

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

2 **PART A**

3 **Sec. A-1. 4 MRSA c. 39** is enacted to read:

4 **CHAPTER 39**

5 **DIGITAL COURT RECORDS ACCESS ACT**

6 **§ 1901. Purpose**

7 The purpose of this Act is to provide a comprehensive framework for public access to digital
8 court records maintained by the Maine Judicial Branch.

9 This Act applies to litigants and all other persons and entities seeking electronic access to
10 digital state court records and to judicial officers and court personnel responding to requests for
11 electronic access. The county probate courts are not included in the scope of this Act.

12 This Act applies to all court records and data that are accessible as digital records in the Maine
13 Judicial Branch's digital case management system.

14 **§ 1902. General Access Policy**

15 1. Court records as defined in this Act are open for public inspection and copying except as
16 otherwise provided in this Act.

17 2. Restrictions on inspection or copying pursuant to this Act shall not be applicable to named
18 parties or attorneys of record in a specific case or judicial proceeding, except for restrictions
19 pursuant to section 1905, subsections 1 and 2 of this Act or unless otherwise provided by statute
20 or court order.

21 **§ 1903. Definitions**

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

24 1. Accessible by the public. "Accessible by the public" means that a court record may be
25 inspected or copied by any member of the public. A fee may be required for the inspection or
26 copying.

27 2. Aggregate data. "Aggregate data" means summary information extracted, assembled, or
28 derived from compiled data. "Aggregate data" eliminates any case or party identifying information
29 such as case numbers, names, and addresses.

30 3. Bulk data. "Bulk data" means an electronic collection of data composed of information
31 from multiple records, whose primary relationship to each other is their shared origin from single
32 or multiple databases.

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2 **4. Court Clerk.** “Court Clerk” means a Manager, Clerk of Court, Deputy Clerk, Assistant
3 Clerk, or Associate Clerk.

4 **5. Compiled data.** “Compiled data” means information that is derived from the selection,
5 collection, or reformulation of all or some of the information from the records of more than one
6 case or judicial proceeding.

7 **6. Court record.**

8 A. “Court record” means any file, document, information or data received or maintained by a
9 state court in digital form in connection with a particular case or judicial proceeding, including,
10 but not limited to:

11 (1) Pleadings, motions, briefs and their respective attachments, and evidentiary exhibits;

12 (2) Any order, judgment, opinion, or decree;

13 (3) Any docket sheet, calendar, or other information created or prepared by court clerks or
14 staff that is related to a case or judicial proceeding; and

15 (4) Any official transcript or recording of a public judicial proceeding, in any form.

16 B. For purposes of this Act, “court record” does not include the following materials, even if
17 they exist in connection with a particular case or judicial proceeding:

18 (1) Unfiled discovery materials;

19
20 (2) Information gathered, maintained, or stored by a governmental agency or other entity
21 to which the court has access but that is not part of the case record or file;

22 (3) Notes, memoranda, and drafts thereof, and any other material prepared or collected by
23 a judicial officer or other court personnel at the direction of a judicial officer and used in
24 the process of a judicially assisted settlement conference, in recording the jurist’s notes of
25 a proceeding, or in the preparation of a decision or order;

26 (4) Internal draft working documents prepared for or by a judicial officer or other court
27 personnel related to court practices and procedures;

28 (5) The identity of any appellate justice assigned to prepare a written decision or opinion;

29 (6) The legal work product and other records of any attorney, law clerk, or other person
30 employed by or representing the judicial branch that are produced in the regular course of
31 business or representation of the judicial branch;

32 (7) Records of consultative, advisory, or deliberative discussions pertaining to the
33 rendering of decisions or the management of cases;

1 (8) Any other case-records maintained by the Judicial Branch not expressly defined as
2 court records.

3 **7. Family matter proceedings.** For purposes of this Act, “family matter proceedings” include
4 actions for judicial separation, divorce, adoption, or annulment, actions to establish parental rights
5 and responsibilities, paternity, or any type of parentage, actions involving grandparent visitation
6 or the guardianship of minors, actions to establish or enforce child support obligations, and actions
7 to enforce or obtain remedies for noncompliance with a gestational carrier agreement.¹

8
9 **8. Non-public information.** “Non-public information” means any record, or portion thereof,
10 to which public access is restricted pursuant to federal or state law, court rule, or administrative
11 order.

