reproduced by any photographic, photostatic, microfilm, micro-card, miniature photographic, optical disk that is not erasable or other process that accurately reproduces or forms a durable medium for reproducing the original, the reproduction or copy, when satisfactorily identified, is as admissible in evidence as the original itself in any judicial or administrative proceeding whether the original is in existence or not and an enlargement or facsimile of the reproduction or copy is likewise admissible in evidence if the original reproduction or copy is in existence and available for inspection under direction of court. The introduction of a reproduced record, enlargement or facsimile does not preclude admission of the original. This section may not be construed to exclude from evidence any document or copy thereof which is otherwise admissible under the rules of evidence. [1991, c. 172, §2 (AMD).]

SECTION HISTORY

1991, c. 172, §2 (AMD).

16 §456-A. ADMISSIBILITY OF ELECTRONIC RECORDS

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

A. "Electronic record" means a record whose content is not readable unless retrieved by means of an electronic device such as a computer or an audio or video player. [1997, c. 636, §9 (NEW).]

B. "Record" means all documentary material, regardless of media or characteristics, made or received and maintained by an agency in accordance with law or rule or in the transaction of its official business. "Record" does not include extra copies of printed or processed material of which official or record copies have been retained, stocks of publications and processed documents intended for distribution or use or records relating to personal matters that may have been kept in an office for convenience. [1997, c. 636, §9 (NEW).]

[1997, c. 636, §9 (NEW) .]

2. Effect. A record may not be denied legal effect, validity or enforceability solely because it is in the form of an electronic record.

[1997, c. 636, §9 (NEW) .]

3. Accuracy. The assessment of accuracy and integrity of information set forth in electronic records is governed by the following.

A. If a rule of law requires a record to be presented or retained in its original form or provides consequences for the record not being presented or retained in its original form, that requirement is met by an electronic record if there exists a reliable assurance as to the integrity of the information set forth in the electronic record at the time it was first generated in its final form, whether as an electronic record or in another form. Reliable assurance may be based on documentation of standard operating, access and security procedures governing the system that manages the electronic record. [1997, c. 636, §9 (NEW) .]

B. The integrity and accuracy of the information in an electronic record are determined by whether the information has remained complete and unaltered, apart from the addition of any endorsement and any change that arises in the normal course of communication, storage and display. The standard of reliability required must be assessed in light of the purpose for which the information was generated and in light of all the relevant circumstances. [1997, c. 636, §9 (NEW).]

[1997, c. 636, §9 (NEW) .]

4. Retention. The ability of electronic records to meet legal requirements regarding the retention of documents, records or information is governed by the following.

A. If a rule of law requires that certain documents, records or information be retained, that requirement is met by retaining electronic records as long as the following conditions are satisfied:

- (1) The information contained in the electronic record remains accessible so that it is usable for subsequent reference;
- (2) The electronic record is retained in the format in which it was generated, stored, sent or received, or in a format that can be demonstrated to reflect accurately the information as originally generated, stored, sent or received; and
- (3) Any information that enables the identification of the source or origin and destination of an electronic record and the date and time when it was sent or received is retained. [1997, c. 636, §9 (NEW).]

B. A requirement to retain documents, records or information in accordance with paragraph A does not extend to any information the sole purpose of which is to enable the record to be sent or received. [1997, c. 636, §9 (NEW).]

C. A person may satisfy the requirement referred to in paragraph A by using the services of any other person as long as the conditions set forth in paragraph A, subparagraphs (1) to (3) are met. [1997, c. 636, §9 (NEW).]

D. Nothing in this subsection precludes any state agency from specifying additional requirements for the retention of records, either written or electronic, that are subject to the jurisdiction of that agency. [1997, c. 636, §9 (NEW).]

[1997, c. 636, §9 (NEW) .]

SECTION HISTORY

1997, c. 636, §9 (NEW).

16 §457. COPIES OF CONSULAR AND CUSTOMHOUSE RECORDS AND DOCUMENTS

Copies of papers and documents belonging to, or filed or remaining in the office of any consul, vice-consul or commercial agent of the United States and of official entries in the books or records of such office, when certified under the hand and official seal of the proper consul, vice-consul or commercial agent are evidence. Copies of registers or enrollments of vessels, or of any other customhouse records or documents deposited in the office of the collector of customs, attested by him or his deputy, under seal of office, may be used in evidence and shall have the same effect as the production of the records in court, verified by the recording officer in person.

16 §458. COPIES OF DEEDS OF DIRECTOR OF THE BUREAU OF PARKS AND LANDS

A copy from the records in the office of the Director of the Bureau of Parks and Lands of a deed from the State of the land of the State, or of a deed from the State and from the Commonwealth of Massachusetts of the undivided lands of the State and of said Commonwealth, or of a deed from said Commonwealth of the

lands of said Commonwealth in Maine, certified by the Director of the Bureau of Parks and Lands or other legal custodian of such records as a true copy thereof, may be filed and recorded in the registry of deeds in the county or registry district where the land lies, with the same effect as if the deed itself had been recorded, whether said deed shall or shall not have been acknowledged by the person making the same. Such record shall have all the force and effect of a record of deeds duly acknowledged, and certified copies thereof from such registry shall be evidence when the original would be. [1975, c. 339, §7 (AMD); 1995, c. 502, Pt. E, §30 (AMD).]

