

**Public Records Exceptions For Review by RTKAC in 2021:
Exceptions for Review in Titles 13 to 19-A**

REF. NO.	STATUTORY CITATION	DESCRIPTION	RESPONDING DEPARTMENT/AGENCY	PROPOSED ACTION
1	13 MRSA §1957, sub-§8	Title 13, section 1957, subsection 8, relating to the members of associations of agricultural producers and purchasing information	Dept. of Agriculture, Conservation and Forestry, Maine Agricultural Bargaining Board	No change
2	14 MRSA §164-A, sub-3	Title 14, section 164-A, subsection 3, relating to identity or treatment of participants in the Maine Assistance Program for Lawyers	Judicial Branch	No change, but defers to Legislature to determine appropriateness of exception
3	14 MRSA §1254-A, sub-§1	Title 14, section 1254-A, subsection 1, relating to juror questionnaire recipients and names drawn	Judicial Branch	No change, but defers to Legislature to determine appropriateness of exception
4	14 MRSA §1254-A, sub-§7	Title 14, section 1254-A, subsection 7, relating to names of prospective jurors and contents of juror qualification forms	Judicial Branch	No change, but defers to Legislature to determine appropriateness of exception
5	14 MRSA §1254-A, sub-8	Title 14, section 1254-A, subsection 8, relating to names of jury pool during the period of service of jurors and prospective jurors	Judicial Branch	No change, but defers to Legislature to determine appropriateness of exception
6	14 MRSA §1254-B, sub-§2	Title 14, section 1254-B, subsection 2, relating to juror selection records and information	Judicial Branch	No change, but defers to Legislature to determine appropriateness of exception
7	14 MRSA §6321-A, sub-§4	Title 14, section 6321-A, subsection 4, relating to financial information disclosed in the course of mediation under the foreclosure mediation program	Judicial Branch	No change, but defers to Legislature to determine appropriateness of exception
8	15 MRSA §101-C, sub-§3	Title 15, section 101-C, subsection 3, relating to records necessary to conduct an evaluation concerning mental responsibility for criminal conduct	Judicial Branch	No change, but defers to Legislature to determine appropriateness of exception
9	15 MRSA §393, sub-§4-A, ¶G	Title 15, section 393, subsection 4-A, paragraph G, relating to information concerning application to possess firearm by	Dept. of Public Safety	No change

**Public Records Exceptions For Review by RTKAC in 2021:
Exceptions for Review in Titles 13 to 19-A**

REF. NO.	STATUTORY CITATION	DESCRIPTION	RESPONDING DEPARTMENT/AGENCY	PROPOSED ACTION
		person who was involuntarily committed		
10	15 MRSA §3009, sub-§2	Title 15, section 3009, subsection 2, relating to the reintegration of a juvenile into school	Dept. of Corrections; Maine School Management Association	No change (DOC) Noted recent changes to confidentiality provisions for juvenile records (MSMA)
11	15 MRSA §3010, sub-§2	Title 15, section 3010, subsection 2, relating to juvenile history record information	n/a	n/a
12	15 MRSA §3307, sub-§1-A	Title 15, section 3307, subsection 1-A, relating to the identity of a juvenile until the petition is open to public inspection	n/a	n/a
13	15 MRSA §3308-A, sub-§1	Title 15, section 3308-A, subsection 1, relating to juvenile case records	n/a	n/a
14	15 MRSA §3308-A, sub-§3	Title 15, section 3308-A, subsection 3, relating to orders of adjudication for certain juvenile crimes	n/a	n/a
15	15 MRSA §3308-A, sub-§4	Title 15, section 3308-A, subsection 4, relating to juvenile intelligence and investigative information, juvenile community corrections officers' records and other reports in juvenile care records	n/a	n/a
16	15 MRSA §3318-A, sub-§5	Title 15, section 3318-A, subsection 5, relating to juvenile case records pending a competency examination	n/a	n/a
17	15 MRSA §3318-C, sub-§2	Title 15, section 3318-C, subsection 2, relating to competency orders regarding a juvenile	n/a	n/a
18	16 MRSA §703, sub-§2	Title 16, section 703, subsection 2, relating to confidential criminal history record information (Criminal History Record Information Act)	Attorney General	No change (AG)
19	16 MRSA §804	Title 16, section 804, relating to reports or records that contain intelligence and investigative information (Intelligence and Investigative Record Information Act)	Attorney General	No change (AG)

**Public Records Exceptions For Review by RTKAC in 2021:
Exceptions for Review in Titles 13 to 19-A**

REF. NO.	STATUTORY CITATION	DESCRIPTION	RESPONDING DEPARTMENT/AGENCY	PROPOSED ACTION
20	17-A MRSA §2108, sub-§1	Title 17-A, section 2108, subsection 1, relating to information that pertains to current address or location of crime victims	Dept. of Corrections; Judicial Branch; Attorney General	No change (DOC) No change (JB) No change (AG)
21	17-A MRSA §2108, sub-§5	Title 17-A, section 2108, subsection 5, relating to request by crime victim for notice of release of defendant	Dept. of Corrections	No change
22	18-C MRSA §2-514	Title 18-C, section 2-514, relating to wills deposited with the Probate Court	Probate Judges	No change
23	18-C MRSA §5-205	Title 18-C, section 5-205, relating to confidential information received from the Department of Health and Human Services regarding the guardianship of a minor	Probate Judges	No change
24	18-C MRSA §5-207, sub-§3, ¶C	Title 18-C, subsection 5-207, subsection 3, paragraph C, relating to status reports to the Probate Court by guardian of a minor	Probate Judges	No change
25	18-C MRSA §5-308, sub-§3	Title 18-C, section 5-308, subsection 3, relating to reports of a visitor or professional evaluation regarding the guardianship of an adult	Probate Judges	No change
26	18-C MRSA §5-409, sub-§3	Title 18-C, section 5-409, subsection 3, relating to reports of a visitor or a professional evaluation regarding the conservatorship of an adult	Probate Judges	No change
27	18-C MRSA §5-423, sub-§4	Title 18-C, section 5-423, subsection 4, relating to the credit report included in the conservator's report	Probate Judges	No change
28	18-C MRSA §9-304, sub-§1, ¶B	Title 18-C, section 9-304, subsection 1, paragraph B, relating to background checks for adoptions ordered by the Probate Court	Probate Judges	No change
29	18-C MRSA §9-304, sub-§2, ¶A	Title 18-C, section 9-304, subsection 2, paragraph A, relating to background checks initiated by the Department of Health and Human Services	Probate Judges	No change
30	18-C MRSA §9-308, sub-§3	Title 18-C, section 9-308, subsection 3, relating to final adoption decrees	Probate Judges	No change

**Public Records Exceptions For Review by RTKAC in 2021:
Exceptions for Review in Titles 13 to 19-A**

REF. NO.	STATUTORY CITATION	DESCRIPTION	RESPONDING DEPARTMENT/AGENCY	PROPOSED ACTION
31	18-C MRSA §9-310	Title 18-C, section 9-310, relating to adoption records concerning adoptions decreed on or after August 8, 1953	Probate Judges	No change
32	19-A MRSA §651, sub-§2 <i>Repealed</i>	Title 19-A, section 651, subsection 2, relating to social security numbers on marriage applications	n/a	Repealed—no action needed
33	19-A MRSA §908	Title 19-A, section 908, relating to social security numbers on divorce records	Judicial Branch	No change; accepted common practice to protect SSN
34	19-A MRSA §1653, sub-§6	Title 19-A, section 1653, subsection 6, relating to addresses of children and victims in cases concerning parental rights and responsibilities involving domestic abuse	Judicial Branch	No change, but defers to Legislature to determine appropriateness of exception
35	19-A MRSA §1753, sub-§5	Title 19-A, section 1753, subsection 5, relating to identifying information under the Uniform Child Custody Jurisdiction and Enforcement Act if health, safety or liberty jeopardized	Judicial Branch	No change, but defers to Legislature to determine appropriateness of exception
36	19-A MRSA §1834, sub-§5	Title 19-A, section 1834, subsection 5, relating to Social Security numbers in parentage actions	Judicial Branch	No change, but defers to Legislature to determine appropriateness of exception
37	19-A MRSA §2006, sub-§10	Title 19-A, section 2006, subsection 10, relating to social security numbers in child support actions	Dept. of Health and Human Services; Judicial Branch	No change (DHHS) No change (JB)
38	19-A MRSA §2111, sub-§5	Title 19-A, section 2111, subsection 5, relating to criminal background check information for DHHS employees and applicants with access to federal tax information	Dept. of Health and Human Services	No change
39	19-A MRSA §2152, sub-§11	Title 19-A, section 2152, subsection 11, relating to information collected in child support enforcement and medical support recoupment	Dept. of Health and Human Services	No change
40	19-A MRSA §2158, sub-§6	Title 19-A, section 2158, subsection 6, relating to records of child support obligors	Dept. of Health and Human Services	No change

**Public Records Exceptions For Review by RTKAC in 2021:
Exceptions for Review in Titles 13 to 19-A**

REF. NO.	STATUTORY CITATION	DESCRIPTION	RESPONDING DEPARTMENT/AGENCY	PROPOSED ACTION
		provided to wireless service provider		
41	19-A MRSA §3012	Title 19-A, section 3012, relating to specific identifying information in child support enforcement	Dept. of Health and Human Services	No change
42	19-A MRSA §4008	Title 19-A, section 4008, relating to identifying information concerning protection from abuse actions if health, safety or liberty would be jeopardized	Judicial Branch	No change, but defers to Legislature to determine appropriateness of exception
43	19-A MRSA §4013, sub-§4, ¶E	Title 19-A, section 4013, subsection 4, paragraph E, relating to the Domestic Abuse Homicide Review Panel	Attorney General	No change

**Public Records Exceptions For Review by RTKAC in 2021:
Exceptions for Review in Titles 13 to 19-A**

REF. No. 1 13 MRSA §1957. **Qualification of associations of producers**

1. Qualification. Only those associations of producers that have been qualified in accordance with this section shall be entitled to the benefits provided by this Article.

2. Petition. An association of producers desiring qualification shall file with the board a petition for qualification. The petition shall contain such information and be accompanied by such documents as shall be required by the regulations of the board.

3. Hearing. The board shall provide notice and opportunity for a hearing, provided in a manner consistent with the provisions as to adjudicatory proceedings of the Maine Administrative Procedure Act. The board shall qualify such association, if based upon the evidence at such hearing, the board finds:

A. That under the charter documents or the bylaws of the association, the association is directly or indirectly producer-owned and controlled;

B. The association has membership agreements signed by each of its members which authorize the association to represent the member for the purposes of this article;

C. The association is financially sound and has sufficient resources and management to carry out the purposes for which it was organized;

D. The association represents 10 or more producers of a particular agricultural product for a specific handler involved with those producers and that agricultural product during the previous 12 months; for the purposes of this article, members of agricultural cooperatives are counted as individual members; if the board has reasonable cause to question such representation, the board shall require a secret ballot election to certify the representation; and

E. The association has as one of its functions acting as principal or agent for its producer-members in negotiations with handlers for prices and other terms of contracts with respect to the production, sale and marketing of their product.

4. Refiling of petition. If after the hearing, the board does not deem an association qualified, it shall, in a manner consistent with the Maine Administrative Procedure Act, Title 5, chapter 375, clearly specify the reasons for such failure to qualify in its decision and, upon the refile of the petition, shall reconsider its decision within 30 days after the date on which the petition was filed. An association seeking reconsideration shall refile its petition within 30 days of receipt of the board's initial decision.

5. Notice. After the board qualifies such association, it shall give notice of such qualification to all known handlers that, in the ordinary course of business, purchase the agricultural commodities that such association represents.

6. Annual report. A qualified association shall file an annual report with the board in such form as shall be required by the regulations of the board. The annual report shall contain such information as will enable the board to determine whether the association continues to meet the

**Public Records Exceptions For Review by RTKAC in 2021:
Exceptions for Review in Titles 13 to 19-A**

standards for qualification, except that an association which the board has determined to be qualified shall not be required to have its qualification redetermined until it has negotiated and entered into a contract with a handler, with or without resort to arbitration.

7. Revocation. If a qualified association ceases to maintain the standards for qualifications set forth in subsection 3, the board shall, in a manner consistent with the Maine Administrative Procedure Act, apply to the District Court to revoke the qualification of such association, except that the board shall not seek revocation of an association's qualification during the period set out in subsection 6 in which the association cannot be required to have its qualification redetermined.

8. Confidentiality. Information provided to the board by an association regarding the identification of its members and information provided to the board by a handler regarding its volume of purchases of agricultural products and the identification of producers from whom it purchased those products shall be treated by the board as confidential information not to be disclosed to the adverse party or any other person without the consent of the association or the handler, respectively, until the board has rendered its final decision as to the qualification of the association. After a final decision has been rendered, the information is no longer confidential information, but its disclosure shall be governed by Title 1, section 402, subsection 3, paragraph B.

REF. No. 2 14 MRSA §164-A. Maine Assistance Program for Lawyers; immunity

1. Definition. As used in this section, unless the context otherwise indicates, the following term has the following meaning.

A. "Program" means the Maine Assistance Program for Lawyers established by court order pursuant to Title 4, section 421 to provide help to lawyers and judges who suffer from the effects of chemical dependency or mental conditions that result from disease, disorder, trauma or other infirmity and that impair a lawyer's or judge's ability to practice law or serve in a judicial capacity.

2. Receive or report information; take or not take action. A person or an organization receiving information, reporting information, taking action or taking no action on behalf of or in connection with the activities of the program is immune from all civil liability. The immunity provided by this subsection must be liberally construed to accomplish the purposes of the program. The immunity provided by this subsection is in addition to any other immunity provided by law.

3. Information confidential. All proceedings, communications and records, including the identity and treatment of a person seeking or being furnished assistance, connected in any way with the program are confidential and are not subject to compulsory legal process or otherwise discoverable or admissible in evidence in any civil action unless the confidentiality is waived by the affected person. Statistical data not identifying a person involved in the program may be made available for statistical evaluation as a professional aid in furtherance of the goals of the program.

**Public Records Exceptions For Review by RTKAC in 2021:
Exceptions for Review in Titles 13 to 19-A**

REF. NO. 3-5 14 MRSA §1254-A. Qualification questionnaire; juror selection

1. Procedure. The clerk shall, at times considered reasonable and necessary to promote the efficient operation of the court and the juror selection system, mail a juror qualification form to every prospective juror whose name has been drawn in accordance with section 1253-A. The form must be accompanied by instructions directing the prospective juror to fill out and return the form by mail to the clerk within the time specified. The clerk shall prepare or cause to be prepared a list of the names to whom questionnaires are mailed. The list of questionnaire recipients and the names drawn are confidential and may not be disclosed to any person, except as provided in this chapter.

2. Content. The juror qualification form must conform, in form and content, to the qualification form prescribed by the Supreme Judicial Court and must solicit information sufficient to determine the prospective juror's qualification for jury service. The qualification questionnaire may also solicit other information including, but not limited to, education and employment.

3. Ambiguous or erroneous responses. If it appears there is an omission, ambiguity or error in a returned form, the clerk may, at the clerk's discretion, contact the prospective juror by telephone to obtain the additional information, clarification or correction.

4. Failure to complete form; penalty. A prospective juror who fails to return a completed juror qualification form as instructed may be ordered by the court to appear and show cause why the prospective juror should not be held in contempt for the failure to complete and submit the questionnaire. Notwithstanding Title 17-A, section 4-A, a prospective juror who fails to show good cause for the failure to complete and submit the questionnaire or who without good cause fails to appear pursuant to a court order may be punished by a fine of not more than \$100 and by imprisonment for not more than 3 days, or by both.

5. Intentional misrepresentation. Notwithstanding Title 17-A, section 4-A, a person who intentionally misrepresents a material fact on a juror qualification form for the purpose of avoiding or securing service as a juror may upon conviction for a violation of this section be punished by a fine of not more than \$100 and by imprisonment for not more than 3 days, or by both.

6. Determination of qualification. The clerk shall determine on the basis of information provided on the juror qualification form, supplemented by other competent evidence when considered necessary to such determination, whether the prospective juror is qualified for jury service. This determination must be reflected on the juror qualification form or any other record designated by the court.