12 **8. Public.**

13 A. “Public” means:

14 (1) Any person, business, or entity;

15 (2) A government agency or commission for which there is no existing federal or state
16 statute, court rule, or court order defining that agency’s access to court records; and

17 (3) Media organizations.

18 B. “Public” does not include:

19 (1) Judicial Branch staff, including court employees, Administrative Office of the Court
20 employees, and judicial officers;

21 (2) The parties to a specific case or proceeding, their lawyers, or persons identified by the
22 court as having access to the court record in that case or proceeding;

23 (3) Private or governmental persons, vendors, or entities that assist the Judicial Branch in
24 performing its functions under contracts or agreements that require protection for all non-
25 public documents, data, or information;

26 (4) Persons or entities authorized by statute, rule, or administrative order to have access to
27 court records.

28 **9. Registry of actions.** “Registry of actions,” formerly identified as “docket entries,” means
29 the list of case information maintained by the Clerk that contains the case caption, docket number,
30 and a chronological entry identifying the date and title of each complaint, motion, order, judgment,
31 notice, or other document filed in a case, and the dates of events in the case.

¹ If this definition is adopted by the Legislature, along with the language proposed for 4 M.R.S. § 1905(1)(C), then specific references to adoption (§1905(1)(A), establishment of parentage by assisted reproduction (§1905(1)(J), proceedings involving gestational carrier agreements §1905(1)(L), child support and financial statements and worksheets (§1905(2)(S), and GAL reports (§1905(2)(T) may no longer be necessary.

1 **10. Sealed or impounded case, document, or information.** “Sealed or impounded case,
2 document, or information” means any public case, document, or information that has been sealed
3 or impounded from public access by order of a court.

4 **§ 1904. Access to aggregate, compiled, and bulk data**

5 Unless otherwise limited by statute, public access to compiled, bulk, raw, or aggregate data, or
6 non-published reports prepared by or for the court is governed by rule or administrative order
7 adopted by the Supreme Judicial Court. Such access may be limited and subject to fees.

8 **§ 1905. Court records excluded from public access**

9 **1. Specific case types and proceedings.** Court records in the following case types and
10 proceedings are not accessible to the public:

11 A. Adoption;

12 B. Child Protection;

13 C. Mental Health civil commitment proceedings;

14 D. Juvenile hearings, to the extent that records are not open to public inspection;

15 E. Protection from Harassment, when it is alleged that the health, safety, or liberty of a party
16 or child would be jeopardized by disclosure of identifying information;

17 F. Medical malpractice screening panel proceedings;

18 G. Sterilization proceedings;

19 H. Petition for court-authorized abortion for a minor;

20 I. Grand jury proceedings;

21 J. Family matter proceedings, except that, in some family matter proceedings, the “summary
22 complaint,” registry of action, and the “summary of judgment” may be made accessible to the
23 public through court rule or administrative order;

24 K. Establishment of parentage by assisted reproduction;

25 L. Proceedings brought to enforce or obtain remedies for noncompliance with a gestational
26 carrier agreement; and,

27 M. Emancipation of a minor proceedings.

28
29 **2. Specific documents excluded from public access.** Documents that are designated as
30 confidential by federal or state law, court rule, or administrative order are not public documents,
31 and shall not be submitted to any court in any court proceeding as public documents. Any
32 documents listed below that are filed with a court must be submitted in accordance with this Act

1 and with the rules of procedure. Any documents listed below that are in possession of the court
2 are not public records and are not open to public inspection or copying. These documents include,
3 but are not limited to:

4 A. All medical records, including, but not limited to, all mental health evaluations and records
5 and drug/alcohol abuse evaluations and treatment records;

6 B. Financial information or documents filed in support of requests for waiver of payment of
7 court fees or costs, or in support of requests for court-appointed counsel;