SECTION HISTORY

1965, c. 226, §62 (AMD). 1975, c. 339, §7 (AMD). 1995, c. 502, §E30 (AMD).

16 §459. ADJUTANT GENERAL'S CERTIFICATE AS EVIDENCE

The certificate of the Adjutant General relating to the enlistment of any person from this State in the United States' service and of all facts pertaining to the situation of such person, to the time of and including his discharge, as found upon the records of his office, are prima facie evidence of the facts so certified in any civil action or proceeding.

16 §460. PROOF OF OFFICIAL RECORD

(REPEALED)

SECTION HISTORY

1965, c. 356, §65 (RP).

16 §461. PROOF OF LACK OF RECORD

(REPEALED)

SECTION HISTORY

1965, c. 356, §65 (RP).

16 §462. SCOPE OF PROOF

(REPEALED)

SECTION HISTORY

1965, c. 356, §65 (RP).

Subchapter 4: STATUTES AND LAW**16 §501. PROOF OF FOREIGN LAWS AND UNWRITTEN STATE LAW**

Foreign laws may be proved by parol evidence, but when such law appears to be existing in a written statute or code, it may be rejected unless accompanied by a copy thereof. The unwritten law of any other state or territory of the United States may be proved by parol evidence and by books of reports of cases adjudged in their courts.

Reference to the citation of such cases shall be deemed to incorporate them in the record. The determination of such law shall be for the court on all the evidence.

Subchapter 5: DEPOSITIONS

16 §551. USE OF DEPOSITIONS

In trials before probate courts, arbitrators, referees under Title 14, chapter 303, and county commissioners, depositions may, upon order of the tribunal before which the matter is pending and on good cause shown, be taken and used in the manner provided by rule for depositions in the Superior Court. Depositions or affidavits may be taken in applications for pensions, bounties or arrears of pay under any law of the United States.

16 §552. RECORDING OF DEPOSITION AND OTHER PAPERS

Any deposition to perpetuate testimony taken before action or pending appeal together with the verified petition therefor and certificate of the officer before whom it was taken shall, within 90 days after the taking, be recorded in the registry of deeds in the county where the land or any part of it lies, if the deposition relates to real estate; if not, in the county where the parties or any of them reside.

16 §553. DEPOSITION BY COMPULSION

When a magistrate, duly authorized, has summoned a person before him to give his deposition or affidavit in any case authorized by this subchapter pending in this or any other state, the summons has been served and returned by a proper officer or other person, and proof thereof is entered on the summons, and legal fees have been tendered him a reasonable time before the day appointed for taking the deposition and he refuses to attend, the magistrate may adjourn the time of taking his deposition and issue a *capias*, directed to a proper officer, to apprehend and bring such person before him. If at the time of the adjournment he is not apprehended, the magistrate may adjourn from time to time until he is brought before him. If he then refuses to depose and answer such questions as are propounded to him by either of the parties or persons interested, under his direction, the magistrate may commit him to the county jail for contempt, as a court may commit a witness for refusing to testify. The *capias* may be served by the sheriff, deputy sheriff or any constable of the county in which such person resides. If he escapes into another county, either of said officers may arrest him there and bring him before said magistrate.

16 §554. STENOGRAPHERS WITH POWER TO TAKE DEPOSITIONS

(REPEALED)

SECTION HISTORY

1969, c. 367, §3 (RP).

16 §555. MANNER OF TAKING DEPOSITIONS AND DISCLOSURES

(REPEALED)

SECTION HISTORY

1969, c. 367, §3 (RP).

16 §556. FEES OF COMMISSIONERS

(REPEALED)

SECTION HISTORY

1969, c. 367, §3 (RP).

16 §557. TESTIMONY OF PARTY OUT OF STATE

When a party to a civil action resides without the State or is absent therefrom during the pendency of the action and the opposite party desires his testimony, a commission under the rules of court may issue to take his deposition. Such nonresident or absent party, upon such notice to him or his attorney of record in the action of the time and place appointed for taking his deposition, as the court orders, shall appear and give his

deposition. If he refuses or unreasonably delays to do so, the action may be dismissed or defaulted by order of court unless his attorney admits the affidavit of the party desiring his testimony as to what the absent party would say, if present, to be used as testimony in the case.

Subchapter 6: RECORDS OF ARRESTS

16 §600. EXPUNGEMENT OF RECORDS OF ARREST

(REPEALED)

SECTION HISTORY

1969, c. 460, (NEW). 1973, c. 706, (RPR). 1975, c. 430, §§23,24 (AMD).
1975, c. 623, §§18-A,18-B (AMD). 1975, c. 763, §2 (RP).

Subchapter 7: CRIMINAL HISTORY RECORD INFORMATION

16 §601. DEFINITIONS

(REPEALED)

SECTION HISTORY

1975, c. 763, §3 (NEW). 1979, c. 433, §1 (RP).

16 §602. APPLICABILITY

(REPEALED)

SECTION HISTORY

1975, c. 763, §3 (NEW). 1977, c. 281, (AMD). 1977, c. 384, §1 (AMD).
1979, c. 433, §1 (RP).

