

### §1541. Commanding officer

**1. Appointment.** The Chief of the State Police shall appoint a person who has knowledge of the various standard identification systems and Maine court procedure to be commanding officer of the State Bureau of Identification, heretofore established within the Bureau of State Police. [PL 1975, c. 763, §4 (NEW).]

**2. Personnel.** The Chief of the State Police may delegate members of the State Police to serve in the State Bureau of Identification upon request of the commanding officer. The commanding officer may hire civilian personnel, subject to the Civil Service Law and the approval of the Chief of the State Police, as the commanding officer considers necessary. [RR 2023, c. 1, Pt. C, §44 (COR).]

**3. Cooperation with other bureaus.** The commanding officer shall cooperate with similar bureaus in other states and with the national bureau in the Department of Justice in Washington, D. C. and he shall develop and carry on an interstate, national and international system of identification.

A. Notwithstanding chapter 199, the commanding officer shall ensure that the fingerprints and descriptive information of any person that have been submitted to the Federal Bureau of Investigation for the purpose of conducting a criminal history record check for noncriminal justice purposes through the interstate identification index system, as defined in section 1703, subsection 12, are not retained by the Federal Bureau of Investigation, are used solely for the purpose of providing a response to the record check and are not disseminated prior to destruction. The commanding officer shall immediately report any retention or dissemination by the Federal Bureau of Investigation of the fingerprints or descriptive information of any person to the joint standing committee of the Legislature having jurisdiction over criminal justice matters, and upon the receipt of such a report, that committee shall meet to consider renunciation, pursuant to section 1710, of the State's participation in the National Crime Prevention and Privacy Compact, chapter 199. [PL 2001, c. 372, §1 (NEW).]

B. Notwithstanding chapter 199, the fingerprints and descriptive information of any person that have been submitted to the Federal Bureau of Investigation for the purpose of conducting a criminal history record check for noncriminal justice purposes through the interstate identification index system, as defined in section 1703, subsection 12, are not a criminal history record, as defined by section 1703, subsection 5, or criminal history record information, as defined by Title 16, section 703, subsection 3, and such submittal is not an activity related to criminal justice, as defined by section 1703, subsection 6, or the administration of criminal justice, as defined by Title 16, section 703, subsection 1. [PL 2013, c. 267, Pt. B, §21 (AMD).]

C. The commanding officer shall report to the Federal Bureau of Investigation, National Instant Criminal Background Check System a court's finding, upon the commanding officer's receipt of an abstract from a court that a person has been:

- (1) Committed involuntarily to a hospital pursuant to an order of the District Court under Title 34-B, section 3864 because the person was found to present a likelihood of serious harm, as defined under Title 34-B, section 3801, subsection 4-A, paragraphs A to D;
- (2) Found not criminally responsible by reason of insanity with respect to a criminal charge; or
- (3) Found not competent to stand trial with respect to a criminal charge.

The commanding officer may adopt rules to implement the requirements of this paragraph. Rules adopted pursuant to this paragraph are routine technical rules, as defined in Title 5, chapter 375, subchapter 2-A. [PL 2009, c. 651, §2 (AMD).]

[PL 2013, c. 267, Pt. B, §21 (AMD).]

**4. Rules and regulations.** The commanding officer shall make and forward to all persons charged with any duty or responsibility under this section and sections 1542-A, 1544, 1547 and 1549 rules, regulations and forms for the taking, filing, preserving and distributing of fingerprints and other juvenile crime and criminal history record information as provided in this chapter. Before becoming effective, such rules, regulations and forms are to be approved by the Attorney General.  
[PL 1999, c. 260, Pt. B, §1 (AMD); PL 1999, c. 260, Pt. B, §18 (AFF).]

**4-A. Responsibility for the collection and maintenance of criminal history record information and juvenile crime information.** The commanding officer shall collect and maintain:

A. Fingerprints and other criminal history record information pertinent to the identification of individuals who have been arrested as fugitives from justice or who have been arrested or charged with any criminal offense under the laws of this State except a violation of Title 12 or 29-A that is a Class D or E crime other than an alcohol-related or drug-related offense. For purposes of this paragraph, an "alcohol-related or drug-related offense" is a Class D crime that involves hunting while under the influence of intoxicating liquor or drugs or with an excessive alcohol level or the operation or attempted operation of a motorcraft, all-terrain vehicle, snowmobile or motor vehicle while under the influence of intoxicating liquor or drugs or with an excessive alcohol level. The commanding officer may collect and maintain fingerprints and other criminal history record information that may be related to other criminal offenses or to the performance of the commanding officer's obligations under state laws and under agreements with agencies of the United States or any other jurisdiction; and [PL 2009, c. 447, §23 (AMD).]