8 C. Financial information or documents filed or submitted for mediation in foreclosure cases;

9 D. Psychological and intelligence test documents and results;

10 E. School records, including scholastic achievement data on individuals;

11 F. HIV/AIDS testing information;

12 G. Death certificates;

13 H. Immigration documents;

14 I. Private images as described in Title 17-A, section 511-A, subsection 1. Any image submitted
15 to the court as part of a filing or as an exhibit, including photographs, videotape, film, electronic
16 devices for storage of images, or digital recordings, shall be placed under seal by the Clerk of
17 Court. The named defendant or defendant's attorney may make arrangements to review the
18 sealed images at the courthouse. No copying, photographing, or other duplication of the images
19 by the defendant or the defendant's attorney is permitted.

20 J. Documents containing confidential criminal history record information, as defined by the
21 Maine Criminal History Records Information Act, Title 16, chapter 7;

22 K. Information concerning individuals with court-appointed counsel that is shielded by Title
23 4, section 1806;

24 L. Documents in all proceedings involving a Protection from Abuse Order or some other
25 protective order that would reveal the identity or location of a protected person under the order;

26 M. Witness subpoenae that extend to privileged or protected documents;

27 N. Subpoenae *duces tecum* that extend to privileged or protected documents;

28 O. Juror qualification questionnaires, juror screening questionnaires, records, lists, and
29 information used during the selection and service of jurors, and jurors' notes;

30 P. Unexecuted search warrants and supporting materials, unless the court orders that they are
31 to be made accessible by the public;

32 Q. Pre-sentence reports, including attachments;

1 R. Unexecuted arrest warrants and associated affidavits for probable cause, unless the court
2 orders that they are to be made accessible by the public;

3 S. Child support affidavits, child support worksheets, financial statements and/or financial
4 affidavits, with their supporting documents; and,

5 T. Guardian ad litem reports;

6 **3. Specific information or data excluded from public access.**

7 A. Information in court records is not accessible to the public if federal or state law, court rule,
8 administrative order, or any portion of this Act prohibits disclosure of the information.

9 B. Categories of confidential information or data include, but are not limited to, the following:

10 (1) Names and dates of birth of minors (first names and initials may be public);

11 (2) Images of minors and any images depicting nudity or sexual acts or sexual contact;

12 (3) Personal identifying information, including, but not limited to:

13 (a) Full dates of birth;

14 (b) Home addresses;

15 (c) Telephone numbers;

16 (d) Personal email addresses;

17 (e) Social Security and employer identification numbers;

18 (f) Financial account numbers or statements, such as those that identify loans, bank
19 accounts, mortgages, investment accounts, credit card numbers, personal
20 identifications numbers, or similar numerical identifiers;

21 (g) Driver's license numbers;

22 (h) Other personal identification numbers, such as passport numbers and state
23 identification numbers; and,

24 (i) DNA identifying data or information.

25 **4. Identification and Handling of Confidential or Non-Public Cases, Documents,**
26 **Information, and Data.** It is the responsibility of the filing party to ensure that non-public
27 or confidential documents and information are redacted and/or submitted confidentially to
28 the court in accordance with this statute.

1 A. For any cases designated as non-public or confidential by federal or state law, court rule,
2 administrative order, or this Act, every filing must be clearly marked and submitted as
3 “confidential” in its entirety.

4 B. No categories of information or data that are designated as confidential or non-public
5 by federal or state law, court rule, administrative order, or this Act, including but not
6 limited to confidential personal identifiers, shall be submitted to any court as part of a
7 public document. Where required, an active financial account number may be identified by
8 the last four digits when the financial account is the subject of the litigation and cannot
9 otherwise be identified.