16 §603. NONDISCLOSURE OF CERTAIN RECORDS

(REPEALED)

SECTION HISTORY

1975, c. 763, §3 (NEW). 1979, c. 433, §1 (RP).

16 §604. LIMITATIONS ON DISSEMINATION

(REPEALED)

SECTION HISTORY

1975, c. 763, §3 (NEW). 1977, c. 311, §2 (AMD). 1977, c. 383, (AMD).
1979, c. 433, §1 (RP).

16 §605. UNLAWFUL DISSEMINATION

(REPEALED)

SECTION HISTORY

1975, c. 763, §3 (NEW). 1979, c. 433, §1 (RP).

16 §606. RIGHT TO ACCESS AND REVIEW

(REPEALED)

SECTION HISTORY

1975, c. 763, §3 (NEW). 1977, c. 384, §§2-4 (AMD). 1979, c. 433, §1 (RP).

16 §607. APPLICATION

(REPEALED)

SECTION HISTORY

1975, c. 763, §3 (NEW). 1979, c. 433, §1 (RP).

Subchapter 8: CRIMINAL HISTORY RECORD INFORMATION ACT

16 §611. DEFINITIONS

As used in this subchapter, unless the context otherwise indicates, the following terms shall have the following meanings. [1979, c. 433, §2 (NEW).]

1. Administration of criminal justice. "Administration of criminal justice" means detection, apprehension, detention, pre-trial release, post-trial release, prosecution, adjudication, correctional supervision or rehabilitation of accused persons or criminal offenders. It includes criminal identification activities and the collection, storage and dissemination of criminal history record information.

[1979, c. 433, §2 (NEW) .]

2. Conviction data. "Conviction data" means criminal history record information other than nonconviction data.

[1979, c. 433, §2 (NEW) .]

3. Criminal history record information. "Criminal history record information" means notations or other written evidence of an arrest, detention, complaint, indictment, information or other formal criminal charge relating to an identifiable person. It shall include the identification or description of the person charged and any disposition of the charge. The term does not include identification information such as fingerprints, palm prints or photographic records to the extent that the information does not indicate involvement of the individual in the criminal justice system. The term does not include records of civil violations.

[1979, c. 433, §2 (NEW) .]

4. Criminal justice agency. "Criminal justice agency" means a federal, state, district, county or local government agency or any subunit thereof that performs the administration of criminal justice under a statute or executive order, and that allocates a substantial part of its annual budget to the administration of criminal justice. Courts and the Department of the Attorney General are considered criminal justice agencies. "Criminal justice agency" also includes any equivalent agency at any level of Canadian government.

[1995, c. 216, §1 (AMD) .]

5. Disposition. "Disposition" means the conclusion of criminal proceedings, and includes acquittal, acquittal by reason of mental disease or defect, filing of case, dismissal of charge, dismissal of charge due to mental incompetency, continuance due to mental incompetence, guilty plea, nolo contendere plea, nolle prosequi, conviction, sentence, death of defendant, mistrial, new trial granted, release from correctional supervision, parole, pardon, amnesty or extradition. If the disposition is that the police have elected not to refer a matter to a prosecutor or that a prosecutor has elected not to commence criminal proceedings, it shall include the nature of the termination or conclusion of the proceedings. If the disposition is that the proceedings have been indefinitely postponed, it shall include the reason for that postponement.

[1979, c. 433, §2 (NEW) .]

6. Dissemination. "Dissemination" means the transmission of information, whether orally, in writing or by electronic means by or to anyone outside the agency which maintains the information.

[1979, c. 433, §2 (NEW) .]

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

[1979, c. 433, §2 (NEW) .]

8. Intelligence and investigative information. "Intelligence and investigative information" means information collected by criminal justice agencies or at the direction of criminal justice agencies in an effort to anticipate, prevent or monitor possible criminal activity, including operation plans of the collecting agency or another agency, or information compiled in the course of investigation of known or suspected crimes, civil violations and prospective and pending civil actions. "Intelligence and investigative information" does not include information that is criminal history record information.

[1993, c. 719, §6 (AMD); 1993, c. 719, §12 (AFF) .]

9. Nonconviction data. "Nonconviction data" means criminal history record information of the following types:

- A. Arrest information without disposition, if an interval of one year has elapsed from the date of the arrest and no active prosecution of the charge is pending. To be an active prosecution the case must be still actively in process, with arraignment completed and the case docketed for court trial; [1979, c. 433, §2 (NEW) .]
- B. Information disclosing that the police have elected not to refer a matter to a prosecutor; [1979, c. 433, §2 (NEW) .]
- C. Information disclosing that a prosecutor has elected not to commence criminal proceedings; [1979, c. 433, §2 (NEW) .]
- D. Information disclosing that criminal proceedings have been indefinitely postponed, e.g. a "filed" case, or a case which cannot be tried because the defendant is found to be mentally incompetent to stand trial; [1979, c. 433, §2 (NEW) .]
- E. A dismissal; [1979, c. 433, §2 (NEW) .]
- F. An acquittal, excepting an acquittal by reason of mental disease or defect; and [1979, c. 433, §2 (NEW) .]
- G. Information disclosing that a person has been granted a full and free pardon or amnesty. [1979, c. 433, §2 (NEW) .]

[1979, c. 433, §2 (NEW) .]