7. Availability of qualification forms. The names of prospective jurors and the contents of juror qualification forms are confidential and may not be disclosed except as provided in this chapter. The names of prospective jurors and the contents of juror qualification forms may at the discretion of the court be made available to the attorneys and their agents and investigators and the pro se parties at the courthouse for use in the conduct of voir dire examination.

**Public Records Exceptions For Review by RTKAC in 2021:
Exceptions for Review in Titles 13 to 19-A**

8. During period of service. During the period of service of jurors and prospective jurors, the names of the members of the jury pool are confidential and may not be disclosed except to the attorneys and their agents and investigators and the pro se parties.

9. Protection of confidentiality. A person who has access to or receives information or a record designated confidential under this chapter shall maintain the confidentiality of the information or record and use it only for the purposes for which it was released and may not further disclose it except as authorized by the court at the time of the disclosure to that person.

REF. NO. 6 14 MRSA §1254-B. Preservation of records

1. Records preserved. The clerk shall cause to be preserved all records and lists compiled and maintained in connection with selection and service of jurors for the length of time ordered by the court.

2. Records' confidentiality. The records and information used in connection with the selection process are confidential and may not be disclosed except as provided in this chapter.

3. Exceptions to confidentiality. Once the period of juror service has expired, a person seeking the names of the jurors may file with the court a written request for disclosure of the names of the jurors. The request must be accompanied by an affidavit stating the basis for the request. The court may disclose the names of the jurors only if the court determines that the disclosure is in the interests of justice. The factors the court may consider in determining if the disclosure is in the interests of justice include, but are not limited to, encouraging candid responses from prospective jurors, the safety and privacy interests of prospective jurors and the interests of the media and the public in ensuring that trials are conducted ethically and without bias.

REF. NO. 7 14 MRSA §6321-A. Foreclosure mediation program

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

- A. "Court" means the Supreme Judicial Court.
- B. "Program" means the foreclosure mediation program established pursuant to subsection 3.

2. Notice; summons and complaint; foreclosure proceedings. When a plaintiff commences an action for the foreclosure of a mortgage on an owner-occupied residential real property of no more than 4 units that is the primary residence of the owner-occupant, the plaintiff shall attach to the front of the foreclosure complaint a one-page form notice to the defendant as developed by the Department of Professional and Financial Regulation, Bureau of Consumer Credit Protection in accordance with this subsection and section 6112, subsection 3. The form notice must be written in language that is plain and readily understandable by the general public.

**Public Records Exceptions For Review by RTKAC in 2021:
Exceptions for Review in Titles 13 to 19-A**

At a minimum, the form notice must contain the following:

- A. A statement that failure to answer the complaint will result in foreclosure of the property subject to the mortgage;
- B. A sample answer and an explanation that the defendant may fill out the form and return it to the court in the envelope provided as the answer to the complaint. If the debtor returns the form to the court, the defendant does not need to file a more formal answer or responsive pleading and will be scheduled for mediation in accordance with this section; and
- C. A description of the program.

3. Foreclosure mediation program established. Under the authority granted in Title 4, section 18-B, the court shall adopt rules to establish a foreclosure mediation program to provide mediation in actions for foreclosure of mortgages on owner-occupied residential property with no more than 4 units that is the primary residence of the owner-occupant. The program must address all issues of foreclosure, including but not limited to reinstatement of the mortgage, modification of the loan and restructuring of the mortgage debt. Mediations conducted pursuant to the program must use the calculations, assumptions and forms that are established by the Federal Deposit Insurance Corporation and published in the Federal Deposit Insurance Corporation Loan Modification Program Guide as set out on the Federal Deposit Insurance Corporation's publicly accessible website.

4. Financial information confidential. Except for financial information included as part of a foreclosure complaint or any answer filed with the court, any financial statement or information provided to the court or to the parties during the course of mediation in accordance with this section is confidential and is not available for public inspection. Any financial statement or information must be made available as necessary, to the court, the attorneys whose appearances are entered in the case and the parties to the mediation. Any financial statement or information designated as confidential under this subsection must be kept separate from other papers in the case and may not be used for purposes other than mediation.

5. No waiver of rights. The plaintiff's or defendant's rights in the foreclosure action are not waived by participating in the program.

6. Commencement of mediation. When a defendant returns the notice required under subsection 2 or otherwise requests mediation or makes an appearance in a foreclosure action, the court shall refer the plaintiff and defendant to mediation pursuant to this section.

7. Provisions of mediation services; filing and fees. The court shall:

- A. Assign mediators, including active retired justices and judges pursuant to Title 4, sections 104 and 157-B, who:
 - (1) Are trained in mediation and relevant aspects of the law related to real estate, mortgage procedures, foreclosure or foreclosure prevention;

**Public Records Exceptions For Review by RTKAC in 2021:
Exceptions for Review in Titles 13 to 19-A**

- (2) Have knowledge of community-based resources that are available in the judicial districts in which they serve;
- (3) Have knowledge of mortgage assistance programs;
- (4) Are trained in using the relevant Federal Deposit Insurance Corporation forms and worksheets;
- (5) Are knowledgeable in principal loss mitigation and mortgage loan servicing guidelines and regulations; and
- (6) Are capable of facilitating and likely to facilitate identification of and compliance with principal loss mitigation and mortgage loan servicing guidelines and regulations.

The court may establish an orientation program for mediators and require that mediators receive such orientation prior to being appointed;

B. Report annually to the joint standing committee of the Legislature having jurisdiction over insurance and financial services matters and the joint standing committee of the Legislature having jurisdiction over judiciary matters on:

- (1) The performance of the program, including numbers of homeowners who are notified of mediation, who attend mediation and who receive legal counseling or legal assistance; and
- (2) The results of the mediation process, including the number of loans restructured, number of principal write-downs, interest rate reductions and number of homeowners who default on mortgages within a year after restructuring, to the extent the court has available information;

C. Notwithstanding subsection 10, establish a fee upon a foreclosure filing made on or after June 15, 2009 to support mediation services to be paid for by the plaintiff; and

D. Make recommendations for any changes to the program to the Legislature.

8. Referral to mortgage assistance programs. At any time during the mediation process, the mediator may refer the defendant to housing counseling or mortgage assistance programs.

9. No entry of judgment. For any foreclosure complaint filed after January 1, 2010 that is scheduled for mediation in accordance with this section, a final judgment may not issue until a mediator's report has been completed pursuant to subsection 13.

10. Application of mediation provisions to ongoing foreclosure proceedings. The requirements of this section apply to foreclosures filed after January 1, 2010. The court may in its discretion require mediation for an owner-occupied residential property that is the primary residence of the owner-occupant and that is in the foreclosure process but not scheduled for sale before January 1, 2010 and an owner-occupied residential property with no more than 4 units that is the primary residence of the owner-occupant and that is scheduled for sale before that date.

**Public Records Exceptions For Review by RTKAC in 2021:
Exceptions for Review in Titles 13 to 19-A**

11. Parties to mediation. A mediator shall include in the mediation process under this section any person the mediator determines is necessary for effective mediation. Mediation and appearance in person are mandatory for:

- A. The mortgagee, who has the authority to agree to a proposed settlement, loan modification or dismissal of the action, except that the mortgagee may participate by telephone or electronic means as long as that mortgagee is represented with authority to agree to a proposed settlement;
- B. The defendant;
- C. Counsel for the plaintiff; and
- D. Counsel for the defendant, if represented.

A mortgage servicer as defined in section 6113, subsection 1, paragraph B participating in the mediation process submits to the jurisdiction of the court with respect to the power of the court to sanction parties who fail to participate in the mediation process in good faith as required by section 6113, subsection 2.

12. Good faith effort. Each party and each party's attorney, if any, must be present at mediation as required by this section and shall make a good faith effort to mediate all issues. If any party or attorney fails to attend or to make a good faith effort to mediate, the court may impose appropriate sanctions. A mortgage servicer as defined in section 6113, subsection 1, paragraph B participating in the mediation process shall participate in good faith as required by section 6113, subsection 2. In determining the nature and extent of appropriate sanctions, the court shall consider the need for deterrence of similar future conduct by the entity being sanctioned and by others and may take into account prior orders imposing sanctions upon the sanctioned party, whether in the same case or in other previous cases. The imposition of any sanction does not bar any independent action by a defendant to seek recovery with respect to the actions giving rise to the order of sanctions.

13. Report. A mediator must complete a report for each mediation conducted under this section. The mediator's report must indicate in a manner as determined by the court that the parties completed in full the Net Present Value Worksheet in the Federal Deposit Insurance Corporation Loan Modification Program Guide or other reasonable determination of net present value. If the mediation did not result in the settlement or dismissal of the action, the report must include the outcomes of the Net Present Value Worksheet or other determination of net present value. As part of the report, the mediator may notify the court if, in the mediator's opinion, either party failed to negotiate in good faith. The mediator's report must also include a statement of all agreements reached at mediation, with sufficient specificity to put all parties on notice of their obligations under agreements reached at mediation, including but not limited to a description of all documents that must be completed and provided pursuant to the agreements reached at mediation and the time frame during which all actions are required to be taken by the parties, including decisions and determinations of eligibility for all loss mitigation options. The mediator's report must

**Public Records Exceptions For Review by RTKAC in 2021:
Exceptions for Review in Titles 13 to 19-A**

identify the name of any mortgage servicer as defined in section 6113, subsection 1, paragraph B that participates in the mediation process, and any order of sanctions must likewise identify the name of the mortgage servicer.

14. Records. The court shall maintain records or other information relating to the program as necessary to meet the reporting requirements in subsection 7, paragraph B.

REF. NO. 8 15 MRSA §101-C. **Access to records by persons or entities performing examinations or evaluations**

1. Written demand for records. When a person or entity has been ordered to perform an examination or evaluation pursuant to section 101-D, a diagnostic evaluation pursuant to section 3309-A, a competency examination pursuant to 3318-A, an evaluation and treatment pursuant to section 3318-B, or an examination of a juvenile with reference to insanity or abnormal condition of mind, and the person to be examined has sought the examination, joined in a request or order for the examination or has entered a plea or answer of not criminally responsible by reason of insanity, that person or entity may make written demand upon any individual, partnership, association, corporation, institution or governmental entity to produce the records or copies of the records, in whatever medium preserved, of the subject of the examination or evaluation.

2. Production of records. Any such entity from whom records are demanded pursuant to subsection 1 shall produce the records or copies of the records forthwith. The production shall be made notwithstanding any other law. No entity, or employee or agent of the entity, may be criminally or civilly responsible for furnishing any records in compliance with this section.

3. Confidentiality of records. Records provided under this section shall be confidential and shall not be disseminated by any person other than upon order of the court pursuant to a petition for release under section 104-A or pursuant to an involuntary commitment proceeding under Title 34-B, section 3864.

4. Definition. "Records" means information about a person, in whatever medium preserved. It includes, but is not limited to, medical histories, social histories, military histories, government histories, educational histories, drug and alcohol treatment histories, criminal record histories, penal institution histories and documentation pertaining to diagnosis or treatment.

5. Failure to produce records. Any person who is required to produce records by this section and intentionally or knowingly fails to do so within 20 days of the service of the written request upon him, may be subject to civil contempt for his failure to comply with the request.

REF. NO. 9 15 MRSA §393. **Possession of firearms prohibited for certain persons**

1. Possession prohibited. A person may not own, possess or have under that person's control a firearm, unless that person has obtained a permit under this section, if that person:

**Public Records Exceptions For Review by RTKAC in 2021:
Exceptions for Review in Titles 13 to 19-A**

A.

A-1. Has been convicted of committing or found not criminally responsible by reason of insanity of committing:

- (1) A crime in this State that is punishable by imprisonment for a term of one year or more;
- (2) A crime under the laws of the United States that is punishable by imprisonment for a term exceeding one year;
- (3) A crime under the laws of any other state that, in accordance with the laws of that jurisdiction, is punishable by a term of imprisonment exceeding one year. This subparagraph does not include a crime under the laws of another state that is classified by the laws of that state as a misdemeanor and is punishable by a term of imprisonment of 2 years or less;
- (4) A crime under the laws of any other state that, in accordance with the laws of that jurisdiction, does not come within subparagraph (3) but is elementally substantially similar to a crime in this State that is punishable by a term of imprisonment for one year or more; or
- (5) A crime under the laws of the United States, this State or any other state or the Passamaquoddy Tribe or Penobscot Nation in a proceeding in which the prosecuting authority was required to plead and prove that the person committed the crime with the use of:
 - (a) A firearm against a person; or
 - (b) Any other dangerous weapon.

Violation of this paragraph is a Class C crime;

B.

C. Has been adjudicated in this State or under the laws of the United States or any other state to have engaged in conduct as a juvenile that, if committed by an adult, would have been a disqualifying conviction:

- (1) Under paragraph A-1, subparagraphs (1) to (4) and bodily injury to another person was threatened or resulted; or
- (3) Under paragraph A-1, subparagraph (5).

Violation of this paragraph is a Class C crime;

D. Is subject to an order of a court of the United States or a state, territory, commonwealth or tribe that restrains that person from harassing, stalking or threatening an intimate partner, as defined in 18 United States Code, Section 921(a), of that person or a child of the intimate partner of that person, or from engaging in other conduct that would place the intimate partner

**Public Records Exceptions For Review by RTKAC in 2021:
Exceptions for Review in Titles 13 to 19-A**

in reasonable fear of bodily injury to the intimate partner or the child, except that this paragraph applies only to a court order that was issued after a hearing for which that person received actual notice and at which that person had the opportunity to participate and that:

- (1) Includes a finding that the person represents a credible threat to the physical safety of an intimate partner or a child; or
- (2) By its terms, explicitly prohibits the use, attempted use or threatened use of physical force against an intimate partner or a child that would reasonably be expected to cause bodily injury.

Violation of this paragraph is a Class D crime;

E. 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 C;
- (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.

Violation of this paragraph is a Class D crime;

E-1. Is currently a restricted person under Title 34-B, section 3862-A, subsection 2 or subsection 6, paragraph D except that the prohibition applies to possession and control, and not ownership. Violation of this paragraph is a Class D crime;

E-2. Has been ordered to participate in a progressive treatment program pursuant to Title 34-B, section 3873-A and, as part of that order, directed not to possess a dangerous weapon pursuant to Title 34-B, section 3873-A, subsection 7-A for the duration of the treatment program, except that the prohibition applies to possession and control, and not ownership. Violation of this paragraph is a Class D crime;

F. Is a fugitive from justice. For the purposes of this paragraph, "fugitive from justice" has the same meaning as in section 201, subsection 4. Violation of this paragraph is a Class D crime;

G. Is an unlawful user of or is addicted to any controlled substance and as a result is prohibited from possession of a firearm under 18 United States Code, Section 922(g)(3). Violation of this paragraph is a Class D crime;

H. Is an alien who is illegally or unlawfully in the United States or who was admitted under a nonimmigrant visa and who is prohibited from possession of a firearm under 18 United States Code, Section 922(g)(5). Violation of this paragraph is a Class D crime;

**Public Records Exceptions For Review by RTKAC in 2021:
Exceptions for Review in Titles 13 to 19-A**

I. Has been discharged from the United States Armed Forces under dishonorable conditions. Violation of this paragraph is a Class D crime; or

J. Has, having been a citizen of the United States, renounced that person's citizenship. Violation of this paragraph is a Class D crime.

For the purposes of this subsection, a person is deemed to have been convicted upon the acceptance of a plea of guilty or nolo contendere or a verdict or finding of guilty, or of the equivalent in a juvenile case, by a court of competent jurisdiction.

In the case of a deferred disposition, a person is deemed to have been convicted when the court imposes the sentence. In the case of a deferred disposition for a person alleged to have committed one or more of the offenses listed in section 1023, subsection 4, paragraph B-1, that person may not possess a firearm during the deferred disposition period. Violation of this paragraph is a Class C crime.

For the purposes of this subsection, a person is deemed to have been found not criminally responsible by reason of insanity upon the acceptance of a plea of not criminally responsible by reason of insanity or a verdict or finding of not criminally responsible by reason of insanity, or of the equivalent in a juvenile case, by a court of competent jurisdiction.

1-A. Limited prohibition for nonviolent juvenile offenses. A person who has been adjudicated in this State or under the laws of the United States or any other state to have engaged in conduct as a juvenile that, if committed by an adult, would have been a disqualifying conviction under subsection 1, paragraph A-1 or subsection 1-B, paragraph A but is not an adjudication under subsection 1, paragraph C or an adjudication under subsection 1-B, paragraph B in which bodily injury to another person was threatened or resulted may not own or have in that person's possession or control a firearm for a period of 3 years following completion of any disposition imposed or until that person reaches 18 years of age, whichever is later. Violation of this subsection by a person at least 18 years of age is a Class C crime.