10 **§ 1906. Impounding or sealing public cases, documents or information from public access.**

- 11 1. **Procedure for impounding or sealing.** In addition to the non-public and confidential case
12 types, documents, and information listed above, any party to a court case or any person or
13 entity that demonstrates standing to do so may file a motion to have a public case,
14 document, or type of information or data impounded or sealed from public access. Such
15 motions must be made in accordance with Maine Rules of Procedure. As soon as a motion
16 to impound or seal is filed, the public case, document, or type of information or data that
17 is the subject of the motion shall be impounded or sealed, pending the court’s ruling on the
18 motion.
- 19 2. In weighing a reasonable expectation of privacy against the public interest in the
20 transparency of court records, the court shall consider whether an individual’s personal
21 safety, health or well-being, or a substantial personal, business, or reputational interest
22 outweighs the public interest in the information in the public court records. Public interest
23 is at its strongest with regard to actions taken by a judge or magistrate, and is at its nadir
24 with regard to personal information of litigants or others.
- 25
- 26 3. **Handling of impounded or sealed cases documents or information.** It is the
27 responsibility of the filing party to ensure that any impounded or sealed cases, documents,
28 and information are submitted confidentially to the court in accordance with this statute.
- 29 A. When a case has been impounded or sealed by court order, every document or other
30 filing that is submitted to the court shall be clearly marked as “impounded” or
31 “sealed,” with the date of the court order impounding or sealing noted.
- 32 B. When any document or other filing that has been impounded or sealed is submitted
33 to the court in a public case, that document or filing must be clearly marked as
34 “impounded or sealed,” with the date of the court order impounding or sealing
35 noted.

36 **§ 1907. Obtaining access to impounded or sealed cases, documents, or information.**

- 37 1. A party to the action or an individual, business, or entity may request access to a public
38 case, document, information, or data impounded or sealed from public access by court
39 order issued pursuant to section 1906 by filing a motion in accordance with the Maine
40 Rules of Civil Procedure, Rule 7 and Rule 79(b)(2), or the Maine Rules of Unified Criminal
41 Procedure, Rule 47(a). A non-party seeking access to an impounded or sealed public case,

1 document, information, or data shall be considered a party in interest for purposes of this
2 section.

- 3 2. When a court receives a motion for access to any public case, document, or information
4 that has been impounded or sealed from public access by court order, it must:
5 A. notify all persons or parties affected of the motion for access; and
6 B. provide the moving party or party in interest and the affected persons or parties an
7 opportunity to be heard.
- 8 3. In determining whether good cause has been shown to grant the motion, the court shall
9 consider the public access and privacy interests served, and whether the moving party or
10 party in interest has demonstrated that:
11 A. extraordinary circumstances exist that require that the impounded or sealed
12 materials be made available; or,
13 B. the public interest in disclosure outweighs any potential harm in disclosure.
- 14 4. If the court allows access, it may impose any reasonable conditions to protect the privacy
15 interests at issue.
- 16 5. A party or party in interest that seeks to appeal from a trial court order granting or denying
17 access to an impounded or sealed case, document, or information pursuant to this section
18 shall file an appeal of that order in accordance with the Maine Rules of Appellate
19 Procedure. While that appeal is pending, there shall be no stay of the underlying action
20 unless the appealing party has sought and obtained a stay.

21 **PART B**

22 **Sec. C-1. 16 MRSA §703, sub-§3,** as enacted by PL 2013, c. 267, Pt. A, §2, is amended to
23 read:

24 **3. Criminal history record information.** “Criminal history record information” means
25 information of record collected by a criminal justice agency or at the direction of a criminal justice
26 agency or kept in the custody of a criminal justice agency that connects a specific, identifiable
27 person, including a juvenile treated by statute as an adult for criminal prosecution purposes, with
28 formal involvement in the criminal justice system either as an accused or as a convicted criminal
29 offender. “Criminal history record information” includes, but is not limited to, identifiable
30 descriptions or notations of: summonses and arrests; detention; bail; formal criminal charges such
31 as complaints, informations, and indictments; any disposition stemming from such charges; post-
32 plea or post-adjudication sentencing; involuntary commitment; execution of and completion of
33 any sentencing alternatives imposed; release and discharge from involuntary commitment; any
34 related pretrial and post-trial appeals, collateral attacks and petitions; and petitions for and warrants
35 of pardons, commutations, reprieves and amnesties. “Criminal history record information” does
36 not include: identification information such as fingerprints, palmprints, footprints or photographic
37 records to the extent that the information does not indicate formal involvement of the specific
38 individual in the criminal justice system; information of record of civil proceedings, including
39 traffic infractions and other civil violations; intelligence and investigative record information as
40 defined in section 803; or information of record of juvenile crime proceedings or their equivalent.
41 Specific information regarding a juvenile crime proceeding is not criminal history record
42 information ~~notwithstanding that~~ unless a juvenile has been bound over and treated as an adult or
43 that by statute specific information regarding a juvenile crime proceeding is usable in a subsequent
44 adult criminal proceeding. “Formal involvement in the criminal justice system either as an accused