10. Person. "Person" means an individual, government agency or a corporation, partnership or unincorporated association.

[1979, c. 433, §2 (NEW) .]

11. State. "State" means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico and any territory or possession of the United States.

[1979, c. 433, §2 (NEW) .]

12. Statute. "Statute" means an Act of Congress or of a state legislature or a provision of the Constitution of the United States or of a state.

[1979, c. 433, §2 (NEW) .]

SECTION HISTORY

1979, c. 433, §2 (NEW). 1983, c. 787, §1 (AMD). 1993, c. 719, §§5,6 (AMD). 1993, c. 719, §12 (AFF). 1995, c. 216, §1 (AMD).

16 §612. APPLICATION

1. Criminal justice agencies. This subchapter shall apply only to criminal justice agencies.

[1979, c. 433, §2 (NEW) .]

2. Exceptions. This subchapter shall not apply to criminal history record information contained in:

A. Posters, announcements or lists for identifying or apprehending fugitives or wanted persons; [1979, c. 433, §2 (NEW).]

B. Original records of entry, such as police blotters, that are maintained by criminal justice agencies and that are compiled and organized chronologically; [1979, c. 433, §2 (NEW).]

C. Records, retained at and by the District Court and Superior Court, of public judicial proceedings, including, but not limited to, docket entries and original court files; [1979, c. 433, §2 (NEW).]

D. Court or administrative opinions not impounded or otherwise declared confidential; [1979, c. 433, §2 (NEW).]

E. Records of public administrative or legislative proceedings; [1979, c. 433, §2 (NEW).]

F. Records of traffic offenses retained at and by the Secretary of State; and [1979, c. 433, §2 (NEW).]

G. Peitions for and warrants of pardons, commutations, reprieves and amnesties. [1979, c. 433, §2 (NEW).]

[1979, c. 433, §2 (NEW) .]

3. Permissible disclosure. Nothing in this subchapter shall be construed to prohibit a criminal justice agency from:

A. Disclosing to the public criminal history record information related to an offense for which a person is currently within the criminal justice system; [1979, c. 433, §2 (NEW).]

B. Confirming prior criminal history record information to the public, in response to a specific inquiry that includes a specific name, date and charge or disposition, provided that the information disclosed is based upon data excluded by subsection 2. The disclosing criminal justice agency shall disclose therewith any and all criminal history record information in its possession which indicates the disposition of the arrest, detention or formal charges; and [1979, c. 433, §2 (NEW).]

C. Disseminating criminal history record information for purposes of international travel such as issuing visas and granting of citizenship. [1979, c. 433, §2 (NEW).]

[1979, c. 433, §2 (NEW) .]

SECTION HISTORY

1979, c. 433, §2 (NEW).

16 §612-A. RECORD OF PERSONS DETAINED

1. Requirement of record. Every criminal justice agency that maintains a facility for pretrial detention shall record the following information concerning each person delivered to it for pretrial detention for any period of time:

- A. Identity of the arrested person, including name, age, residence and occupation, if any; [1983, c. 377, (NEW).]
- B. Offenses charged, including the time, place and nature of the offense; [1983, c. 377, (NEW).]
- C. Time and place of arrest; and [1983, c. 377, (NEW).]
- D. Circumstances of arrest, including force, resistance, pursuit and weapon, if any. [1983, c. 377, (NEW).]

[1983, c. 377, (NEW) .]

2. Time and method of recording. The record required by this section must be made immediately upon delivery of the person concerned to the agency for detention. It must be made upon serially numbered cards or sheets or on the pages of a permanently bound volume, made and maintained in chronological order, and must be part of the permanent records of the agency making it. The record required by this section may be combined with the record required by Title 30-A, section 1505.

[1995, c. 2, §33 (COR) .]

3. Records public. The record required by this section shall be a public record, except for records of the detention of juveniles, as defined in Title 15, section 3003, subsection 14.

[1983, c. 377, (NEW) .]

SECTION HISTORY

1983, c. 377, (NEW). RR 1995, c. 2, §33 (COR).

16 §613. LIMITATIONS ON DISSEMINATION OF NONCONVICTION DATA

Except as provided in section 612, subsections 2 and 3, dissemination of nonconviction data by a criminal justice agency, whether directly or through any intermediary, shall be limited to: [1979, c. 433, §2 (NEW).]

1. Criminal justice agencies. Other criminal justice agencies for the purpose of the administration of criminal justice and criminal justice agency employment;

[1979, c. 433, §2 (NEW) .]

2. Under express authorization. Any person for any purpose when expressly authorized by statute, executive order, court rule, court decision or court order. Express authorization shall mean language in the statute, executive order, or court rule, decision or order which specifically speaks of nonconviction data or specifically refers to one or more of the types of nonconviction data;

[1979, c. 433, §2 (NEW) .]

3. Under specific agreements. Any person with a specific agreement with a criminal justice agency to provide services required for the administration of criminal justice or to conduct investigations determining the employment suitability of prospective law enforcement officers. The agreement shall specifically authorize access to data, limit the use of the data to purposes for which given, insure security and confidentiality of the data consistent with this subchapter and provide sanctions for any violations; and

[1979, c. 433, §2 (NEW) .]