1-B. Prohibition for domestic violence offenses. A person may not own, possess or have under that person's control a firearm if that person:

A. Has been convicted of committing or found not criminally responsible by reason of insanity of committing:

(1) A Class D crime in this State in violation of Title 17-A, section 207-A, 209-A, 210-B, 210-C or 211-A; or

(2) A crime under the laws of the United States or any other state that in accordance with the laws of that jurisdiction is elementally substantially similar to a crime in subparagraph (1).

Violation of this paragraph is a Class C crime; or

**Public Records Exceptions For Review by RTKAC in 2021:
Exceptions for Review in Titles 13 to 19-A**

B. Has been adjudicated in this State or under the laws of the United States or any other state to have engaged in conduct as a juvenile that, if committed by an adult, would have been a disqualifying conviction under this subsection. Violation of this paragraph is a Class C crime.

Except as provided in subsection 1-A, the prohibition created by this subsection for a conviction or adjudication of an offense listed in paragraph A or B expires 5 years from the date the person is finally discharged from the sentence imposed as a result of the conviction or adjudication if that person has no subsequent criminal convictions during that 5-year period. If a person is convicted of a subsequent crime within the 5-year period, the 5-year period starts anew from the date of the subsequent conviction. In the case of a deferred disposition, the 5-year period begins at the start of the deferred disposition period. If, at the conclusion of the deferred disposition period, the court grants the State's motion to allow a person to withdraw the plea and the State dismisses the charge that gave rise to the prohibition with prejudice, the 5-year period terminates.

For the purposes of this subsection, a person is deemed to have been convicted or adjudicated upon the acceptance of a plea of guilty or nolo contendere or a verdict or finding of guilty, or of the equivalent in a juvenile case, by a court of competent jurisdiction.

For the purposes of this subsection, a person is deemed to have been found not criminally responsible by reason of insanity upon the acceptance of a plea of not criminally responsible by reason of insanity or a verdict or finding of not criminally responsible by reason of insanity, or of the equivalent in a juvenile case, by a court of competent jurisdiction.

The provisions of this subsection apply only to a person convicted, adjudicated or placed on deferred disposition on or after October 15, 2015.

2. Application after 5 years. A person subject to the provisions of subsection 1, paragraph A-1, subparagraphs (1) to (4) or paragraph C as a result of a conviction or adjudication may, after the expiration of 5 years from the date that the person is finally discharged from the sentences imposed as a result of the conviction or adjudication, apply to the Office of the Governor for a permit to carry a firearm subject to subsection 4. That person may not be issued a permit to carry a concealed handgun pursuant to Title 25, chapter 252. A permit issued pursuant to this subsection is valid for 4 years from the date of issue unless sooner revoked for cause by the Governor. For purposes of this subsection, "firearm" does not include a firearm defined under 18 United States Code, Section 921(a)(3).

3. Contents. An application under subsection 2 must be on a form prepared by the Office of the Governor. The application must include the following: the applicant's full name; all aliases; date and place of birth; place of legal residence; occupation; make, model and serial number of the firearm sought to be possessed; date, place and nature of conviction; sentence imposed; place of incarceration; name and address of probation or parole officer; date of discharge or release from prison or jail or termination of probation, supervised release for sex offenders, parole or administrative release; the reason for the request; and any other information determined by the Governor to be of assistance. The application must be accompanied by certified or attested copies

**Public Records Exceptions For Review by RTKAC in 2021:
Exceptions for Review in Titles 13 to 19-A**

of the indictment, information or complaint, judgment and commitment and discharge that are the subject of the conviction.

4. Notification, objection and decision. Upon receipt of an application, the Office of the Governor shall determine if the application is in proper form. If the application is proper, the Governor shall within 30 days notify in writing the sentencing or presiding judge, the Attorney General, the district attorney for the county where the applicant resides, the district attorney for the county where the conviction occurred, the law enforcement agency that investigated the crime, the chief of police and sheriff in the municipality and county where the crime occurred and the chief of police and sheriff in the municipality where the applicant resides as of the filing of the application. The Governor may direct any appropriate investigation to be carried out.

A. If, within 30 days of the sending of notice, a person notified objects in writing to the Governor regarding the initial issuance of a permit and provides the reason for the objection, the Governor may not issue a permit. The reason for the objection must be communicated in writing to the Governor in order for it to be the sole basis for denial.

B. If, within 30 days of the sending of notice, a person notified objects in writing, including the reason for the objection, to the Governor regarding a 2nd or subsequent issuance of a permit, the Governor shall take the objection and its reason into consideration when determining whether to issue a 2nd or subsequent permit to the applicant, but need not deny the issuance of a permit based on an objection alone.

The Governor may deny any application for a permit even if no objection is filed.

4-A. Application for relief. Except as otherwise provided, a person subject to the federal prohibition against possession of firearms pursuant to 18 United States Code, Section 922(g)(4) as a result of being adjudicated a mental defective may, after the expiration of 5 years from the date of final discharge from commitment, apply to the commissioner for relief from the disability.

Relief is not available under this subsection for a person found not criminally responsible by reason of insanity or incompetent to stand trial in a criminal case or a person adjudged by a Probate Court to lack the capacity to contract or manage the person's own affairs.

A. An application under this subsection must be on a form developed by the commissioner. The application must include the applicant's full name; all aliases; date and place of birth; place of legal residence; occupation; make and model of the firearm sought to be possessed; reason for the request; date, place and docket number of commitment; name of institution to which applicant was committed; names of providers that provided mental health treatment for the applicant; date of discharge from commitment; release for all mental health records; and any other information determined by the commissioner to be of assistance. The application must be accompanied by certified or attested copies of the commitment from which the applicant seeks relief and the report of an independent psychologist or psychiatrist licensed to practice in this State specifically addressing the factors set forth in paragraph E. The commissioner may establish a roster of psychologists and psychiatrists qualified and interested in doing these

**Public Records Exceptions For Review by RTKAC in 2021:
Exceptions for Review in Titles 13 to 19-A**

evaluations. The psychologist or psychiatrist must be available for cross-examination. The psychologist or psychiatrist listed on the roster is an employee for the purposes of the Maine Tort Claims Act for evaluations under this paragraph.

B. The commissioner has the independent authority to establish the following, to be paid by the applicant:

- (1) Application fee; and
- (2) Fees for evaluations required by paragraph A.

C. Upon receipt of a completed application, the commissioner shall notify persons who received notice of the commitment pursuant to Title 34-B, section 3864, subsection 3, paragraph A, subparagraph (2) and the district attorney, chief of police and sheriff in the municipality and county where the applicant resides of the filing of the application, with a request to provide to the commissioner any information relevant to the factors in paragraph E.

D. Upon receipt of a completed application, the commissioner shall review the application and determine whether the person has made a prima facie showing of the elements of paragraph E. If the commissioner determines that the person has made a prima facie showing, the commissioner shall schedule a hearing.

E. The burden of proof is on the applicant to prove, by clear and convincing evidence, that the circumstances that led to the involuntary commitment to a hospital have changed, that the applicant is not likely to act in a manner dangerous to public safety and that granting the application for relief will not be contrary to the public interest.

F. If the commissioner finds by clear and convincing evidence that the circumstances that led to the involuntary commitment have changed, that the applicant is not likely to act in a manner dangerous to public safety and that granting the application for relief will not be contrary to the public interest, the commissioner may grant relief.

G. Notwithstanding any other provision of law, and except as indicated in this paragraph, all applications for relief pursuant to this subsection and documents made a part of the application, refusals and any information of record collected by the commissioner during the process of determining whether an applicant qualifies for relief are confidential and may not be made available for public inspection or copying unless:

- (1) The applicant waives this confidentiality in writing or on the record of any hearing; or
- (2) A court of record so orders. Proceedings relating to the grant or denial of relief are not public proceedings under Title 1, chapter 13.

The commissioner shall make a permanent record, in the form of a summary, of the final decision regarding each application. The summary must include the name of the applicant and indicate whether the application for relief was granted or denied. The information contained in this summary is available for public inspection.

**Public Records Exceptions For Review by RTKAC in 2021:
Exceptions for Review in Titles 13 to 19-A**

H. An applicant may appeal the denial of an application for relief under this subsection within 30 days of receipt of the written notice of decision by filing a complaint in the District Court for de novo review in the district where the Department of Public Safety has its principal office. Hearings are closed unless otherwise agreed to by the applicant. A party aggrieved by a decision of the District Court may not appeal as of right. The time for taking the appeal and the manner and any conditions for the taking of the appeal are as the Supreme Judicial Court provides by rule.

5. Appeal. Any person to whom a permit under subsection 2 has been denied may file a petition for review pursuant to Title 5, chapter 375, subchapter 7.

6. Filing fee. The commissioner may establish a reasonable filing fee not to exceed \$25 to defray costs of processing applications.

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

A. "Firearm" has the same meaning as in Title 17-A, section 2, subsection 12-A.

B. "Not criminally responsible by reason of insanity" has the same meaning as used in section 103 and any comparable finding under the laws of the United States or any other state.

C. "State" means the State of Maine and "state" means any other state of the United States and includes the District of Columbia, the Commonwealth of Puerto Rico and the possessions of the United States.

D. "Use of a dangerous weapon" has the same meaning as in Title 17-A, section 2, subsection 9, paragraph A.

E. "Commissioner" means the Commissioner of Public Safety or the commissioner's designee.

8. Penalty.

9. Prima facie evidence. Notwithstanding any other law or rule of evidence, a copy of a court abstract provided by a court to the Department of Public Safety, State Bureau of Identification pursuant to Title 34-B, section 3864, subsection 12, if certified by the custodian of the records of that bureau, or the custodian's designee, is admissible in a criminal prosecution brought pursuant to this section as prima facie evidence that the person identified in the abstract has been involuntarily committed by the court issuing the abstract and has been provided the notice required in Title 34-B, section 3864, subsection 5, paragraph A-1 and Title 34-B, section 3864, subsection 13.

10. Subpoena power. The commissioner is authorized to issue a subpoena in the name of the commissioner in accordance with Title 5, section 9060, except that this authority applies to any stage of an investigation under this section and is not limited to an adjudicatory hearing. If a witness refuses to obey a subpoena or to give any evidence relevant to proper inquiry by the commissioner, the Attorney General may petition the Superior Court in the county where the refusal occurred to find the witness in contempt. The Attorney General shall cause to be served on that witness an

**Public Records Exceptions For Review by RTKAC in 2021:
Exceptions for Review in Titles 13 to 19-A**

order requiring the witness to appear before the Superior Court to show cause why the witness should not be adjudged in contempt. The court shall, in a summary manner, hear the evidence and, if it is such as to warrant the court in doing so, punish that witness in the same manner and to the same extent as for contempt committed before the Superior Court or with reference to the process of the Superior Court.

11. Rules. The commissioner may adopt rules to implement the provisions of subsections 2 to 4-A. Rules adopted pursuant to this subsection are routine technical rules as defined by Title 5, chapter 375, subchapter 2-A.

REF. NO. 10 15 MRSA §3009. Information related to reintegration of juvenile into school

1. Notification to superintendent. When a juvenile in the custody of the Department of Corrections seeks admission to a public school or a private school approved for tuition purposes, the Department of Corrections shall provide notice to the superintendent of the school to which the student is seeking admission or to the superintendent's designee of the availability of information pertaining to the juvenile for use by a reintegration team under Title 20-A, section 1055, subsection 12.

2. Release of information. Upon the request of the superintendent or the superintendent's designee under subsection 1, the Department of Corrections shall release information as authorized under section 3308, subsection 7, paragraph B-1, subparagraph (3) and Title 34-A, section 1216, subsection 1, paragraph F to be used by the reintegration team. Information received pursuant to this subsection is confidential and may not be further disseminated, except as otherwise provided by law.

REF. NO. 18 16 MRSA §703. Definitions

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

1. Administration of criminal justice. "Administration of criminal justice" means activities relating to the apprehension or summoning, detention, pretrial release, post-trial release, prosecution, adjudication, sentencing, correctional custody and supervision or rehabilitation of accused persons or convicted criminal offenders. "Administration of criminal justice" includes the collection, storage and dissemination of criminal history record information.

2. Confidential criminal history record information. "Confidential criminal history record information" means criminal history record information of the following types:

A. Unless the person remains a fugitive from justice, summons and arrest information without disposition if an interval of more than one year has elapsed since the date the person was

**Public Records Exceptions For Review by RTKAC in 2021:
Exceptions for Review in Titles 13 to 19-A**

summonsed or arrested and no active prosecution of a criminal charge stemming from the summons or arrest is pending;

B. Information disclosing that the responsible law enforcement agency or officer has elected not to refer a matter to a prosecutor;

C. Information disclosing that the responsible prosecutorial office or prosecutor has elected not to initiate or approve criminal proceedings;

D. Information disclosing that a grand jury has determined that there is insufficient evidence to warrant the return of a formal charge;

E. Information disclosing that a criminal proceeding has been postponed for a period of more than one year or dismissed because the person charged is found by the court to be mentally incompetent to stand trial or to be sentenced;

F. Information disclosing that a criminal charge has been filed, if more than one year has elapsed since the date of the filing;

G. Information disclosing that a criminal charge has been dismissed by a court with prejudice or dismissed with finality by a prosecutor other than as part of a plea agreement;

H. Information disclosing that a person has been acquitted of a criminal charge. A verdict or accepted plea of not criminally responsible by reason of insanity, or its equivalent, is not an acquittal of the criminal charge;

I. Information disclosing that a criminal proceeding has terminated in a mistrial with prejudice;

J. Information disclosing that a criminal proceeding has terminated based on lack of subject matter jurisdiction;

K. Information disclosing that a criminal proceeding has been terminated because the court lacked jurisdiction over the defendant; and

L. Information disclosing that a person has petitioned for and been granted a full and free pardon.

3. Criminal history record information. "Criminal history record information" means information of record collected by a criminal justice agency or at the direction of a criminal justice agency or kept in the custody of a criminal justice agency that connects a specific, identifiable person, including a juvenile treated by statute as an adult for criminal prosecution purposes, with formal involvement in the criminal justice system either as an accused or as a convicted criminal offender. "Criminal history record information" includes, but is not limited to, identifiable descriptions or notations of: summonses and arrests; detention; bail; formal criminal charges such as complaints, informations and indictments; any disposition stemming from such charges; post-plea or post-adjudication sentencing; involuntary commitment; execution of and completion of any sentencing alternatives imposed; release and discharge from involuntary commitment; any related

**Public Records Exceptions For Review by RTKAC in 2021:
Exceptions for Review in Titles 13 to 19-A**

pretrial and post-trial appeals, collateral attacks and petitions; and petitions for and warrants of pardons, commutations, reprieves and amnesties. "Criminal history record information" does not include: identification information such as fingerprints, palmprints, footprints or photographic records to the extent that the information does not indicate formal involvement of the specific individual in the criminal justice system; information of record of civil proceedings, including traffic infractions and other civil violations; intelligence and investigative record information as defined in section 803; or information of record of juvenile crime proceedings or their equivalent. Specific information regarding a juvenile crime proceeding is not criminal history record information notwithstanding that a juvenile has been bound over and treated as an adult or that by statute specific information regarding a juvenile crime proceeding is usable in a subsequent adult criminal proceeding. "Formal involvement in the criminal justice system either as an accused or as a convicted criminal offender" means being within the jurisdiction of the criminal justice system commencing with arrest, summons or initiation of formal criminal charges and concluding with the completion of every sentencing alternative imposed as punishment or final discharge from an involuntary commitment based upon a finding of not criminally responsible by reason of insanity or its equivalent.

4. Criminal justice agency. "Criminal justice agency" means a federal, state or State of Maine government agency or any subunit of a government agency at any governmental level that performs the administration of criminal justice pursuant to a statute or executive order. "Criminal justice agency" includes federal courts, Maine courts, courts in any other state, the Department of the Attorney General, district attorneys' offices and the equivalent departments or offices in any federal or state jurisdiction. "Criminal justice agency" also includes any equivalent agency at any level of Canadian government and the government of any federally recognized Indian tribe.