1 or as a convicted criminal offender” means being within the jurisdiction of the criminal justice
2 system commencing with arrest, summons or initiation of formal criminal charges and concluding
3 with the completion of every sentencing alternative imposed as punishment or final discharge from
4 an involuntary commitment based upon a finding of not criminally responsible by reason of
5 insanity or its equivalent.

6 **PART C**

7 **Sec. D-1. 17-A MRSA, §511-A, sub-§5**, as enacted by PL 2015, c. 410, Pt. A, §1, is
8 repealed and the following is enacted in its place:

9 5. Certain private images as described in subsection 1 that are filed with the court as part of
10 any criminal proceeding are deemed confidential and shall not be available for public inspection,
11 review, or copying. Any image submitted to the court as part of a filing or as an exhibit, including
12 photographs, videotape, film, electronic devices for storage of images, or digital recordings, shall
13 be placed under seal by the Clerk of Court. The named defendant or defendant’s attorney may
14 make arrangements to review the sealed images at the courthouse. No copying, photographing or
15 other duplication of the images by the defendant or the defendant’s attorney is permitted.

16
17 **SUMMARY**

18 This bill implements the recommendations of the privacy workgroup regarding public access
19 to court records maintained by the Maine Judicial Branch. It is fundamentally necessary to allow
20 the public to obtain information about the workings of the courts, so that the public may determine
21 whether the courts are exercising their authority competently and fairly. Given the extent and
22 breadth of information contained in court records, however, and the growing understanding of the
23 dangers associated with online aggregation and/or dissemination of personal information, it is also
24 absolutely and fundamentally necessary that the new format through which court records are
25 available be tailored to ensure that there is balance between access and privacy.

26 In weighing the competing interests associated with the right of the public to access its courts,
27 the legitimate expectations of privacy held by those individuals who are required to come to court
28 to settle disputes or seek justice, and the need for effective court administration, the following
29 principles have been adopted in this bill:

30 (1) The public and the media have a general right of access to court records in both civil and
31 criminal proceedings, unless otherwise restricted by federal or state law, court rule, or
32 administrative order;

33 (2) Public access to court records informs and educates the public about the workings of the
34 courts and acts as a mechanism for oversight and accountability;

35 (3) The protection of personal privacy is also a critical value, and the public right of access to
36 court records is not absolute. Certain private, personal information contained in court records
37 need not be made public in order to promote the interests served by access to court records;

1 (4) Therefore, access to court records, including remote electronic access, should be
2 encouraged and facilitated to the extent it is consistent with the preservation of legitimate
3 privacy interests and compliance with state and federal laws.

4 Following those principles, this bill provides for access in a manner that:

5 (1) provides maximum reasonable accessibility to court records,

6 (2) supports the role of the judiciary,

7 (3) promotes governmental accountability,

8 (4) contributes to public safety,

9 (5) minimizes risk of harm to individuals,

10 (6) protects individual privacy rights and interests,

11 (7) makes effective use of court and clerk of court staff,

12 (8) protects proprietary business information,

13 (9) minimizes reluctance to use the court to resolve disputes,

14 (10) provides excellent customer service,

15 (11) does not unduly interfere with the function of the Judicial Branch to administer justice to
16 litigants,

17 (12) protects individuals from the use of outdated or inaccurate information, and

18 (13) contributes to the body of knowledge of effective practices of courts.

19 Part A of the bill enacts the Digital State Court Records Access Act, which provides a
20 comprehensive framework for public access to court records.