4. Research activities. Any person for the express purpose of research, evaluation or statistical purposes or under an agreement with the criminal justice agency. The agreement shall specifically authorize access to data, limit the use of data to research, evaluation or statistical purposes, insure the confidentiality and security of the data consistent with this subchapter and provide sanctions for any violations.

[1979, c. 433, §2 (NEW) .]

SECTION HISTORY

1979, c. 433, §2 (NEW).

16 §614. LIMITATION ON DISSEMINATION OF INTELLIGENCE AND INVESTIGATIVE INFORMATION

1. Limitation on dissemination of intelligence and investigative information. Reports or records that contain intelligence and investigative information and that are prepared by, prepared at the direction of or kept in the custody of a local, county or district criminal justice agency; the Bureau of State Police; the Department of the Attorney General; the Maine Drug Enforcement Agency; the Office of State Fire Marshal; the Department of Corrections; the criminal law enforcement units of the Department of Marine Resources or the Department of Inland Fisheries and Wildlife; or the Department of Conservation, Division of Forest Protection when the reports or records pertain to arson are confidential and may not be disseminated if there is a reasonable possibility that public release or inspection of the reports or records would:

A. Interfere with law enforcement proceedings; [1993, c. 719, §12 (AFF); 1993, c. 719, §7 (RPR).]

B. Result in public dissemination of prejudicial information concerning an accused person or concerning the prosecution's evidence that will interfere with the ability of a court to impanel an impartial jury; [1993, c. 719, §12 (AFF); 1993, c. 719, §7 (RPR).]

C. Constitute an unwarranted invasion of personal privacy; [1993, c. 719, §12 (AFF); 1993, c. 719, §7 (RPR).]

D. Disclose the identity of a confidential source; [1993, c. 719, §12 (AFF); 1993, c. 719, §7 (RPR).]

E. Disclose confidential information furnished only by the confidential source; [1993, c. 719, §12 (AFF); 1993, c. 719, §7 (RPR).]

F. Disclose trade secrets or other confidential commercial or financial information designated as such by the owner or source of the information or by the Department of the Attorney General; [1993, c. 719, §12 (AFF); 1993, c. 719, §7 (RPR).]

G. Disclose investigative techniques and procedures or security plans and procedures not generally known by the general public; [1993, c. 719, §12 (AFF); 1993, c. 719, §7 (RPR).]

H. Endanger the life or physical safety of any individual, including law enforcement personnel; [1993, c. 719, §7 (NEW); 1993, c. 719, §12 (AFF).]

I. Disclose conduct or statements made or documents submitted by any person in the course of any mediation or arbitration conducted under the auspices of the Department of the Attorney General; [1993, c. 719, §7 (NEW); 1993, c. 719, §12 (AFF).]

J. Disclose information designated confidential by some other statute; or [1993, c. 719, §7 (NEW); 1993, c. 719, §12 (AFF).]

K. Identify the source of complaints made to the Department of the Attorney General involving violations of consumer or antitrust laws. [1993, c. 719, §7 (NEW); 1993, c. 719, §12 (AFF).]

[1999, c. 155, Pt. A, §5 (AMD) .]

1-A. Limitation on release of identifying information; cruelty to animals. The names of and other identifying information on persons providing information pertaining to criminal or civil cruelty to animals to the Department of Agriculture, Food and Rural Resources is confidential information and may not be disseminated.

[1997, c. 456, §10 (NEW) .]

2. Exception to this limitation.

[2001, c. 532, §1 (RP) .]

3. Exceptions. Nothing in this section precludes dissemination of intelligence and investigative information to:

A. Another criminal justice agency; [2001, c. 532, §1 (NEW).]

B. A state agency responsible for investigating abuse, neglect or exploitation of children under Title 22, chapter 1071 or incapacitated or dependent adults under Title 22, chapter 958-A for use in the investigation of suspected abuse, neglect or exploitation; [2003, c. 402, §1 (AMD).]

C. An accused person or that person's agent or attorney if authorized by:

- (1) The district attorney for the district in which that accused person is to be tried;
- (2) A rule or ruling of a court of this State or of the United States; or
- (3) The Attorney General; [2009, c. 181, §1 (AMD).]

D. A victim or victim's agent or attorney, subject to reasonable limitations to protect the interest described in subsection 1; or [2009, c. 181, §2 (AMD).]

E. An advocate, as defined in section 53-B, subsection 1, paragraph A, with a specific agreement with a criminal justice agency and subject to reasonable limitations to protect the interests described in subsection 1. An agreement between an advocate and a criminal justice agency must, at a minimum, include provisions that:

- (1) Permit the advocate to use reports or records that contain intelligence and investigative information for the purpose of planning for the safety of the victim named in the reports;
- (2) Prohibit the advocate from further disseminating reports or records that contain intelligence and investigative information;
- (3) Require the advocate to ensure that reports or records that contain intelligence and investigative information remain secure and confidential;
- (4) Require the advocate to destroy reports or records that contain intelligence and investigative information within 30 days after receiving the report or record;

(5) Permit the criminal justice agency to perform reasonable and appropriate audits in order to ensure that records containing intelligence and investigative information that are obtained by and that are in the custody of the advocate are maintained in accordance with the requirements of this paragraph;

(6) Require the advocate to indemnify and hold harmless the criminal justice agency with respect to any litigation that may result from the provision of reports or records that contain intelligence and investigative information;

(7) Permit the criminal justice agency to immediately and unilaterally revoke an agreement made pursuant to this paragraph; and

(8) Provide sanctions for any violations of this paragraph.