5. Disposition. "Disposition" means information of record disclosing that a criminal proceeding has been concluded, although not necessarily finalized, and the specific nature of the concluding event. "Disposition" includes, but is not limited to: an acquittal; a dismissal, with or without prejudice; the filing of a charge by agreement of the parties or by a court; the determination that a defendant is currently a fugitive from justice; a conviction, including the acceptance by a court of a plea of guilty or nolo contendere; a deferred disposition; a proceeding indefinitely continued or dismissed due to a defendant's incompetence; a finding of not criminally responsible by reason of insanity or its equivalent; a mistrial, with or without prejudice; a new trial ordered; an arrest of judgment; a sentence imposition; a resentencing ordered; an execution of and completion of any sentence alternatives imposed, including but not limited to fines, restitution, correctional custody and supervision, and administrative release; a release or discharge from a commitment based upon a finding of not criminally responsible by reason of insanity or its equivalent; the death of the defendant; any related pretrial and post-trial appeals, collateral attacks and petitions; a pardon, commutation, reprieve or amnesty; and extradition. "Disposition" also includes information of record disclosing that the responsible law enforcement agency or officer has elected not to refer a matter to a prosecutor, that the responsible prosecutorial office or prosecutor has elected not to initiate or approve criminal proceedings or that a grand jury has determined that there is insufficient evidence to warrant the return of a formal charge.

**Public Records Exceptions For Review by RTKAC in 2021:
Exceptions for Review in Titles 13 to 19-A**

6. Dissemination. "Dissemination" means the transmission of information by any means, including but not limited to orally, in writing or electronically, by or to anyone outside the criminal justice agency that maintains the information.

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

8. Public criminal history record information. "Public criminal history record information" means criminal history record information that is not confidential criminal history record information, including information recorded pursuant to section 706.

9. State. "State" means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the United States Virgin Islands, Guam and American Samoa. "State" also includes the federal government of Canada and any provincial government of Canada and the government of any federally recognized Indian tribe.

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

REF. NO. 1916 MRSA §804. Limitation on dissemination of intelligence and investigative record information

Except as provided in sections 805 and 806, a record that is or contains intelligence and investigative record information is confidential and may not be disseminated by a Maine criminal justice agency to any person or public or private entity if there is a reasonable possibility that public release or inspection of the record would:

- 1. Interfere with criminal law enforcement proceedings.** Interfere with law enforcement proceedings relating to crimes;
- 2. Result in dissemination of prejudicial information.** 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;
- 3. Constitute an invasion of privacy.** Constitute an unwarranted invasion of personal privacy;
- 4. Disclose confidential source.** Disclose the identity of a confidential source;
- 5. Disclose confidential information.** Disclose confidential information furnished only by a confidential source;
- 6. Disclose trade secrets or other confidential commercial or financial information.** Disclose trade secrets or other confidential commercial or financial information designated as such by the

**Public Records Exceptions For Review by RTKAC in 2021:
Exceptions for Review in Titles 13 to 19-A**

owner or source of the information, by the Department of the Attorney General or by a district attorney's office;

7. Disclose investigative techniques or security plans. Disclose investigative techniques and procedures or security plans and procedures not known by the general public;

8. Endanger law enforcement or others. Endanger the life or physical safety of any individual, including law enforcement personnel;

9. Disclose statutorily designated confidential information. Disclose information designated confidential by statute;

10. Interfere with civil proceedings. Interfere with proceedings relating to civil violations, civil enforcement proceedings and other civil proceedings conducted by the Department of the Attorney General or by a district attorney's office;

11. Disclose arbitration or mediation information. Disclose conduct of 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; or

12. Identify source of consumer or antitrust complaints. Identify the source of a complaint made to the Department of the Attorney General regarding a violation of consumer or antitrust laws.

REF. NO. 20-21 17-A MRSA §2108. Confidentiality of victim records

1. General rule of confidentiality. Records that pertain to a victim's current address or location or that contain information from which a victim's current address or location could be determined must be kept confidential, subject to disclosure only as authorized in this section.

2. Disclosure to law enforcement or victims' service agency. Records that pertain to a victim's current address or location or that contain information from which a victim's current address or location could be determined may be disclosed only to:

- A. A state agency if necessary to carry out the statutory duties of that agency;
- B. A criminal justice agency if necessary to carry out the administration of criminal justice or the administration of juvenile justice;
- C. A victims' service agency with a written agreement with a criminal justice agency to provide services as a victim advocate; or
- D. A person or agency upon request of the victim.

3. Limited disclosure as part of bail condition or court order. A bail commissioner, judge, justice, court clerk, law enforcement officer or attorney for the State may disclose a victim's current address or location to the defendant or accused person, or the attorney or authorized agent of the

**Public Records Exceptions For Review by RTKAC in 2021:
Exceptions for Review in Titles 13 to 19-A**

defendant or accused person, as part of a bail condition or court order restricting contact with the victim only when it is clear that the defendant already knows the victim's current address or location or when the victim requests that such bail condition or court order be issued and the victim requests that the current address or location be specified.

4. Limited disclosure pursuant to discovery. An attorney for the State may withhold the current address or location of a victim from the defendant, or the attorney or authorized agent of the defendant, if the attorney for the State has a good faith belief that such disclosure may compromise the safety of the victim.

5. Disclosure of victim's request for notice prohibited. In no case may a victim's request for notification of the defendant's release under section 2106 be disclosed except to those employees of the agency to which the defendant is committed and the office of the attorney for the State with which the request was filed in order for those persons to perform their official duties under this chapter.

REF. NO. 22 18-C MRSA §2-514. Disposition of will deposited with court

A will deposited for safekeeping with the court in the office of the register before September 19, 1997 may be delivered only to the testator or to a person authorized in writing signed by the testator to receive the will. A conservator may be allowed to examine a deposited will of a protected testator under procedures designed to maintain the confidential character of the document to the extent possible and to ensure that it will be resealed and left on deposit after the examination. Upon being informed of the testator's death, the court shall notify any person designated to receive the will and deliver it to that designated person on request; or the court may deliver the will to the appropriate court. The court may not accept a will for safekeeping after September 19, 1997.

REF. NO. 23 18-C MRSA §5-205. Judicial appointment of guardian; procedure

1. Petition; notice of hearing. After a petition for appointment of a guardian is filed, the court shall schedule a hearing, and the petitioner shall give notice of the time and place of the hearing, together with a copy of the petition, to:

- A. The minor, if the minor has attained 14 years of age and is not the petitioner;
- B. Any person alleged to have had the primary care and custody of the minor during the 60 days before the filing of the petition;
- C. Each living parent of the minor or, if there is none, the adult nearest in kinship who can be found;
- D. Any person nominated as guardian by the minor if the minor has attained 14 years of age;

**Public Records Exceptions For Review by RTKAC in 2021:
Exceptions for Review in Titles 13 to 19-A**

E. Any appointee of a parent whose appointment has not been prevented or terminated under section 5-203; and

F. Any guardian or conservator currently acting for the minor in this State or elsewhere.

If the court finds that receiving information from the Department of Health and Human Services may be necessary for the determination of any issue before the court, it may order a Department of Health and Human Services employee to attend the hearing and to provide information relevant to the proceeding. When receiving information by oral testimony that is confidential pursuant to Title 22, section 4008, the court shall close the proceeding and ensure that it is recorded. When receiving information contained in written or media records that is confidential pursuant to Title 22, section 4008, the court shall review those records in camera, weighing the confidentiality of such records against the necessity for counsel and the parties to have access to them, and enter an appropriate order regarding the scope and manner of access. The court, in its discretion, may take other measures necessary to preserve the confidentiality of the information received.

2. Appointment; other disposition. The court, after the hearing scheduled pursuant to subsection 1, shall make the appointment of a guardian if the court finds that venue is proper, the required notices have been given, the conditions of section 5-204, subsection 2 have been met and the best interest of the minor will be served by the appointment. In other cases, the court may dismiss the proceeding or make any other disposition of the matter that will serve the best interest of the minor.

3. Priority of minor's nominee. The court shall appoint a person or persons nominated by the minor, if the minor has attained 14 years of age, in accordance with the requirements of section 5-204.

4. Appointment of counsel. A nonconsenting parent whose parental rights have not been terminated is entitled to court-appointed legal counsel if indigent. In a contested action, the court may also appoint counsel for any indigent guardian or petitioner when a parent or legal custodian has counsel.

5. Attorney for a minor; notice to minor. If the court determines at any stage of the proceeding, before or after appointment, that the interests of the minor are or may be inadequately represented, the court may appoint an attorney to represent the minor, giving consideration to the choice of the minor if the minor has attained 14 years of age. A minor may appear with or through counsel, but the court is not restricted from requiring the minor to be present for some or all of a hearing or other proceeding. A minor 14 years of age or older must receive notice of any proceeding subsequent to the appointment of a guardian through the same means as required for any other party, and the minor may consent, object or otherwise participate in the proceeding.

6. Informed consent of parent. If the petition for guardianship is filed by or with the consent of a parent, the petition must include a consent signed by the parent verifying that the parent understands the nature of the guardianship and knowingly and voluntarily consents to the guardianship. If a parent informs the court after the petition has been filed that the parent wishes

**Public Records Exceptions For Review by RTKAC in 2021:
Exceptions for Review in Titles 13 to 19-A**

to consent to the guardianship, the court shall require the parent to sign the consent form at that time. The consent required by this section must be on a court form or substantially similar document.

7. Term or duration of order. The court may specify the term of the appointment based on the parties' agreement or the court's findings. The term may be extended or otherwise modified by agreement of the parties or after a hearing. If no term is specified, the appointment remains in place until modified or the occurrence of an event resulting in termination set forth in section 5-210.

If one of the parents of a minor is a member of the National Guard or the Reserves of the United States Armed Forces under an order to active duty for a period of more than 30 days, a guardianship that would otherwise expire is automatically extended until 30 days after the parent is no longer under those active duty orders or until an order of the court so provides as long as the parent's service is in support of:

- A. An operational mission for which members of the reserve components have been ordered to active duty without their consent; or
- B. Forces activated during a period of war declared by the United States Congress or a period of national emergency declared by the President of the United States or the United States Congress.

8. Interim order. Upon motion by a party or the court's initiative, and pursuant to an agreement of the parties or findings made after a hearing, the court may enter an interim order appointing a guardian for a period of time up to 6 months or pending the court's order after the scheduled final hearing on a petition for appointment, if such an order is necessary to provide for the minor's housing, health, education, medical or other essential needs prior to the hearing. Any interim order must meet the requirements of section 5-204 and this section, including notice, and may be extended or modified pursuant to an agreement of the parties or findings made after a hearing.

9. Mediation. The court may refer the parties to mediation at any time after a petition or motion is filed, if meditation services are available at a reasonable fee or no cost, and may require that the parties have made a good faith effort to mediate the issue before holding a hearing. If the court finds that any party failed to make a good faith effort to mediate, the court may order the parties to submit to mediation, dismiss the action or any part of the action, render a decision or judgment by default, assess attorney's fees and costs or impose any other sanction that is appropriate in the circumstances. The court may also impose an appropriate sanction upon a party's failure without good cause to appear for mediation after receiving notice of the scheduled time for mediation. An agreement reached by the parties through mediation on an issue must be reduced to writing, signed by the parties and presented to the court for approval as a court order.

10. Identifying information sealed. If a party alleges in an affidavit or a pleading under oath that the health, safety or liberty of a party or the minor would be jeopardized by disclosure of identifying information, including but not limited to the address of a party or the minor, the

**Public Records Exceptions For Review by RTKAC in 2021:
Exceptions for Review in Titles 13 to 19-A**

information must be sealed by the register or clerk and not disclosed to any other party or to the public unless the court orders the disclosure to be made after a hearing in which the court takes into consideration the health, safety or liberty of the party or minor and determines that the disclosure is in the interest of justice.

REF. NO. 24 18-C MRSA §5-207. Duties of guardian

1. Guardian has duties and responsibilities of a parent. Except as otherwise limited by the court, a guardian of a minor has the duties and responsibilities of a parent regarding the minor's support, care, education, health and welfare. A guardian shall act at all times in the best interest of the minor and exercise reasonable care, diligence and prudence.

2. Specific duties and responsibilities. A guardian shall:

- A. Become or remain personally acquainted with the minor and maintain sufficient contact with the minor to know of the minor's capacities, limitations, needs, opportunities and physical and mental health;
- B. Take reasonable care of the minor's personal effects and bring a protective proceeding if necessary to protect other property of the minor;
- C. Expend money of the minor that has been received by the guardian for the minor's current needs for support, care, education, health and welfare;
- D. Conserve any excess money of the minor for the minor's future needs, but if a conservator has been appointed for the estate of the minor, the guardian shall pay the money at least quarterly to the conservator to be conserved for the minor's future needs;
- E. Report the condition of the minor and account for money and other assets in the guardian's possession or subject to the guardian's control, as ordered by the court on application of any person interested in the minor's welfare or as required by court rule; and
- F. Inform the court of any change in the minor's custodial dwelling or address.

3. Reporting on the status of the minor. The court may require the guardian of a minor to submit regular status reports about the minor, to be submitted under oath or affirmation to the court and served on the parent and guardian ad litem, if still active, on an annual basis or under other conditions set by the court.

- A. The court may require the status report to include specific information, including but not limited to the following to the extent applicable to the guardianship:
 - (1) The current address of the minor and each parent;
 - (2) The minor's health care and health needs, including any medical and mental health services the child received;

**Public Records Exceptions For Review by RTKAC in 2021:
Exceptions for Review in Titles 13 to 19-A**

- (3) The minor's educational needs and progress, including the name of the minor's school, day care or other early education program, the minor's grade level and the minor's educational achievements;
- (4) Contact between the minor and the minor's parents, including the frequency and duration of the contact and whether it was supervised;
- (5) How the parents have been involved in decision making for the minor;
- (6) Whether the parents have provided any financial support for the minor;
- (7) How the guardian has carried out the guardian's responsibilities and duties under the order of appointment;
- (8) An accounting of any funds received on the minor's behalf;
- (9) The minor's strengths, challenges and any other areas of concern; and
- (10) Recommendations with supporting reasons as to whether the guardianship order should be continued, modified or terminated.

B. Before deciding whether to require status reports, the court shall consider whether reporting would create a substantial likelihood of harm to the health, safety or liberty of the minor.

C. The contents of status reports are confidential and may not be released to any nonparty except by court order.

D. A parent may petition the court to seek a status report from the guardian if one is not otherwise required. A person who is not a parent but is interested in the minor's welfare may petition the court to seek a status report based upon specific concerns about the minor's care.

E. Nothing in this subsection limits a court's authority to otherwise supervise the guardianship, including scheduling a status conference to address matters raised in a status report or to be held at a specified time after the entry of the order or appointing a guardian ad litem or visitor to conduct an investigation. The court shall accept any information submitted by a minor 14 years of age or older regarding the guardianship.

REF. NO. 25 18-C MRSA §5-308. Confidentiality of records

(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)

(WHOLE SECTION TEXT EFFECTIVE 1/01/21)

1. Matter of public record; exception. The existence of a proceeding for or the existence of a guardianship for an adult is a matter of public record unless the court seals the records after:

- A. The respondent or individual subject to guardianship requests the records be sealed; and

**Public Records Exceptions For Review by RTKAC in 2021:
Exceptions for Review in Titles 13 to 19-A**

B. Either:

- (1) The petition for guardianship is dismissed; or
- (2) The guardianship is terminated.

2. Access to court records. An adult subject of a proceeding for a guardianship, whether or not a guardian is appointed, any attorney designated by the adult and a person entitled to notice under section 5-310, subsection 5 are entitled to access court records of the proceeding and resulting guardianship, including a guardian's report or plan. In addition, a person for good cause may petition the court for access to court records of the guardianship, including an annual report or guardian's plan. The court shall grant access if access is in the best interest of the respondent or adult subject to guardianship or furthers the public interest and does not endanger the welfare or financial interest of the adult.

3. Reports confidential; availability. A report under section 5-304 of a visitor or a professional evaluation under section 5-306 is confidential and must be sealed on filing but is available to:

- A. The court;
- B. The individual who is the subject of the report or evaluation, without limitation as to use;
- C. The petitioner, visitor and petitioner's and respondent's attorneys, for purposes of the proceeding;
- D. An agent appointed under a power of attorney for health care or advance health care directive, or power of attorney for finances in which the respondent is identified as the principal, unless the court orders otherwise; and
- E. Other persons when it is in the public interest or for a purpose the court orders for good cause.