B. Fingerprints and other juvenile crime information pertinent to the identification of individuals who have been taken into custody for juvenile crimes under a uniform interstate compact on juveniles or who have been arrested or charged with juvenile crimes under the laws of this State. The commanding officer may collect and maintain fingerprints and other juvenile crime information that may be related to other juvenile crimes or to the performance of the commanding officer's obligations under state laws and under agreements with agencies of the United States or any other jurisdiction. [PL 1999, c. 260, Pt. B, §2 (NEW); PL 1999, c. 260, Pt. B, §18 (AFF).]

For purposes of this subsection, "laws of this State" includes Passamaquoddy tribal law as described in Title 30, section 6209-A, subsections 1-A and 2 and Penobscot tribal law as described in Title 30, section 6209-B, subsections 1-A and 2.  
[PL 2019, c. 621, Pt. E, §2 (AMD).]

**5. Apparatus and materials.** The Chief of the State Police shall supply such bureau with the necessary apparatus and materials for collecting, filing, preserving and distributing criminal history record information.  
[PL 1975, c. 763, §4 (NEW).]

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

Notwithstanding any other provision of law, the full fee charged for fingerprint-supported criminal history record checks fees as collected pursuant to Title 20-A, section 6103, subsection 3-A must be deposited in the State Police program, Other Special Revenue Funds account for the purpose of funding the costs of the Department of Public Safety to administer the criminal history record check program. Notwithstanding any provision of law, all fees associated with any criminal history record check requirements established after July 1, 2015 must be deposited in a dedicated revenue account for the purposes of paying costs incurred by the Department of Public Safety, State Bureau of Identification to conduct such checks.

[PL 2015, c. 267, Pt. SSS, §4 (AMD).]

**7. Fees to obtain fingerprints for noncriminal justice background checks.** Unless otherwise provided by law, an applicant shall pay a one-time processing fee of \$25 to the Department of Public Safety to offset the expenses incurred by the department to obtain fingerprints to be used for conducting state and national criminal history record checks for noncriminal justice purposes when the State Bureau of Identification is required to retain the fingerprints.

[PL 1999, c. 110, §3 (NEW).]

**8. Carrying balance.** Any unencumbered balance from funds appropriated from the General Fund to accomplish the purpose of Title 20-A, section 6103 may not lapse but must be carried forward to be used for the same purpose.

[PL 1999, c. 791, §6 (NEW).]

**9. Compact council rules.** The commanding officer shall cause a copy of any rule or procedure adopted by the compact council established under section 1707 that governs the use of the interstate identification index system, as defined in section 1703, subsection 12, to be provided to the joint standing committee of the Legislature having jurisdiction over criminal justice matters.

[PL 2001, c. 372, §2 (NEW).]

#### SECTION HISTORY

PL 1971, c. 592, §37 (AMD). PL 1975, c. 763, §4 (RPR). PL 1985, c. 785, §B110 (AMD). PL 1987, c. 421 (AMD). PL 1987, c. 512, §1 (AMD). PL 1995, c. 65, §A73 (AMD). PL 1995, c. 65, §A153,C15 (AFF). PL 1999, c. 110, §3 (AMD). PL 1999, c. 260, §§B1,2 (AMD). PL 1999, c. 260, §B18 (AFF). PL 1999, c. 401, §W1 (AMD). PL 1999, c. 791, §6 (AMD). PL 2001, c. 372, §§1,2 (AMD). PL 2001, c. 552, §1 (AMD). PL 2003, c. 20, §R8 (AMD). PL 2003, c. 451, §S1 (AMD). PL 2007, c. 539, Pt. PPP, §1 (AMD). PL 2007, c. 670, §16 (AMD). PL 2009, c. 447, §23 (AMD). PL 2009, c. 651, §2 (AMD). PL 2013, c. 267, Pt. B, §§21, 22 (AMD). PL 2015, c. 267, Pt. SSS, §4 (AMD). PL 2019, c. 621, Pt. E, §2 (AMD). RR 2023, c. 1, Pt. C, §44 (COR).

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