The Commissioner of Public Safety may adopt a model policy to standardize the provisions contemplated in this paragraph. [2009, c. 181, §3 (NEW).]

[2003, c. 402, §1, 2 (AMD); 2009, c. 181, §§1-3 (AMD) .]

4. Unlawful dissemination of reports or records that contain intelligence and investigative information. A person that intentionally disseminates a report or record that contains intelligence and investigative information in violation of this section commits a Class E crime.

[2009, c. 181, §4 (NEW) .]

SECTION HISTORY

1979, c. 433, §2 (NEW). 1981, c. 64, (AMD). 1983, c. 787, §2 (AMD). 1985, c. 552, (AMD). 1991, c. 729, §3 (AMD). 1991, c. 837, §B5 (AMD). 1993, c. 376, §1 (AMD). 1993, c. 719, §7 (AMD). 1993, c. 719, §12 (AFF). 1995, c. 135, §1 (AMD). 1997, c. 456, §10 (AMD). 1999, c. 155, §A5 (AMD). 1999, c. 305, §1 (AMD). 2001, c. 532, §§1,2 (AMD). 2003, c. 402, §§1,2 (AMD). 2009, c. 181, §§1-4 (AMD).

16 §615. DISSEMINATION OF CONVICTION DATA

Conviction data may be disseminated to any person for any purpose. [1979, c. 433, §2 (NEW).]

SECTION HISTORY

1979, c. 433, §2 (NEW).

16 §616. INQUIRIES REQUIRED

A criminal justice agency shall query the State Bureau of Identification prior to dissemination of any criminal history record information for noncriminal justice purposes to assure that the most up-to-date disposition data is being used. [1979, c. 433, §2 (NEW).]

SECTION HISTORY

1979, c. 433, §2 (NEW).

16 §617. DISSEMINATION TO NONCRIMINAL JUSTICE AGENCIES

Criminal history record information disseminated to a noncriminal justice agency under section 613 shall be used solely for the purpose of which it was disseminated and shall not be disseminated further. [1979, c. 433, §2 (NEW).]

SECTION HISTORY

1979, c. 433, §2 (NEW).

16 §618. CONFIRMING EXISTENCE OR NONEXISTENCE OF CRIMINAL HISTORY RECORD INFORMATION

Except as provided in section 612, subsection 3, paragraph B, no criminal justice agency shall confirm the existence or nonexistence of criminal history record information to any person or agency that would not be eligible to receive the information itself. [1979, c. 433, §2 (NEW).]

SECTION HISTORY

1979, c. 433, §2 (NEW).

16 §619. UNLAWFUL DISSEMINATION

1. Offense. A person is guilty of unlawful dissemination if he knowingly disseminates criminal history information in violation of any of the provisions of this subchapter.

[1979, c. 433, §2 (NEW) .]

2. Classification. Unlawful dissemination is a Class E crime.

[1979, c. 433, §2 (NEW) .]

SECTION HISTORY

1979, c. 433, §2 (NEW).

16 §620. RIGHT TO ACCESS AND REVIEW

1. Inspection. Any person or his attorney may inspect the criminal history record information concerning him maintained by a criminal justice agency. A person's right to inspect or review criminal history record information shall not include access to intelligence and investigative information or any other information which is not criminal history record information. A criminal justice agency may prescribe reasonable hours and locations at which the right may be exercised and any additional restrictions, including satisfactory verification of identity by fingerprint comparison, as are reasonably necessary. These restrictions shall be to insure the security and confidentiality of the criminal history record information and to verify the identity of the person seeking to inspect that information. The agency shall supply the person or his attorney with a copy of the criminal history record information pertaining to him on request and payment of a reasonable fee.

[1979, c. 433, §2 (NEW) .]

2. Review. A person or his attorney may request amendment or correction of criminal justice record information concerning him by addressing, either in person or by mail, his request to the criminal justice agency in which the information is maintained. The request shall indicate the particular record involved, the nature of the correction sought and the justification for the amendment or correction.

On receipt of a request, the criminal justice agency shall take necessary steps to determine whether the questioned information is accurate and complete. If investigation reveals that the questioned information is inaccurate or incomplete, the agency shall immediately correct the error or deficiency and advise the requesting person that the correction or amendment has been made.

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

[1979, c. 433, §2 (NEW) .]

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

Dissemination of the disputed criminal history record information by that agency with which the requesting person has filed a statement of disagreement, occurring after the filing of such statement, shall clearly reflect notice of the dispute. A copy of the statement shall be included, along with, if the agency deems it appropriate, copies of a concise statement of the reasons of the agency for not making the amendment or correction requested.

[1979, c. 433, §2 (NEW) .]

4. Judicial review. If an administrative appeal brought pursuant to subsection 3 is denied by the head of the agency, or the requesting person believes the decision of the head of the agency to be otherwise unsatisfactory, the person may, within 30 days of the decision rendered by the head of the agency, seek relief in the Superior Court.

[1979, c. 433, §2 (NEW) .]