4. Effective date. This section takes effect January 1, 2021.

REF. NO. 26 18-C MRSA §5-409. Confidentiality of records

(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)

(WHOLE SECTION TEXT EFFECTIVE 1/1/21)

1. Matter of public record; exceptions. The existence of a proceeding for or the existence of conservatorship is a matter of public record unless the court seals the record after:

- A. The respondent, the individual subject to conservatorship or the parent of a minor subject to conservatorship requests the record be sealed; and
- B. Either:

**Public Records Exceptions For Review by RTKAC in 2021:
Exceptions for Review in Titles 13 to 19-A**

- (1) The petition for conservatorship is dismissed; or
- (2) The conservatorship is terminated.

2. Access to records. An individual subject to a proceeding for a conservatorship, whether or not a conservator is appointed, an attorney designated by the individual and a person entitled to notice under section 5-411 or a subsequent order are entitled to access court records of the proceeding and resulting conservatorship, including the conservator's plan and report. In addition, a person for good cause may petition the court for access to court records of the conservatorship, including the conservator's plan and report. The court shall grant access if access is in the best interest of the respondent or individual subject to conservatorship or furthers the public interest and does not endanger the welfare or financial interests of the respondent or individual.

3. Reports; availability. A report under section 5-405 of a visitor or professional evaluation under section 5-407 is confidential and must be sealed on filing but is available to:

- A. The court;
- B. The individual who is the subject of the report or evaluation, without limitation as to use;
- C. The petitioner, visitor and petitioner's and respondent's attorneys, for purposes of the proceeding;
- D. An agent appointed under a power of attorney for finances in which the respondent is identified as the principal, unless the court orders otherwise; and
- E. Other persons when it is in the public interest or for a purpose the court orders for good cause.

4. Effective date. This section takes effect January 1, 2021.

REF. NO. 27 18-C MRSA §5-423. **Conservator's report and accounting; monitoring**

1. Report. A conservator shall file a report in a record with the court regarding the administration of the conservatorship estate annually unless the court otherwise directs, on resignation or removal, on termination of the conservatorship and at any other time as the court directs.

2. Contents. A report under subsection 1 must state or contain:

- A. An accounting that contains a list of property included in the conservatorship estate and of the receipts, disbursements, liabilities and distributions during the period for which the report is made;
- B. A list of the services provided to the individual subject to conservatorship;

**Public Records Exceptions For Review by RTKAC in 2021:
Exceptions for Review in Titles 13 to 19-A**

C. A copy of the conservator's most recently approved plan and a statement whether the conservator has deviated from the plan and, if so, how and why the conservator has deviated;

D. Any recommended change in the conservatorship, including its scope and whether the conservatorship needs to continue;

E. An annual credit report of the individual subject to conservatorship and, to the extent feasible, a copy of the most recent reasonably available financial statements evidencing the status of bank accounts, investment accounts and mortgages or other debts of the individual subject to conservatorship, with all but the last 4 digits of the account numbers and the individual's social security number redacted;

F. Anything of more than de minimis value that the conservator, any individual who resides with the conservator or the spouse, domestic partner, parent, child or sibling of the conservator has received from a person providing goods or services to the individual subject to conservatorship;

G. Any business relation the conservator has with a person providing goods or services to the individual subject to conservatorship;

H. Any business relation the conservator has with a person the conservator has paid or a person that has benefited from the property of the individual subject to conservatorship; and

I. Whether any coconservator or successor conservator appointed to serve when a designated future event occurs is alive and able to serve.

3. Visitor. The court may appoint a visitor to review a report under this section or conservator's plan under section 5-419, interview the individual subject to conservatorship or conservator and investigate any matter involving the conservatorship as the court directs. In connection with the report, the court may order the conservator to submit the conservatorship estate to appropriate examination in a manner the court directs.

4. Notice of report; copy. Notice of the filing under this section of a conservator's report, together with a copy of the report, must be provided to the individual subject to conservatorship, all persons entitled to notice under section 5-411, subsection 5 or a subsequent order, and a person the court determines is entitled to the report. Notwithstanding section 5-409, the credit report provided pursuant to subsection 2, paragraph E is confidential and may not be provided with the rest of the conservator's report except to the individual subject to conservatorship. The notice and report must be given not later than 14 days after filing.

5. Monitoring; frequency of report. The court shall establish procedures for monitoring a conservator's plan and report and review the plan and report not less than annually to determine whether:

A. The plan and report provide sufficient information to establish the conservator has complied with the conservator's duties;

B. The conservatorship should continue; and

**Public Records Exceptions For Review by RTKAC in 2021:
Exceptions for Review in Titles 13 to 19-A**

C. The conservator's requested fees, if any, should be approved.

6. Noncompliance. If the court determines there is reason to believe the conservator has not complied with the conservator's duties or the conservatorship should not continue, the court:

A. Shall notify the conservator, the individual subject to conservatorship and all persons entitled to notice under section 5-411, subsection 5 or a subsequent order;

B. May require additional information from the conservator;

C. May appoint a visitor to interview the individual subject to conservatorship or conservator and investigate any matter involving the conservatorship as the court directs; and

D. May, consistent with sections 5-430 and 5-431, hold a hearing to consider removal of the conservator, termination of the conservatorship or a change in the powers granted to the conservator or terms of the conservatorship.

7. Unreasonable fees. If the court determines there is reason to believe a conservator's requested fees are not reasonable, the court shall hold a hearing to adjust the fees.

8. Approval of report or accounting. A conservator may petition the court for approval of a report or accounting filed under this section. The court after review may approve the report or accounting. An order, after notice and hearing, approving a final report or accounting discharges the conservator from all liabilities, claims and causes of action by a person given notice of the report or accounting and the hearing as to a matter adequately disclosed in the report or accounting.

9. Application to existing conservatorships. For conservatorships established prior to January 1, 2008, the conservator is not subject to the requirement for an annual report and accounting until so ordered by the court.

REF. NO. 28-29 18-C MRSA §9-304. Investigation; guardian ad litem; registry

1. Background check; study and report. Upon the filing of a petition for adoption of a minor child, the court shall request a background check and shall direct the department or a licensed child-placing agency to conduct a study and make a report to the court.

A. The study must include an investigation of the conditions and antecedents of the child to determine whether the child is a proper subject for adoption and whether the proposed home is suitable for the child. The department or licensed child-placing agency shall submit the report to the court within 60 days.

(1) If the court has a report that provides sufficient, current information, the court may waive the requirement of a study and report.

(2) If the petitioner is a relative of the child or the spouse or domestic partner of the child's parent, the court may waive the requirement of a study and report.

**Public Records Exceptions For Review by RTKAC in 2021:
Exceptions for Review in Titles 13 to 19-A**

B. The court shall request a background check for each prospective adoptive parent who is not a parent of the child. The background check must include a screening for child abuse cases in the records of the department and criminal history record information obtained from the Maine Criminal Justice Information System and the Federal Bureau of Investigation.

(1) The criminal history record information obtained from the Maine Criminal Justice Information System must include a record of public criminal history record information as defined in Title 16, section 703, subsection 8.

(2) The criminal history record information obtained from the Federal Bureau of Investigation must include other state and national criminal history record information.

(3) Each prospective parent who is not a parent of the child shall submit to having fingerprints taken. The State Police, upon receipt of the fingerprint card, may charge the court for the expenses incurred in processing state and national criminal history record checks. The State Police shall take or cause to be taken the applicant's fingerprints and shall forward the fingerprints to the State Bureau of Identification so that the bureau can conduct state and national criminal history record checks. Except for the portion of the payment, if any, that constitutes the processing fee charged by the Federal Bureau of Investigation, all money received by the State Police for purposes of this paragraph must be paid over to the Treasurer of State. The money must be applied to the expenses of administration incurred by the Department of Public Safety.

(4) The subject of a Federal Bureau of Investigation criminal history record check may obtain a copy of the criminal history record check by following the procedures outlined in 28 Code of Federal Regulations, Sections 16.32 and 16.33. The subject of a state criminal history record check may inspect and review the criminal history record information pursuant to Title 16, section 709.

(5) State and federal criminal history record information may be used by the court for the purpose of screening prospective adoptive parents in determining whether the adoption is in the best interest of the child.

(6) Information obtained pursuant to this paragraph is confidential. The results of background checks received by the court are for official use only and may not be disseminated outside the court except as required under Title 22, section 4011-A.

(7) The expense of obtaining the information required by this paragraph is incorporated in the adoption filing fee established in section 9-301. The court shall collect the total fee and transfer the appropriate funds to the Department of Public Safety and the department.

The court may waive the background check of a prospective adoptive parent if a previous background check was completed by a court or by the department under this subsection within a reasonable period of time and the court is satisfied that nothing new that would be included in the background check has transpired since the last background check.

**Public Records Exceptions For Review by RTKAC in 2021:
Exceptions for Review in Titles 13 to 19-A**

This subsection does not authorize the court to request a background check for a petitioner who is also the current legal parent of the child.

2. Background checks by department. The department may, pursuant to rules adopted by the department, at any time before the filing of the petition for adoption, conduct background checks for each prospective adoptive parent of a minor child in its custody.

A. The department may request a background check for each prospective adoptive parent who is not a parent of the child. The background check must include criminal history record information obtained from the Maine Criminal Justice Information System and the Federal Bureau of Investigation.

(1) The criminal history record information obtained from the Maine Criminal Justice Information System must include a record of public criminal history record information as defined in Title 16, section 703, subsection 8.

(2) The criminal history record information obtained from the Federal Bureau of Investigation must include other state and national criminal history record information.

(3) Each prospective parent who is not a parent of the child shall submit to having fingerprints taken. The State Police, upon receipt of the fingerprint card, may charge the department for the expenses incurred in processing state and national criminal history record checks. The State Police shall take or cause to be taken the applicant's fingerprints and shall forward the fingerprints to the State Bureau of Identification so that the bureau can conduct state and national criminal history record checks. Except for the portion of the payment, if any, that constitutes the processing fee charged by the Federal Bureau of Investigation, all money received by the State Police for purposes of this paragraph must be paid over to the Treasurer of State. The money must be applied to the expenses of administration incurred by the Department of Public Safety.

(4) The subject of a Federal Bureau of Investigation criminal history record check may obtain a copy of the criminal history record check by following the procedures outlined in 28 Code of Federal Regulations, Sections 16.32 and 16.33. The subject of a state criminal history record check may inspect and review the criminal history record information pursuant to Title 16, section 709.

(5) State and federal criminal history record information may be used by the department for the purpose of screening prospective adoptive parents in determining whether the adoption is in the best interest of the child.

(6) Information obtained pursuant to this paragraph is confidential. The results of background checks received by the department are for official use only and may not be disseminated outside the department except to a court considering a petition for adoption under subsection 1.

**Public Records Exceptions For Review by RTKAC in 2021:
Exceptions for Review in Titles 13 to 19-A**

B. Rules adopted by the department pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

3. Child's background. This subsection governs the collection and disclosure of information about the background of a child subject to a petition for adoption under subsection 1.

A. The department, the licensed child-placing agency or any other person who acts to place or assist in placing a child for adoption shall make reasonable efforts to obtain medical and genetic information about the child, the parent who gave birth to the child and a parent who was a source of the gametes used in the child's conception. Specifically, the department, the licensed child-placing agency or any other person who acts to place or assist in placing the child for adoption shall attempt to obtain from the child's parents any information concerning:

(1) A current medical, psychological and developmental history of the child, including an account of the child's prenatal care and medical condition at birth, results of newborn screening, any drug or medication taken during pregnancy by the parent who gave birth to the child, any subsequent medical, psychological or psychiatric examination and diagnosis, any physical, sexual or emotional abuse suffered by the child and a record of any immunizations and health care received since birth; and

(2) Relevant information concerning the medical, psychological and social history of a parent who was the source of the gametes used in the child's conception, including any known disease or hereditary disposition to disease, the history of use of drugs and alcohol, the health during pregnancy of the parent who gave birth to the child and the health of a parent who was the source of the gametes used in the child's conception at the time of the child's birth.

B. The department, the licensed child-placing agency or any other person who acts to place or assist in placing the child for adoption may request from donors or gestational carriers, as defined in Title 19-A, section 1832, their medical or genetic information identical to that described in paragraph A, subparagraphs (1) and (2) and shall make reasonable efforts to obtain any medical and genetic information concerning such individuals that is in the possession of the child's parent or parents.

C. Prior to the child being placed for adoption, the department, the licensed child-placing agency or any other person who acts to place or assist in placing the child for adoption shall provide the information described in paragraph A to the prospective adoptive parents.

D. If the department, the licensed child-placing agency or any other person who acts to place or assists in placing the child for adoption has specific, articulable reasons to question the truth or accuracy of any of the information obtained, those reasons must be disclosed in writing to the prospective adoptive parents.

E. The prospective adoptive parents must be informed in writing if any of the information described in this subsection cannot be obtained, either because the records are unavailable or because the parents are unable or unwilling to consent to its disclosure or to be interviewed.

**Public Records Exceptions For Review by RTKAC in 2021:
Exceptions for Review in Titles 13 to 19-A**

F. If after a child is placed for adoption and either before or after the adoption is final the child suffers a serious medical or mental illness for which the specific medical, psychological or social history of the child's parents, donors or gestational carriers or the child may be useful in diagnosis or treatment, the prospective adoptive or adoptive parents may request that the department, the licensed child-placing agency or any other person who placed or assisted to place the child attempt to obtain additional information. The department, licensed child-placing agency or other person shall attempt to obtain the information promptly and shall disclose any information collected to the prospective adoptive or adoptive parents as soon as reasonably possible. The department, licensed child-placing agency or other person may charge a fee to the prospective adoptive or adoptive parents to cover the cost of obtaining and providing the additional information. Fees collected by the department must be dedicated to defray the costs of obtaining and providing the additional information. Fees may be reduced or waived for low-income prospective adoptive or adoptive parents.

G. The department, the licensed child-placing agency or any other person who acts to place or assist in placing the child for adoption shall file the information collected with the court and, if it appears that the adoption will be granted and this information has not previously been made available to the adoptive parents pursuant to Title 22, section 4008, subsection 3, paragraph G or Title 22, section 8205, the court shall make the information available to the adoptive parents, prior to issuing the decree pursuant to subsection 8, with protection for the identity of persons other than the child.

H. If the child to be placed for adoption is from a foreign country that has jurisdiction over the child and the prospective adoptive parents are United States citizens, compliance with federal and international adoption laws is deemed to be in compliance with this subsection.

4. Rebuttable presumption; sexual offenses. There is a rebuttable presumption that the petitioner would create a situation of jeopardy for the child if the adoption were granted and that the adoption is not in the best interest of the child if the court finds that the petitioner for the adoption of a minor child:

A. Has been convicted of an offense listed in Title 19-A, section 1653, subsection 6-A, paragraph A in which the victim was a minor at the time of the offense and the petitioner was at least 5 years older than the minor at the time of the offense, except that, if the offense was gross sexual assault under Title 17-A, section 253, subsection 1, paragraph B or C, or an offense in another jurisdiction that involves conduct that is substantially similar to that contained in Title 17-A, section 253, subsection 1, paragraph B or C, and the minor victim submitted as a result of compulsion, the presumption applies regardless of the ages of the petitioner and the minor victim at the time of the offense; or

B. Has been adjudicated in an action under Title 22, chapter 1071 of sexually abusing a person who was a minor at the time of the abuse.

The petitioner may present evidence to rebut the presumption.

**Public Records Exceptions For Review by RTKAC in 2021:
Exceptions for Review in Titles 13 to 19-A**

5. Probationary period. The court may require that a minor child subject to a petition for adoption under this section live for one year in the home of the petitioner before the petition is granted and that the child, during all or part of this probationary period, be under the supervision of the department or a licensed adoption agency.

6. Guardian ad litem. The court may appoint a guardian ad litem for a minor child subject to a petition for adoption under this section at any time during the proceedings.

7. Adoption registry and services. Before the adoption of a minor child is decreed, the court shall ensure that the petitioners are informed of the existence of the adoption registry and the services available under Title 22, section 2706-A.

8. Declaration; name change. If the court is satisfied with the identity and relations of the parties to a petition for adoption under this section, with the ability of the petitioner to bring up and educate the child properly, considering the condition of the child's parents, and with the fitness and propriety of the adoption, the court shall make a decree setting forth the facts and declaring that from that date the child is the child of the petitioner and that the child's name is changed, without requiring public notice of that change.