21 This bill enacts Title 4, chapter 39, which:

22 A. Outlines, in section 1901, the chapter's scope and application. It establishes that the chapter
23 applies to all users of state courts but not county probate courts, and that it applies to court
24 records that are accessible as digital records in the Maine Judicial Branch's digital case
25 management system;

26 B. Defines, in section 1902, terms used throughout the chapter;

27 C. Establishes, in section 1903, a general access policy that makes all court records open for
28 public inspection and copying except as otherwise provided in the chapter, and exempts from
29 restrictions on access the named parties and their attorneys of record in a specific case or
30 judicial proceeding;

- 1 D. Provides, in section 1904, that public access to compiled, bulk, raw, or aggregate data is
2 governed by rule or administrative order adopted by the Supreme Judicial Court;
- 3 E. Identifies, in section 1905, subsection 1, specific case types that are not accessible to the
4 public²;
- 5 F. Identifies, in section 1905, subsection 2, that specific documents designated confidential or
6 non-public by federal or state law, court rule, or administrative order shall not be submitted to
7 the court as public documents in any type of proceeding and are not open to public inspection
8 or copying³;

² For many of the case types and proceedings identified in section 1905(1), public access had already been restricted through statutes, court rules, or administrative orders. Each subsection describing case types or proceedings already made confidential is further explained below:

- A. adoption proceedings are confidential pursuant to Title 18-A, section 9-310;
- B. child protective proceedings are confidential pursuant to Title 22, section 4007;
- C. mental health civil commitment proceedings are confidential pursuant to Title 34-B, section 3864, paragraphs (5)(G) and (H);
- D. juvenile hearings are partially confidential, pursuant to Title 15, sections 3307 and 3308;
- E. protection from harassment actions are confidential pursuant to Title 5, section 4656, when it is alleged that the health, safety, or liberty of a party or child would be jeopardized by disclosure of identifying information;
- F. medical malpractice screening panel proceedings are confidential pursuant to Title 34, sections 2853(1-A), 2854(1-A), and 2857;
- G. sterilization proceedings are confidential pursuant to Title 34-B, section 7014;
- H. petitions for court-authorized abortions for minors are confidential pursuant to Title 22, section 1597-A, subsection (6), paragraphs (B) and (C); and,
- I. grand jury proceedings are confidential pursuant to M.R. U. Crim.P. 6.

The Act makes non-public four additional types of cases: family matters cases; cases through which individuals using assisted reproduction establish legal parentage, pursuant to Title 19-A, chapter 61, subchapter 7; cases brought to enforce or obtain remedies for noncompliance with a gestational carrier agreement, pursuant to Title 19-A, chapter 61, subchapter 8; and those cases through which minors attempt to achieve emancipation, pursuant to Title 15, section 3506-A. Although these cases will contain a great deal of extremely personal information, there is currently no statute, rule or administrative order that protects this information. With regard to some of the family matters cases, the public will be able to review summary complaints, registries of action, and summary judgments. This will allow the public to review “actions taken by a judge or magistrate,” while shielding from public view the “personal information of litigants or others.” 4 M.R.S. § 1906 (1).

³ Again, for many of the documents identified in section 1905(2), public access had already been restricted through statutes, court rules, or administrative orders. Each subsection describing documents already made confidential is further explained below:

- A. medical records are confidential pursuant to Title 1, section 402, subsection 3, paragraph H, the Health Insurance portability and Accountability Act of 1996, PL 104-191, and 42 United States Code, Section 290dd-2;
- B. affidavits filed with requests to waive court fees or costs are confidential pursuant to M.R. Civ.P. 91(a)(2), and financial information or documents filed in support of requests for court-appointed counsel are confidential pursuant to 4 M.R.S. § 1806;
- C. financial information or documents submitted in mediation on the Foreclosure Diversion program are confidential pursuant to Title 14, section 6321-A, subsection 4;
- D. psychological and intelligence test documents and results are confidential pursuant to the Family Educational Rights and Privacy Act, 20 United States Code, Section 1232g, and Title 34-B, section 1207;

1 G. Establishes, in section 1905, subsection 3, specific categories of confidential or non-public
2 information or data that may not be submitted as part of a public document. Categories of
3 confidential information include names and dates of birth of minors, and personally identifying
4 information, including dates of birth, home addresses, telephone numbers, social security and
5 employer identification numbers, financial account numbers or statements, driver's license
6 numbers, and other personal identification numbers.