5. Notification. When a criminal justice agency has amended or corrected a person's criminal history record information in response to written request as provided in subsection 2 or a court order, the agency shall, within 30 days thereof, advise all prior recipients, who have received that information within the year prior to the amendment or correction, of the amendment or correction. It shall also notify the person of compliance with that requirement and the prior recipients notified.

[1979, c. 433, §2 (NEW) .]

6. Right of release. The provisions of this subchapter shall not limit the right of a person to disseminate to any other person criminal history record information pertaining to himself.

[1979, c. 433, §2 (NEW) .]

SECTION HISTORY

1979, c. 433, §2 (NEW).

16 §621. INFORMATION AND RECORDS OF THE ATTORNEY GENERAL (REPEALED)

SECTION HISTORY

1979, c. 433, §2 (NEW). 1993, c. 376, §2 (AMD). 1993, c. 719, §12 (AFF). 1993, c. 719, §8 (RP).

16 §622. APPLICATION

The provisions of this subchapter shall apply to criminal history record information in existence before July 29, 1976, including that which has been previously expunged under any other provision of Maine law, as well as to criminal history record information in existence on July 29, 1976 and thereafter. [1979, c. 433, §2 (NEW).]

SECTION HISTORY

1979, c. 433, §2 (NEW).

16 §623. ATTORNEY GENERAL FEES

The Attorney General shall analyze the impact of this conformity provision upon the Department of the Attorney General. The Department of the Attorney General shall submit a report to the joint standing committee of the Legislature having jurisdiction over judiciary matters to the First Regular Session of the 117th Legislature on this analysis and recommend a funding mechanism. The funding mechanism must include a fee for services to cover the costs associated with providing access and copying of records available to the public under this chapter. [1993, c. 719, §9 (NEW).]

SECTION HISTORY

1993, c. 719, §9 (NEW).

**Subchapter 9: MAINE CRIMINAL JUSTICE INFORMATION
SYSTEM HEADING: PL 1993, C. 346, §1 (NEW)**

16 §631. MAINE CRIMINAL JUSTICE INFORMATION SYSTEM

There is created, within the Department of Public Safety, an information clearinghouse to be known as the Maine Criminal Justice Information System. The Maine Criminal Justice Information System shall provide criminal justice agencies and authorized private users ready access to shared uniform information on criminal offenders and crime data, including: [1993, c. 346, §1 (NEW).]

1. Offender tracking information. Offender-based tracking information, including any active status of offenders in the criminal justice system;

[1993, c. 346, §1 (NEW) .]

2. Criminal history information. Criminal history record information that includes information on the potential risk of individuals;

[1993, c. 346, §1 (NEW) .]

3. Crime data. Specific crime data for investigations and statistical analysis;

[1993, c. 346, §1 (NEW) .]

4. Warrant information. Warrant and wanted persons information;

[1993, c. 346, §1 (NEW) .]

4-A. Conditions of release information. Status and conditions of release of those persons on probation or parole or admitted to bail;

[1999, c. 451, §1 (NEW) .]

4-B. Protective order information. Information pertaining to conditions of protection, protected persons and the subjects of protection from abuse orders;

[1999, c. 451, §1 (NEW) .]

5. Stolen property information. Stolen property listings; and

[1993, c. 346, §1 (NEW) .]

6. Other information. Other information available through communications or networking with other states or federal criminal justice agencies, or both.

[1993, c. 346, §1 (NEW) .]

SECTION HISTORY

1993, c. 346, §1 (NEW). 1999, c. 451, §1 (AMD).

16 §632. DEFINITIONS

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings. [1993, c. 346, §1 (NEW).]

1. Administration of criminal justice. "Administration of criminal justice" has the same meaning as defined in section 611, subsection 1.

[1993, c. 346, §1 (NEW) .]

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

[1993, c. 346, §1 (NEW) .]

3. Criminal history record information. "Criminal history record information" has the same meaning as defined in section 611, subsection 3.

[1993, c. 346, §1 (NEW) .]

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

[1993, c. 346, §1 (NEW) .]

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

[1993, c. 346, §1 (NEW) .]

6. Disposition. "Disposition" has the same meaning as defined in section 611, subsection 5.

[1993, c. 346, §1 (NEW) .]

7. Executive order. "Executive order" has the same meaning as defined in section 611, subsection 7.

[1993, c. 346, §1 (NEW) .]

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

[1993, c. 346, §1 (NEW) .]

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

[1993, c. 346, §1 (NEW) .]

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

[1993, c. 346, §1 (NEW) .]

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

[1993, c. 346, §1 (NEW) .]

12. State. "State" has the same meaning as defined in section 611, subsection 11.

[1993, c. 346, §1 (NEW) .]

13. Statute. "Statute" has the same meaning as defined in section 611, subsection 12.

[1993, c. 346, §1 (NEW) .]

SECTION HISTORY

1993, c. 346, §1 (NEW).