9. Certified copy of birth certificate; certificate of adoption. A certified copy of the birth certificate of the child proposed for adoption must be presented with the petition for adoption if the certified copy can be obtained or made available by filing a delayed birth registration. After the adoption has been decreed, the register shall file a certificate of adoption with the State Registrar of Vital Statistics on a form prescribed and furnished by the state registrar.

10. Transfer of long-term care or custody without court order. Before the adoption is decreed under subsection 8, the court shall ensure that the petitioners are informed that the transfer of the long-term care and custody of the child without a court order is prohibited under Title 17-A, section 553, subsection 1, paragraphs C and D.

REF. NO. 30 18-C MRSA §9-308. Final decree; dispositional hearing; effect of adoption

1. Final decree of adoption; requirements. The court shall grant a final decree of adoption if the petitioner who filed the petition has been heard or has waived hearing and the court is satisfied from the hearing or record that:

- A. All necessary consents, relinquishments or terminations of parental rights have been duly executed and filed with the court;
- B. An adoption study, when required by section 9-304, has been filed with the court;
- C. A list of all disbursements as required by section 9-306 has been filed with the court;
- D. The petitioner is a suitable adopting parent and desires to establish a parent-child relationship with the adoptee;

**Public Records Exceptions For Review by RTKAC in 2021:
Exceptions for Review in Titles 13 to 19-A**

- E. The best interest of the adoptee, described in subsection 2, is served by the adoption;
- F. The petitioner has acknowledged that the petitioner understands that the transfer of the long-term care and custody of an adoptee who is a minor child without a court order is prohibited under Title 17-A, section 553, subsection 1, paragraphs C and D; and
- G. All requirements of this Article have been met.

2. Best interest of adoptee. In determining the best interest of an adoptee, the court shall consider and evaluate the following factors to give the adoptee a permanent home at the earliest possible date:

- A. The love, affection and other emotional ties existing between the adoptee and the adopting person or persons, a parent or a putative parent;
- B. The capacity and disposition of the adopting person or persons, the parent or parents or the putative parent to educate and give the adoptee love, affection and guidance and to meet the needs of the adoptee. An adoption may not be delayed or denied because the adoptive parent and the adoptee do not share the same race, color or national origin; and
- C. The capacity and disposition of the adopting person or persons, the parent or parents or the putative parent to provide the adoptee with food, clothing and other material needs, education, permanence and medical care or other remedial care recognized and permitted in place of medical care under the laws of this State.

3. Findings; decree; confidentiality. The court shall enter its findings in a written final decree that includes the new name of the adoptee. The final decree must further order that from the date of the decree the adoptee is the child of the petitioner and must be accorded the status set forth in section 9-105. If the court determines that it is in the best interest of the adoptee, the court may require that the names of the adoptee and of the petitioner be kept confidential.

4. Notice to parents. Upon completion of an adoption proceeding, the parents who consented to an adoption or who executed a surrender and release must be notified by the court of the completion by regular mail at their last known address. Notice under this subsection is not required to a parent who is also a petitioner. When the parents' rights have been terminated pursuant to Title 22, section 4055, the notice must be given to the department and the department shall notify the parents of the completion by regular mail at their last known address. Actual receipt of the notice is not a precondition of completion and does not affect the rights or responsibilities of adoptees or adoptive parents.

5. Notice to grandparents. The department shall notify the grandparents of a child when the child is placed for adoption if the department has received notice that the grandparents were granted reasonable rights of visitation or access under Title 19-A, chapter 59 or Title 22, section 4005-E.

6. Effect of adoption. An order granting the adoption has the following effect:

**Public Records Exceptions For Review by RTKAC in 2021:
Exceptions for Review in Titles 13 to 19-A**

A. An order granting the adoption of the child by the petitioner divests the parent and child of all legal rights, powers, privileges, immunities, duties and obligations to each other as parent and child, except an adoptee inherits from the adoptee's former parents if provided in the adoption decree.

B. An adoption order may not disentitle a child to benefits due the child from any 3rd person, agency or state or the United States and may not affect the rights and benefits that a Native American derives from descent from a member of a federally recognized Indian tribe.

REF. NO. 31 18-C MRSA §9-310. Records confidential

Notwithstanding any other provision of law and except as provided in Title 22, section 2768, all court records relating to an adoption decreed on or after August 8, 1953 are confidential. The court shall keep records of those adoptions segregated from all other court records. If a court determines that examination of records pertaining to a particular adoption is proper, the court may authorize that examination by specified persons, authorize the register to disclose to specified persons any information contained in the records by letter, certificate or copy of the record or authorize a combination of both examination and disclosure.

Any medical or genetic information in the court records relating to an adoption must be made available to the adopted child when the adopted child attains 18 years of age and to the adopted child's descendants, adoptive parents or legal guardian on petition of the court.

REF. NO. 33 19-A MRSA §908. Disclosure and recording of social security numbers

An individual who is a party to a divorce action must disclose that individual's social security number to the court. The social security number of any individual who is subject to a divorce decree must be placed in the court records relating to the decree. The record of an individual's social security number is confidential and is not open to the public. The court shall disclose an individual's social security number to the department for child support enforcement purposes.

REF. NO. 34 19-A MRSA §1653. Parental rights and responsibilities

1. Legislative findings and purpose. The Legislature makes the following findings concerning relationships among family members in determining what is in the best interest of children.

A. The Legislature finds and declares as public policy that encouraging mediated resolutions of disputes between parents is in the best interest of minor children.

B. The Legislature finds that domestic abuse is a serious crime against the individual and society, producing an unhealthy and dangerous family environment, resulting in a pattern of escalating abuse, including violence, that frequently culminates in intrafamily homicide and creating an atmosphere that is not conducive to healthy childhood development.

**Public Records Exceptions For Review by RTKAC in 2021:
Exceptions for Review in Titles 13 to 19-A**

C. The Legislature finds and declares that, except when a court determines that the best interest of a child would not be served, it is the public policy of this State to assure minor children of frequent and continuing contact with both parents after the parents have separated or dissolved their marriage and to encourage parents to share the rights and responsibilities of child rearing in order to effect this policy.

2. Parental rights and responsibilities; order. This subsection governs parental rights and responsibilities and court orders for parental rights and responsibilities.

A. When the parents have agreed to an award of shared parental rights and responsibilities or so agree in open court, the court shall make that award unless there is substantial evidence that it should not be ordered. The court shall state in its decision the reasons for not ordering a shared parental rights and responsibilities award agreed to by the parents.

B. The court may award reasonable rights of contact with a minor child to a 3rd person.

C. The court may award parental rights and responsibilities with respect to the child to a 3rd person, a suitable society or institution for the care and protection of children or the department, upon a finding that awarding parental rights and responsibilities to either or both parents will place the child in jeopardy as defined in Title 22, section 4002, subsection 6.

D. The order of the court awarding parental rights and responsibilities must include the following:

(1) Allocated parental rights and responsibilities, shared parental rights and responsibilities or sole parental rights and responsibilities, according to the best interest of the child as provided in subsection 3. An award of shared parental rights and responsibilities may include either an allocation of the child's primary residential care to one parent and rights of parent-child contact to the other parent, or a sharing of the child's primary residential care by both parents. If either or both parents request an award of shared primary residential care and the court does not award shared primary residential care of the child, the court shall state in its decision the reasons why shared primary residential care is not in the best interest of the child;

(2) Conditions of parent-child contact in cases involving domestic abuse as provided in subsection 6;

(3) A provision for child support as provided in subsection 8 or a statement of the reasons for not ordering child support;

(4) A statement that each parent must have access to records and information pertaining to a minor child, including, but not limited to, medical, dental and school records and other information on school activities, whether or not the child resides with the parent, unless that access is found not to be in the best interest of the child or that access is found to be sought for the purpose of causing detriment to the other parent. If that access is not ordered, the court shall state in the order its reasons for denying that access;

**Public Records Exceptions For Review by RTKAC in 2021:
Exceptions for Review in Titles 13 to 19-A**

(5) A statement that violation of the order may result in a finding of contempt and imposition of sanctions as provided in subsection 7; and

(6) A statement of the definition of shared parental rights and responsibilities contained in section 1501, subsection 5, if the order of the court awards shared parental rights and responsibilities.

An order modifying a previous order is not required to include provisions of the previous order that are not modified.

E. The order of the court may not include a requirement that the State pay for the defendant to attend a batterers' intervention program unless the program is certified under section 4014.

3. Best interest of child. The court, in making an award of parental rights and responsibilities with respect to a child, shall apply the standard of the best interest of the child. In making decisions regarding the child's residence and parent-child contact, the court shall consider as primary the safety and well-being of the child. In applying this standard, the court shall consider the following factors:

- A. The age of the child;
- B. The relationship of the child with the child's parents and any other persons who may significantly affect the child's welfare;
- C. The preference of the child, if old enough to express a meaningful preference;
- D. The duration and adequacy of the child's current living arrangements and the desirability of maintaining continuity;
- E. The stability of any proposed living arrangements for the child;
- F. The motivation of the parties involved and their capacities to give the child love, affection and guidance;
- G. The child's adjustment to the child's present home, school and community;
- H. The capacity of each parent to allow and encourage frequent and continuing contact between the child and the other parent, including physical access;
- I. The capacity of each parent to cooperate or to learn to cooperate in child care;
- J. Methods for assisting parental cooperation and resolving disputes and each parent's willingness to use those methods;
- K. The effect on the child if one parent has sole authority over the child's upbringing;
- L. The existence of domestic abuse between the parents, in the past or currently, and how that abuse affects:

- (1) The child emotionally;

**Public Records Exceptions For Review by RTKAC in 2021:
Exceptions for Review in Titles 13 to 19-A**

- (2) The safety of the child; and
 - (3) The other factors listed in this subsection, which must be considered in light of the presence of past or current domestic abuse;
- M. The existence of any history of child abuse by a parent;
- N. All other factors having a reasonable bearing on the physical and psychological well-being of the child;
- O. A parent's prior willful misuse of the protection from abuse process in chapter 101 in order to gain tactical advantage in a proceeding involving the determination of parental rights and responsibilities of a minor child. Such willful misuse may only be considered if established by clear and convincing evidence, and if it is further found by clear and convincing evidence that in the particular circumstances of the parents and child, that willful misuse tends to show that the acting parent will in the future have a lessened ability and willingness to cooperate and work with the other parent in their shared responsibilities for the child. The court shall articulate findings of fact whenever relying upon this factor as part of its determination of a child's best interest. The voluntary dismissal of a protection from abuse petition may not, taken alone, be treated as evidence of the willful misuse of the protection from abuse process;
- P. If the child is under one year of age, whether the child is being breast-fed;
- Q. The existence of a parent's conviction for a sex offense or a sexually violent offense as those terms are defined in Title 34-A, section 11203;
- R. If there is a person residing with a parent, whether that person:
- (1) Has been convicted of a crime under Title 17-A, chapter 11 or 12 or a comparable crime in another jurisdiction;
 - (2) Has been adjudicated of a juvenile offense that, if the person had been an adult at the time of the offense, would have been a violation of Title 17-A, chapter 11 or 12; or
 - (3) Has been adjudicated in a proceeding, in which the person was a party, under Title 22, chapter 1071 as having committed a sexual offense; and
- S. Whether allocation of some or all parental rights and responsibilities would best support the child's safety and well-being.
- 4. Equal consideration of parents.** The court may not apply a preference for one parent over the other in determining parental rights and responsibilities because of the parent's gender or the child's age or gender.
- 5. Departure from family residence.** The court may not consider departure from the family residence as a factor in determining parental rights and responsibilities with respect to a minor child when the departing parent has been physically harmed or seriously threatened with physical harm by the other parent and that harm or threat of harm was causally related to the departure, or when

**Public Records Exceptions For Review by RTKAC in 2021:
Exceptions for Review in Titles 13 to 19-A**

one parent has left the family residence by mutual agreement or at the request or insistence of the other parent.

5-A. Effect of protective order. Although the court shall consider the fact that a protective order was issued under chapter 101, the court shall determine the proper award of parental rights and responsibilities and award of rights of contact de novo and may not use as precedent the award of parental rights and responsibilities and rights of contact included in the protective order.

6. Conditions of parent-child contact in cases involving domestic abuse. The court shall establish conditions of parent-child contact in cases involving domestic abuse as follows.

- A. A court may award primary residence of a minor child or parent-child contact with a minor child to a parent who has committed domestic abuse only if the court finds that contact between the parent and child is in the best interest of the child and that adequate provision for the safety of the child and the parent who is a victim of domestic abuse can be made.
- B. In an order of parental rights and responsibilities, a court may:
- (1) Order an exchange of a child to occur in a protected setting;
 - (2) Order contact to be supervised by another person or agency;
 - (3) Order the parent who has committed domestic abuse to attend and complete to the satisfaction of the court a domestic abuse intervention program or other designated counseling as a condition of the contact;
 - (4) Order either parent to abstain from possession or consumption of alcohol or controlled substances, or both, during the visitation and for 24 hours preceding the contact;
 - (5) Order the parent who has committed domestic abuse to pay a fee to defray the costs of supervised contact;
 - (6) Prohibit overnight parent-child contact; and
 - (7) Impose any other condition that is determined necessary to provide for the safety of the child, the victim of domestic abuse or any other family or household member.
- C. The court may require security from the parent who has committed domestic abuse for the return and safety of the child.
- D. The court may order the address of the child and the victim to be kept confidential.**
- E. The court may not order a victim of domestic abuse to attend counseling with the parent who has committed domestic abuse.
- F. If a court allows a family or household member to supervise parent-child contact, the court shall establish conditions to be followed during that contact. Conditions include but are not limited to:

**Public Records Exceptions For Review by RTKAC in 2021:
Exceptions for Review in Titles 13 to 19-A**

- (1) Minimizing circumstances when the family of the parent who has committed domestic abuse would be supervising visits;
- (2) Ensuring that contact does not damage the relationship with the parent with whom the child has primary physical residence;
- (3) Ensuring the safety and well-being of the child; and
- (4) Requiring that supervision is provided by a person who is physically and mentally capable of supervising a visit and who does not have a criminal history or history of abuse or neglect.

G. Fees set forth in this subsection incurred by the parent who has committed domestic abuse may not be considered as a mitigating factor reducing that parent's child support obligation.

6-A. Custody and contact limited; convictions for sexual offenses. The award of primary residence and parent-child contact with a person who has been convicted of a child-related sexual offense is governed by this subsection.

A. For the purposes of this section, "child-related sexual offense" means the following sexual offenses if, at the time of the commission of the offense, the victim was under 18 years of age or the victim was a student enrolled in a private or public elementary, secondary or special education school, facility or institution and the person was a teacher, employee or other official having instructional, supervisory or disciplinary authority over the student:

- (1) Sexual exploitation of a minor, under Title 17-A, section 282;
- (2) Gross sexual assault, under Title 17-A, section 253;
- (3) Sexual abuse of a minor, under Title 17-A, section 254;
- (4) Unlawful sexual contact, under Title 17-A, section 255-A or former section 255;
- (5) Visual sexual aggression against a child, under Title 17-A, section 256;
- (6) Sexual misconduct with a child under 14 years of age, under Title 17-A, section 258;
- (6-A) Solicitation of a child to commit a prohibited act, under Title 17-A, section 259-A; or
- (7) An offense in another jurisdiction that involves conduct that is substantially similar to that contained in subparagraph (1), (2), (3), (4), (5), (6) or (6-A). For purposes of this subparagraph, "another jurisdiction" means the Federal Government, the United States military, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the United States Virgin Islands, Guam, American Samoa and each of the several states except Maine. "Another jurisdiction" also means the Passamaquoddy Tribe when that tribe has acted pursuant to Title 30, section 6209-A, subsection 1, paragraph A or B and the Penobscot Nation when that tribe has acted pursuant to Title 30, section 6209-B, subsection 1, paragraph A or B.

**Public Records Exceptions For Review by RTKAC in 2021:
Exceptions for Review in Titles 13 to 19-A**

B. A court may award primary residence of a minor child or parent-child contact with a minor child to a parent who has been convicted of a child-related sexual offense only if the court finds that contact between the parent and child is in the best interest of the child and that adequate provision for the safety of the child can be made.