7 H. Establishes, in section 1905, subsection 4, that it is the responsibility of the filing party to
8 ensure that confidential or non-public cases are handled so as to protect their status, and that

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- E. school records, including scholastic achievement data on individuals are confidential pursuant to the Family Educational Rights and Privacy Act, 20 United States Code, Section 1232g, and 34 Code of Federal Regulations, Part 99;
 - F. HIV/AIDS testing information is confidential pursuant to Title 5, section 19203, *et seq.*, unless an exception contained in that statute applies;
 - G. Death certificates are confidential pursuant to Title 22, section 2706;
 - H. Immigration documents are confidential pursuant to the Privacy Act of 1974, 5 United States Code, Section 552a;
 - I. Private images as described in Title 17-A, section 511-A, subsection 1 are confidential;
 - J. Documents containing confidential criminal history record information are confidential pursuant to the Maine Criminal History Records Information Act, Title 16, chapter 7;
 - K. Personal and identifying information concerning individuals with court-appointed counsel is confidential pursuant to Title 4, section 1806
 - L. Documents in proceedings involving a Protection from Abuse Order or some other protective order that would reveal the identity or location of a protected person under the order are confidential pursuant to 18 United States Code, Section 2265(d)(3)
 - M. Witness subpoenae that extend to privileged or protected documents are confidential pursuant to the Maine Rules of Unified Criminal Procedure, now in Rule 17(d);
 - N. Subpoenae *duces tecum* that extend to privileged or protected documents are confidential pursuant to the Maine Rules of Unified Criminal Procedure, now in Rule 17A;
 - O. Juror qualification questionnaires are confidential pursuant to Title 14, section 1254-A, subsections 7 through 9, juror information used during the selection of jurors is confidential section 1254-B, except as allowed by section 1254-B(3), jurors' notes are confidential pursuant to the Maine Rules of Unified Criminal Procedure, now in Rule 24(f); and new rules will be put in place for the protection and use of juror information in M.R. Civ.P. 47(f) and M.R.U. Crim. P. 24(g);
 - P. Search warrants and supporting materials that have not yet been executed are presumptively confidential pursuant to the Maine Rules of Unified Criminal Procedure, now in Rule 41(f) and Rule 41B; and,
 - Q. Pre-sentence reports, including attachments, are confidential pursuant to the Maine Rules of Unified Criminal Procedure, now in Rule 32(c).

The Act makes non-public four additional types of documents: Guardian ad litem reports used to assist courts in understanding the best interests of children when allocating rights and responsibilities between their parents, child support affidavits, child support worksheets, and arrest warrants issued on probable cause. GAL reports often contain a great deal of personal information about children, but there is currently no statute, rule or administrative order that protects this information. Title 19-A, section 1507. With regard to child support affidavits and worksheets, although the Legislature has already shielded from public view the financial statements that divorcing parties must file, there is no analog for these documents, which contain much of the same information. Finally, the change proposed for *arrest* warrants mirrors the handling of *search* warrants, and will be reinforced through a proposed change to M.R.U. Crim. P. 4(b).

1 confidential or non-public information is redacted and/or submitted confidentially to the court,
2 in a manner established in the statute;

3 I. Outlines, in section 1906, a procedure for parties to file a motion to impound or seal cases,
4 documents, or information from public access, and establishes that a court considering such a
5 request must weigh a party's reasonable expectation of privacy or safety against the public
6 interest in the information; and,

7 J. Outlines, in section 1907, a procedure to request access to cases, documents or information
8 impounded or sealed by court order, including an opportunity to seek discretionary appeal from
9 the order granting or denying access.

10 Part B corrects a provision in the Criminal History Records Information Act related to juveniles
11 who are bound over and treated as adults.

12 Part C makes changes to Title 17-A, section 511-A regarding unauthorized dissemination of
13 certain private images that incorporate the court's October 2015 Standing Order impounding
14 certain private images that are filed in court proceedings.

15
16

DRAFT 1.14.19