16 §633. POLICY BOARD ESTABLISHED; MEMBERSHIP

There is established the Maine Criminal Justice Information System Policy Board, referred to in this subchapter as the "board." The board consists of 13 members that include the Attorney General, the Commissioner of Public Safety, the Commissioner of Corrections, the State Court Administrator, the Chief of the State Police, the Associate Commissioner for Adult Services within the Department of Corrections, the Chief Information Officer, a representative of the Maine Prosecutors Association appointed by the Attorney General, a representative of the Maine Chiefs of Police Association appointed by the Commissioner of Public Safety, a representative of the Maine Sheriff's Association appointed by the Commissioner of Public Safety, a representative of a federal criminal justice agency appointed by the Governor, a representative of a nongovernmental agency that provides services to victims of domestic violence appointed by the Governor and a public member who represents private users of criminal offender record information appointed by the Governor. [2005, c. 12, Pt. SS, §19 (AMD).]

SECTION HISTORY

1993, c. 346, §1 (NEW). 1999, c. 451, §2 (AMD). 2001, c. 388, §15 (AMD). 2005, c. 12, §SS19 (AMD).

16 §634. TERM OF MEMBERSHIP

The Attorney General, the Commissioner of Public Safety, the Commissioner of Corrections, the State Court Administrator, the Chief of the State Police and the Chief Information Officer are members of the board during their terms of office and may appoint designees to serve in their place. The other members of the board serve terms of 3 years. Members of the board serve without compensation, except for reimbursement for

actual expenses incurred in the performance of their duties. Any vacancy on the board must be filled in the same manner as the original appointment, but only for the unexpired term. [2005, c. 12, Pt. SS, §20 (AMD).]

SECTION HISTORY

1993, c. 346, §1 (NEW). 2005, c. 12, §SS20 (AMD).

16 §635. DUTIES

The board has the following duties. [1993, c. 346, §1 (NEW).]

1. Establish policies. The board shall establish policies and practices necessary to provide ready access to shared, uniform information on criminal offenders and crime data described in section 631.

[1999, c. 451, §3 (AMD).]

2. Establish information standards. The board shall establish, maintain and promote minimum standards for accessing the Maine Criminal Justice Information System to ensure complete, accurate and up-to-date information is received by criminal justice agencies and authorized private users. These standards include:

- A. Completeness and accuracy of information; [1993, c. 346, §1 (NEW).]
- B. Limitations on access and dissemination of information; [1993, c. 346, §1 (NEW).]
- C. System audits; [1993, c. 346, §1 (NEW).]
- D. System security; [1993, c. 346, §1 (NEW).]
- E. Individuals' rights to the review of records; [1993, c. 346, §1 (NEW).]
- F. Hardware and software requirements; [1993, c. 346, §1 (NEW).]
- G. Networking and communications; and [1993, c. 346, §1 (NEW).]
- H. Personnel qualifications and training. [1993, c. 346, §1 (NEW).]

[1993, c. 346, §1 (NEW).]

3. Recommendation of fees.

[1999, c. 451, §3 (RP).]

4. Report. The board shall submit the following reports to the Legislature.

A. The board shall report to the joint standing committees of the Legislature having jurisdiction over criminal justice matters and judiciary matters no later than January 1st of each year concerning the status of the development, implementation and operation of the Maine Criminal Justice Information System. The report must contain information about the ability of the Judicial Department, the Department of Public Safety and the Department of Corrections to maintain, furnish and disseminate information described in section 631 in an automated manner. The report must also contain a project plan that delineates the date upon which each category of information described in section 631 will be available to criminal justice agencies and authorized private users in an automated fashion and, for those categories for which the information is already available in an automated fashion but for which enhancements are planned, the date upon which enhanced service will be available. [1999, c. 451, §3 (NEW).]

B. The board shall report to the joint standing committee of the Legislature having jurisdiction over judiciary matters no later than January 1st of each year concerning the methods devised to keep accurate, updated records of misdemeanor crimes of domestic violence to ensure enforcement of 18 United States Code, Section 922 (1996). [1999, c. 451, §3 (NEW).]

[1999, c. 451, §3 (AMD) .]

SECTION HISTORY

1993, c. 346, §1 (NEW). 1997, c. 194, §1 (AMD). 1999, c. 451, §3 (AMD).

16 §636. ADMINISTRATION

The Department of Public Safety shall provide general administrative oversight for the board's policies and responsibilities. The Department of Public Safety and other criminal justice agencies when appropriate may employ personnel necessary to carry out the purposes of the Maine Criminal Justice Information System, lease, rent or acquire adequate equipment and facilities, accept federal funds or grants that are available to carry out or implement its purpose and provide technical assistance and training to criminal justice agencies necessary to meet minimum standards for access. [1999, c. 451, §4 (AMD).]

SECTION HISTORY

1993, c. 346, §1 (NEW). 1999, c. 451, §4 (AMD).

16 §637. MEETINGS

The board may meet at such time or times as necessary to carry out its duties, but at least one time in each calendar quarter at a place and time as the board determines and at the call of the chair. The board shall elect annually a chair, vice-chair, secretary and a treasurer from among its members. [1993, c. 346, §1 (NEW).]

SECTION HISTORY

1993, c. 346, §1 (NEW).

Chapter 5: SPECIAL PROCEEDINGS

16 §651. RULES OF EVIDENCE

The rules of evidence in special proceedings of a civil nature, such as before referees, auditors and county commissioners, are the same as provided for civil actions. The rules of evidence in courts of probate are as provided in Title 18-A, section 1-107. [1979, c. 540, §24-B (AMD).]

SECTION HISTORY

1979, c. 540, §§24-B (AMD).

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