C. In an order of parental rights and responsibilities, a court may require that parent-child contact between a minor child and a person convicted of a child-related sexual offense may occur only if there is another person or agency present to supervise the contact. If the court allows a family or household member to supervise parent-child contact, the court shall establish conditions to be followed during that contact. Conditions include, but are not limited to, those that:

- (1) Minimize circumstances when the family of the parent who is a sex offender or sexually violent predator would be supervising visits;
- (2) Ensure that contact does not damage the relationship with the parent with whom the child has primary physical residence;
- (3) Ensure the safety and well-being of the child; and
- (4) Require that supervision be provided by a person who is physically and mentally capable of supervising a visit and who does not have a criminal history or history of abuse or neglect.

6-B. Conviction or adjudication for certain sex offenses; presumption. There is a rebuttable presumption that the petitioner would create a situation of jeopardy for the child if any contact were to be permitted and that any contact is not in the best interests of the child if the court finds that the person seeking primary residence or contact with the child:

A. Has been convicted of an offense listed in subsection 6-A, paragraph A in which the victim was a minor at the time of the offense and the person was at least 5 years older than the minor at the time of the offense except that, if the offense was gross sexual assault under Title 17-A, section 253, subsection 1, paragraph B or C, or an offense in another jurisdiction that involves conduct that is substantially similar to that contained in Title 17-A, section 253, subsection 1, paragraph B or C, and the minor victim submitted as a result of compulsion, the presumption applies regardless of the ages of the person and the minor victim at the time of the offense; or

B. Has been adjudicated in an action under Title 22, chapter 1071 of sexually abusing a person who was a minor at the time of the abuse.

The person seeking primary residence or contact with the child may present evidence to rebut the presumption.

7. Violation of order concerning parental rights and responsibilities and contact. Either parent may petition the court for a hearing on the issue of noncompliance with the order issued under subsection 2. If the court finds that a parent has violated a part of the order, the court may find that parent in contempt and may:

**Public Records Exceptions For Review by RTKAC in 2021:
Exceptions for Review in Titles 13 to 19-A**

- A. Require additional or more specific terms and conditions consistent with the order;
- B. Order that additional visitation be provided for a parent to take the place of visitation that was wrongfully denied; or
- C. Order a parent found in contempt to pay a forfeiture of at least \$100.

8. Child support order. The court may order conditions of child support as follows.

- A. Either parent of a minor child shall contribute reasonable and just sums as child support payable weekly, biweekly, monthly or quarterly. In an action filed under section 1654, the court may require the child's nonprimary care provider to pay past support. Availability of public welfare benefits to the family may not affect the decision of the court as to the responsibility of a parent to provide child support. The court shall inquire of the parties concerning the existence of a child support order entered pursuant to chapter 65, subchapter 2, article 3. If an order exists, the court shall consider its terms in establishing a child support obligation. A determination or modification of child support under this section and a determination of past support must comply with chapter 63.
- B. After January 1, 1990, if the court orders either parent to provide child support, the court order must require that the child support be provided beyond the child's 18th birthday if the child is attending secondary school as defined in Title 20-A, section 1, until the child graduates, withdraws or is expelled from secondary school or attains the age of 19, whichever occurs first.
- C. The court may require the payment of part or all of the medical expenses, hospital expenses and other health care expenses of the child. The court order must include a provision requiring at least one parent to obtain and maintain private health insurance for the child, if private health insurance for the child is available at reasonable cost. The court order must also require the parent providing insurance to furnish proof of coverage to the other parent within 15 days of receipt of a copy of the court order. If private health insurance for the child is not available at reasonable cost at the time of the hearing, the court order must include a provision requiring at least one parent to obtain and maintain private health insurance for the child that must be effective immediately upon private health insurance for the child being available at reasonable cost.

When the department provides support enforcement services, the support order must include a provision that requires the responsible parent to keep the department informed of changes in that parent's current address, the name and address of that parent's current employer and whether the responsible parent has access to reasonable cost health insurance coverage and, if so, the health insurance policy information and any subsequent changes.

9. Enforcement of child support order. The court may enforce a child support order as provided in chapter 65.

**Public Records Exceptions For Review by RTKAC in 2021:
Exceptions for Review in Titles 13 to 19-A**

10. Modification or termination. Upon the petition of one or both of the parents, an order for parental rights and responsibilities with respect to a minor child may be modified or terminated as circumstances require.

- A. Modification and termination of child support orders are governed by section 2009.
- B. Modification of and termination orders for parental rights and responsibilities other than child support are governed by section 1657.

11. Mediation. Prior to a contested hearing under this chapter relating to initial or modified orders, the court shall refer the parties to mediation as provided in chapter 3.

12. Termination of order. A court order requiring the payment of child support remains in force as to each child until the order is altered by the court or until that child:

- A. Attains 18 years of age. For orders issued after January 1, 1990, if the child attains 18 years of age while attending secondary school as defined in Title 20-A, section 1, the order remains in force until the child graduates, withdraws or is expelled from secondary school or attains 19 years of age, whichever occurs first;
- B. Becomes married; or
- C. Becomes a member of the armed services.

13. Automatic adjustments.

14. Notice of relocation. The order must require notice of the intended relocation of a child by a parent awarded shared parental rights and responsibilities or allocated parental rights and responsibilities. At least 30 days before the intended relocation of a child by a parent, the parent shall provide notice to the other parent of the intended relocation. If the relocation must occur in fewer than 30 days, the parent who is relocating shall provide notice as soon as possible to the other parent. If the parent who is relocating believes notifying the other parent will cause danger to the relocating parent or the child, the relocating parent shall notify the court of the intended relocation, and the court shall provide appropriate notice to the other parent in a manner determined to provide safety to the relocating parent and child.

REF. NO. 35 19-A MRSA §1753. Information to be submitted to court

1. Required information. In a child custody proceeding, each party, in its first pleading or in an attached affidavit, shall give information, if reasonably ascertainable, under oath as to the child's present address or whereabouts, the places where the child has lived during the last 5 years and the names and present addresses of the persons with whom the child has lived during that period. The pleading or affidavit must state whether the party:

**Public Records Exceptions For Review by RTKAC in 2021:
Exceptions for Review in Titles 13 to 19-A**

A. Has participated, as a party or witness or in any other capacity, in any other proceeding concerning the custody of or visitation with the child and, if so, identify the court, the case number and the date of the child custody determination, if any;

B. Knows of any proceeding that could affect the current proceeding, including proceedings for enforcement and proceedings relating to domestic violence, protective orders, termination of parental rights and adoptions and, if so, identify the court, the case number and the nature of the proceeding; and

C. Knows the names and addresses of any person not a party to the proceeding who has physical custody of the child or claims rights of legal custody or physical custody of, or visitation with, the child and, if so, the names and addresses of those persons.

2. Stay until information furnished. If the information required by subsection 1 is not furnished, the court, upon motion of a party or its own motion, may stay the proceeding until the information is furnished.

3. Additional information. If the declaration as to any of the items described in subsection 1, paragraphs A to C is in the affirmative, the declarant shall give additional information under oath as required by the court. The court may examine the parties under oath as to details of the information furnished and other matters pertinent to the court's jurisdiction and the disposition of the case.

4. Continuing duty to inform court. Each party has a continuing duty to inform the court of any proceeding in this or any other state that could affect the current proceeding.

5. Confidentiality. Notwithstanding any other provision of law, if a party alleges in an affidavit or a pleading under oath that the health, safety or liberty of a party or child would be jeopardized by disclosure of identifying information, the information must be sealed and may not be disclosed to the other party or the public unless the court orders the disclosure to be made after a hearing in which the court takes into consideration the health, safety or liberty of the party or child and determines that the disclosure is in the interest of justice.

REF. NO. 36 19-A MRSA §1834. Parentage proceeding

1. Proceeding authorized. A proceeding to adjudicate the parentage of a child may be maintained in accordance with this chapter and applicable rules of procedure.

2. Original actions. Original actions to adjudicate parentage may be commenced only in District Court.

3. Other proceedings. The District Court and the Probate Court are authorized to adjudicate parentage under this chapter when parentage is an issue in any other pending proceeding.

4. No right to jury. There is no right to demand a jury trial in an action to determine parentage.

**Public Records Exceptions For Review by RTKAC in 2021:
Exceptions for Review in Titles 13 to 19-A**

5. Disclosure of social security numbers. A person who is a party to a parentage action shall disclose that person's social security number to the court. The social security number of a person subject to a parentage adjudication must be placed in the court records relating to the adjudication. The record of a person's social security number is confidential and is not open to the public. The court shall disclose a person's social security number to the department for child support enforcement purposes.

REF. NO. 37 19-A MRSA §2006. Support guidelines

1. Determination of basic support entitlement. After the court or hearing officer determines the annual gross income of both parties, the 2 incomes must be added together to provide a combined annual gross income and applied to the child support table to determine the basic support entitlement for each child.

The court or hearing officer shall refer to the table and locate the figure in the left-hand column that is closest to the parents' combined annual gross income. The court or hearing officer shall determine the dollar figure for the total number of children for whom support is being determined and multiply the dollar figure by the number of children. The resulting dollar amount represents the basic support entitlement.

2. Past support. This chapter applies to an award of past support. Past support is calculated by applying the current support guidelines to the period for which past support is owed.

3. Total basic support obligation. The total basic support obligation is determined by adding the child care costs, health insurance premiums and extraordinary medical expenses to the basic support entitlement as follows.

- A. When each child is under the age of 12 years, the sums actually being expended for child care costs must be added to the basic support entitlement to determine the total basic support obligation.
- B. If a child is incurring extraordinary medical expenses, the future incidence of which is determinable because of the permanent, chronic or recurring nature of the illness or disorder, the sums actually being expended for the medical expenses must be added to the basic support entitlement to determine the total basic support obligation.
- C. If private health insurance for the child is available at reasonable cost, the cost of private health insurance must be added to the basic support entitlement to determine the total basic support obligation. For the purposes of this paragraph, "the cost of private health insurance" is the cost of adding the child to existing coverage or the difference between self-only and family coverage.

4. Computation of parental support obligation. The total basic support obligation must be divided between the parties in proportion to their respective gross incomes. The court or hearing officer shall order the party not providing primary residential care to pay, in money, that party's share of the total basic support obligation to the party providing primary residential care. The

**Public Records Exceptions For Review by RTKAC in 2021:
Exceptions for Review in Titles 13 to 19-A**

primary residential care provider is presumed to spend the primary care provider's share directly on each child. If the court or hearing officer determines that the parties provide substantially equal care for a child for whom support is sought, presumptive support must be calculated in accordance with subsection 5, paragraph D-1. Both parents are responsible for child support if a caretaker relative provides primary residential care for the child. The caretaker relative's income may not be considered in determining the parents' child support obligation.

5. Special circumstances. The court or hearing officer shall consider the following special circumstances in determining child support.

A. When the parent who is not the primary care provider is legally obligated to support a child in that party's household other than the child for whom a support order is being sought, an adjustment must be made to that party's parental support obligation. The adjustment is made by using the nonprimary residential care provider's annual gross income to compute a theoretical support obligation under the support guidelines for each child in that household. Neither the child support received by nor the financial contributions of the other parent of each child in the household are considered in the theoretical support calculation. The obligation is then subtracted from the annual gross income, and the adjusted income is the amount used to calculate support. The adjustment is used in all appropriate cases.

B. When the parties' combined annual gross income exceeds \$400,000, the child support table is not applicable, except that the basic weekly child support entitlement of a child is presumed to be not less than that set forth in the table for a combined annual gross income of \$400,000.

C. The subsistence needs of the nonprimary care provider must be taken into account when establishing the parental support obligation. If the annual gross income of the nonprimary care provider is less than the federal poverty guideline, the nonprimary care provider's weekly parental support obligation may not exceed 10% of the nonprimary care provider's weekly gross income, regardless of the amount of the parties' combined annual gross income. The child support table includes a self-support reserve for obligors earning \$22,800 or less per year. If, within an age category, the nonprimary care provider's annual gross income, without adjustments, is in the self-support reserve for the total number of children for whom support is being determined, the amount listed in the self-support reserve multiplied by the number of children in the age category is the nonprimary care provider's support obligation for the children in that age category, regardless of the parties' combined annual gross income. The nonprimary care provider's proportional share of childcare, health insurance premiums and extraordinary medical expenses are added to this basic support obligation. This paragraph does not apply if its application would result in a greater support obligation than a support obligation determined without application of this paragraph.

D. When the parties have equal annual gross incomes and provide substantially equal care for each child for whom support is being determined, neither party is required to pay the other a parental support obligation. The parties shall share equally the child care costs, health insurance premiums and uninsured medical expenses.

**Public Records Exceptions For Review by RTKAC in 2021:
Exceptions for Review in Titles 13 to 19-A**

D-1. When the parties do not have equal annual gross incomes but provide substantially equal care for each child for whom support is being determined, the presumptive parental support obligation must be determined as follows.

- (1) The enhanced support entitlement for each child must be determined.
- (2) Using the enhanced support entitlement, a parental support obligation for each child must be determined by dividing the total enhanced support obligation between the parties in proportion to their respective gross incomes.
- (3) The party with the higher annual gross income has a presumptive obligation to pay the other party the lower of:
 - (a) The difference between their parental support obligations as calculated in subparagraph (2); and
 - (b) The presumptive parental support obligation determined for the payor party using the basic support entitlement under the support guidelines as though the other party provided primary residential care of the child.
- (4) The parties shall share the child care costs, health insurance premiums and uninsured medical expenses in proportion to their incomes.

E. When each party is the primary residential care provider for at least one of the children involved, a child support obligation must first be computed separately for each party for each child residing primarily with the other party, based on a calculation pursuant to the support guidelines, and using as input in each calculation the number of children in each household, rather than the total number of children. The amounts determined in this manner represent the theoretical support obligation due each party for support of each child for whom the party has primary residential responsibility. Each party's proportionate share of child care costs and health insurance premiums is added to the amounts calculated, and the party owing the greater amount of child support shall pay the difference between the 2 amounts as a parental support obligation.

6. Prospective child support award.

7. Incorporated findings. As part of its current child support order, the court or hearing officer shall make the following findings:

- A. The names and dates of birth of each child for whom support is being sought;
- B. The annual gross income of each party and the combined annual income of both parties;
- C. The amount of the basic weekly support entitlement attributable to each child as indicated per child per week on the child support table;
- D.

**Public Records Exceptions For Review by RTKAC in 2021:
Exceptions for Review in Titles 13 to 19-A**

- E. The name and date of birth of each child for whom work-related day care expenses are paid and the amount of those expenses;
- F. The name and date of birth of each child for whom extraordinary medical expenses are paid and the amount of those expenses;
- G. The parental support obligation of the party ordered to pay child support; and
- H. The name and date of birth of each child for whom health insurance premiums are paid and the amount of those premiums.

These findings are made by incorporating the completed child support worksheet into the order for current support.

8. Requirements of support provisions. To assist in a formal review proceeding, and to enable the parties to reduce the incidence of formal modification procedures, an order establishing parental support obligation must include:

- A. The name of each child;
- B. A beginning date for the parental support obligation;
- C. A breakdown of the parental support obligation, including:
 - (1) The amount for basic support entitlements and the amount for enhanced support entitlements, if applicable;
 - (2) The amount for child care costs;
 - (3) The amount for extraordinary medical expenses;
 - (4) The percentage of the total child care costs and extraordinary medical expenses included in the parental support obligation, if applicable; and
 - (5) The amount for health insurance premiums;
- D.
- E. If a parental support obligation is being established for more than one child and a child has attained 15 years of age, a specific sum to be paid depending on the number of minor children remaining with the primary care provider. Because the support guidelines are based on the actual costs of raising a given number of children in a household, the order must provide a specific dollar amount for every combination of minor children. Except as provided in paragraph G, the court or hearing officer may not apportion support between the parents by determining the parental support obligation amount and dividing by the total number of children;
- F. If the court or hearing officer ultimately determines that the order for current support is to be set under section 2007, the written findings of the court or hearing officer in support of the deviation;

**Public Records Exceptions For Review by RTKAC in 2021:
Exceptions for Review in Titles 13 to 19-A**

G. With regard to any initial or modified child support order that affects more than one child and that was entered before January 18, 2005, unless that order states the manner in which the order must be modified upon the events listed in subparagraphs (1) to (4), that the order be automatically modified pursuant to this paragraph to address any of the following events:

- (1) Any child reaches 18 years of age and has graduated from secondary school;
- (2) Any child reaches 19 years of age without having graduated from secondary school;
- (3) Any child obtains an order of emancipation; or
- (4) Any child dies.

As of the date of an event listed in subparagraphs (1) to (4), the total child support amount stated in the order must be decreased by the child support amount assigned to that child in the worksheets accompanying the child support order or as set forth in the order; and

H. A requirement that private health insurance must be provided for the benefit of the child, if private health insurance for the child is available at reasonable cost. If private health insurance for the child is not available at reasonable cost at the time of the hearing, a requirement that private health insurance for the child must be provided effective immediately upon being available at reasonable cost.

9. Notice of right to review. A judicial order or administrative order issued or modified in this State that includes an order for child support must include a statement that advises parents of the right to request the issuing authority to review and, if appropriate, modify the child support order according to the State's child support guidelines.

10. Disclosure and recording of social security numbers. A person who is a party to an action to establish or modify a support order shall disclose that person's social security number to the court or the department, whichever conducts the proceeding. The social security number of a person who is subject to a support order must be placed in the records relating to the support order. The record of a person's social security number is confidential and is not open to the public. The court shall disclose a person's social security number to the department for child support enforcement purposes.

11. Child between 18 and 19 years of age attending secondary school. The child support table and the support guidelines include a child between 18 and 19 years of age who is attending a secondary school for whom an obligation of support is established or deemed to remain in force pursuant to section 1653, subsection 8, paragraph B; section 1653, subsection 12, paragraph A; or section 2306, subsection 4, paragraph D.

REF. NO. 38 19-A MRSA §2111. **Criminal history record checks for Department of Health and Human Services employees, applicants for employment, contractors and subcontractors**

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

**Public Records Exceptions For Review by RTKAC in 2021:
Exceptions for Review in Titles 13 to 19-A**

- A. "Federal Bureau of Investigation" means the United States Department of Justice, Federal Bureau of Investigation.
- B. "State Police" means the Department of Public Safety, Bureau of State Police.

2. Criminal history; information about criminal records and data obtained. The department shall obtain, in print or electronic format, criminal history record information containing a record of public criminal history record information as defined in Title 16, section 703, subsection 8, from the Maine Criminal Justice Information System, established pursuant to Title 16, section 631, and the Federal Bureau of Investigation, for any person employed by the department, who may be offered employment by the department or who is employed by or may be offered employment by a department contractor or subcontractor in order to comply with the United States Internal Revenue Service's tax information security guidelines for federal, state and local agencies.

3. Fingerprint-based criminal history obtained. A person employed by the department or a person who is employed by a department contractor or subcontractor shall consent to and have the person's fingerprints taken. A person who may be offered employment by the department or by a department contractor or subcontractor shall consent to and have the person's fingerprints taken prior to being employed by the department or by a department contractor or subcontractor. The State Police shall take or cause to be taken the fingerprints of a person who has consented under this subsection and shall forward the fingerprints to the Department of Public Safety so that the Department of Public Safety may conduct a state and national criminal history record check on the person. The Department of Public Safety shall forward the results obtained to the department. The fee charged to the department by the State Police must be consistent with the fee charged to executive branch agencies receiving similar services. Except for the portion of the payment that constitutes the processing fee charged by the Federal Bureau of Investigation, all money received by the State Police under this subsection must be paid to the Treasurer of State, who shall apply the money to the expenses of administration of this section by the Department of Public Safety.

4. Updates to information. The department may request a subsequent criminal history record check under subsection 3 on an employee, a person who has been offered employment by the department, an employee of a department contractor or subcontractor or a person who has been offered employment by a department contractor or subcontractor as the department determines appropriate, including continuous notifications of updated criminal history record information if a service providing notifications of updated criminal history record information becomes available.

5. Confidentiality. Information obtained pursuant to this section is confidential and may not be disseminated for purposes other than as provided in subsections 6 and 7.

6. Use of information obtained. Criminal history record information obtained pursuant to this section may be used by the department for employment purposes to screen an employee, a person who may be offered employment by the department, an employee of a department contractor or subcontractor or a person who may be offered employment by a department contractor or

**Public Records Exceptions For Review by RTKAC in 2021:
Exceptions for Review in Titles 13 to 19-A**

subcontractor. The subject of any criminal history record check under subsection 3 may contest any negative decision made by the department based upon the information received pursuant to the criminal history record check.

7. Person's access to information obtained. A person subject to a criminal history record check pursuant to subsection 3 must be notified each time a criminal history record check is performed on the person. A person subject to a criminal history record check under subsection 3 may inspect and review the criminal history record information pursuant to Title 16, section 709 and obtain federal information obtained pursuant to the criminal history record check by following the procedures outlined in 28 Code of Federal Regulations, Sections 16.32 and 16.33.

8. Right of subject to remove fingerprints from record. Upon request from a person subject to a criminal history record check pursuant to subsection 3, the Department of Public Safety shall remove the person's fingerprints from the Department of Public Safety's records and provide written confirmation of the removal to the person.

REF. NO. 39 19-A MRSA §2152. **Disclosure of information in medical support recoupment and child support cases**

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

- A. "Assets" means any interest in real or personal property.
- B. "Medicaid recipient" means an individual authorized by the department to receive services under the provisions of the United States Social Security Act, Title XIX and successors to it.

2. Request for information concerning responsible parents. Except as provided in subsection 5, the department may request of any person information needed to establish, modify or enforce a support order, including a responsible parent's or alleged responsible parent's:

- A. Complete name;
- B. Social security number;
- C. Date and place of birth;
- D. Present and past employment status;
- E. Earnings;
- F. Current or last known address;
- G. Assets and liabilities;

**Public Records Exceptions For Review by RTKAC in 2021:
Exceptions for Review in Titles 13 to 19-A**

H. Availability and description of present or previous health insurance coverage for a dependent child; and

I. Health insurance benefits paid or applied for under a policy of health insurance for a dependent child.

3. Request for information concerning present and former Medicaid recipients. The department may request of any person information relating to the following matters concerning a present or former Medicaid recipient:

A. Availability and description of health insurance coverage; and

B. Health insurance benefits paid or applied for under a policy of health insurance.

4. Demand for information.

5. If paternity has not been established. If an alleged responsible parent is a putative father of a child conceived and born out of wedlock, a request for information must be limited to the following matters concerning the alleged responsible parent:

A. Complete name;

B. Date and place of birth;

C. Present and past employment status;

D. Social security number; and

E. Current or last known address.

5-A. Duty to disclose. All persons, as defined in section 101, subsection 9, shall respond fully and promptly to a request for information made by the department under this section and to a request for similar information made by another state's child support enforcement agency, except that information that is privileged under the Maine Rules of Evidence need not be disclosed.

6. Immunity from liability. A person who discloses information requested by the department under this section or who discloses similar information requested by another state's child support enforcement agency is immune from liability to any other person because of the disclosure, unless the information is privileged under the Maine Rules of Evidence.

7. Affirmation of responses. The department may require that a response to a request for information be affirmed under the penalties for unsworn falsification under Title 17-A, section 453.

8. Facilitation of responses. The department or other requesting agency shall provide a prepaid, preaddressed envelope with each request for information.

9. Notice to responsible parent or alleged responsible parent. When requesting information as provided by this section, the department shall send a copy of the request to the responsible

**Public Records Exceptions For Review by RTKAC in 2021:
Exceptions for Review in Titles 13 to 19-A**

parent or alleged responsible parent by regular mail to the responsible parent or alleged responsible parent's last known address.

10. Penalties for nondisclosure. A person who knowingly fails to respond to a request for information, who knowingly fails to disclose information requested or who knowingly refuses to disclose, commits a civil violation for which a forfeiture not to exceed \$1,000 may be adjudged.

- A.
- B.

11. Confidentiality of information; unlawful dissemination; penalty. All information collected in connection with the department's child support enforcement activity and medical support recoupment pursuant to this section is confidential and available only for the use of appropriate departmental personnel and legal counsel for the department in carrying out their functions. A person is guilty of unlawful dissemination if that person knowingly disseminates information in violation of this subsection. Unlawful dissemination is a Class E crime that, notwithstanding Title 17-A, section 1604, subsection 1, paragraph E, is punishable by a fine of not more than \$500 or by imprisonment for not more than 30 days.

12. Admissible evidence. If a person, in response to a request for information pursuant to this section, provides records or data from regularly conducted business, the information is admissible as a public record pursuant to the Maine Rules of Evidence 803(8)(A) and is not within the investigative report exception found in the Maine Rules of Evidence 803(8)(B) because the information is provided pursuant to a duty imposed by law and is inherently reliable.

REF. NO. 40 19-A MRSA §2158. Access to wireless service provider's records of individuals who owe child support

1. Definitions. For the purposes of this section, unless the context otherwise indicates, the following terms have the following meanings.

- A. "Account holder" means an individual who has executed an agreement with a wireless service provider for cellular telephone service.
- B. "Match" means an automated comparison by name, date of birth and social security number of a list of obligors provided to a wireless service provider by the department with a list of account holders of the wireless service provider for the purpose of providing the department with a list of addresses of account holders delinquent in support allowing the department to locate and enforce support obligations.
- C. "Obligor" means a person who owes a child support obligation.
- D. "Wireless service provider" means an entity that provides cellular telephone service.

2. Match. Upon request from the department to a wireless service provider conducting business in this State, the wireless service provider shall perform a match using the list of obligors'

**Public Records Exceptions For Review by RTKAC in 2021:
Exceptions for Review in Titles 13 to 19-A**

names provided by the department. The department may not request a wireless service provider to perform a match under this section more often than once every calendar quarter.

3. Compilation of match list. After completing a match under subsection 2, a wireless service provider shall compile for the department a list of those account holders whose names match names on the list of obligors provided by the department. The list must contain the following information, if available to the wireless service provider through its matching procedure, for each account holder identified:

- A. The account holder's full name;
- B. The account holder's date of birth;
- C. The account holder's social security number;
- D. The account holder's address; and
- E. The account holder's employer.

4. Notice to department. A wireless service provider that has compiled a match list under subsection 3 shall send the list to the department at the address designated by the department.

5. Reasonable fee. To cover the costs of carrying out the requirements of this section, a wireless service provider may assess a reasonable fee to the department not to exceed the actual costs incurred by the wireless service provider.

6. Confidentiality. A list of obligors provided by the department to a wireless service provider under subsection 2 is confidential. The information may be used only for the purpose of carrying out the requirements of this section. Knowing or intentional use of the information, without authorization from the department, is a civil violation for which a fine not to exceed \$1,000 may be adjudged.

7. Immunity from liability; hold harmless. A wireless service provider is immune from any liability for its good faith actions to comply with this section. The department shall defend and hold harmless, including compensation for attorney's fees, a wireless service provider that acts in good faith to carry out the requirements of this section.

8. Rulemaking. The department shall adopt rules to carry out this section. Rules adopted under this subsection are routine technical rules as provided in Title 5, chapter 375, subchapter 2-A.

REF. NO. 41 19-A MRSA §3012. Nondisclosure of information in exceptional circumstances

If a party alleges in an affidavit or a pleading under oath that the health, safety or liberty of a party or child would be jeopardized by disclosure of specific identifying information, that information must be sealed and may not be disclosed to the other party or the public. After a hearing in which a tribunal takes into consideration the health, safety or liberty of the party or child,

**Public Records Exceptions For Review by RTKAC in 2021:
Exceptions for Review in Titles 13 to 19-A**

the tribunal may order disclosure of information that the tribunal determines to be in the interest of justice.

REF. NO. 42 19-A MRSA §4008. Identifying information sealed

If a party alleges in an affidavit or a pleading under oath that the health, safety or liberty of a party or child would be jeopardized by disclosure of identifying information, the information must be sealed by the clerk and not disclosed to the other party or to the public unless the court orders the disclosure to be made after a hearing in which the court takes into consideration the health, safety or liberty of the party or child and determines that the disclosure is in the interest of justice.

REF. NO. 43 19-A MRSA §4013. Maine Commission on Domestic and Sexual Abuse

There is created the Maine Commission on Domestic and Sexual Abuse, as established by Title 5, section 12004-I, subsection 74-C, referred to in this section as the "commission."

1. Composition; chair. The commission is composed as follows.

A. The Governor shall name the chair from among the following members:

- (1) One member, appointed by the Governor, who is a representative of the statewide coalition of domestic violence projects;
- (1-A) One member, appointed by the Governor, who is a representative of the statewide coalition of sexual assault centers;
- (2) One member, appointed by the Governor, who is a representative of the mental health profession;
- (3) One member, appointed by the Governor, who is a representative of victims of domestic violence;
- (3-A) One member, appointed by the Governor, who is a representative of victims of sexual assault;
- (4) Two members, appointed by the Governor, one of whom has experience representing victims of domestic abuse, who are attorneys with experience in domestic relations cases;
- (5) One member, appointed by the Governor, who was a victim of domestic abuse and used the court system;
- (5-A) One member, appointed by the Governor, who was a victim of sexual assault and used the court system;
- (6) One member, appointed by the Governor, who is a district attorney or assistant district attorney;
- (7) One member, appointed by the Governor, who is chief of a municipal police department or the chief's designee;

**Public Records Exceptions For Review by RTKAC in 2021:
Exceptions for Review in Titles 13 to 19-A**

- (8) One member, appointed by the Governor, who is a county sheriff or the sheriff's designee;
 - (8-A) One member, appointed by the Governor, who is the executive director of a statewide coalition to end domestic violence;
 - (8-B) One member, appointed by the Governor, who is the executive director of a statewide coalition against sexual assault;
 - (8-C) The Attorney General or the Attorney General's designee;
 - (8-D) The Chief of the Maine State Police or the chief's designee;
 - (9) The Commissioner of Public Safety or the commissioner's designee;
 - (9-A) The Commissioner of Health and Human Services or the commissioner's designee;
 - (9-C) The Commissioner of Education or the commissioner's designee;
 - (9-D) The Commissioner of Labor or the commissioner's designee;
 - (9-E) The Commissioner of Corrections or the commissioner's designee;
 - (9-F) One member, appointed by the Governor, who has experience working in batterers' intervention programs;
 - (10) Up to 4 members-at-large, appointed by the Governor;
 - (11) Up to 4 members, appointed by the Governor, representing underserved populations;
 - (12) One member, appointed by the Governor, who is a tribal member and provides services through a tribal program to tribal members who are victims of domestic or sexual violence;
 - (13) One member, appointed by the Governor, who is an executive director of a tribal coalition against sexual assault and domestic violence;
 - (14) One member, appointed by the Governor, who is chief of a tribal police department or the chief's designee;
 - (15) One member, appointed by the Governor, who is a representative of a tribal court; and
 - (16) One member, appointed by the Governor, who is a representative of tribal government.
- B. The Chief Justice of the Supreme Judicial Court is requested to appoint one person to serve the commission in an advisory capacity.

2. Terms of office. The members serve 3-year terms.

**Public Records Exceptions For Review by RTKAC in 2021:
Exceptions for Review in Titles 13 to 19-A**

3. Powers and duties. The commission shall advise and assist the executive, legislative and judicial branches of State Government on issues related to domestic and sexual abuse. The commission may make recommendations on legislative and policy actions, including training of the various law enforcement officers, prosecutors and judicial officers responsible for enforcing and carrying out the provisions of this chapter, and may undertake research development and program initiatives consistent with this section. The entire commission shall meet at least 2 times a year. Subcommittees of the commission may meet as necessary. The commission may accept funds from the Federal Government, from a political subdivision of the State or from an individual, foundation or corporation and may expend these funds for purposes that are consistent with this subsection.

4. Domestic Abuse Homicide Review Panel. The commission shall establish the Domestic Abuse Homicide Review Panel, referred to in this subsection as the "panel," to review the deaths of persons who are killed by family or household members as defined by section 4002.

A. The chair of the commission shall appoint members of the panel who have experience in providing services to victims of domestic and sexual abuse and shall include at least the following: the Chief Medical Examiner, a physician, a nurse, a law enforcement officer, the Commissioner of Health and Human Services, the Commissioner of Corrections, the Commissioner of Public Safety, a judge as assigned by the Chief Justice of the Supreme Judicial Court, a representative of the Maine Prosecutors Association, an assistant attorney general responsible for the prosecution of homicide cases designated by the Attorney General, an assistant attorney general handling child protection cases designated by the Attorney General, a victim-witness advocate, a mental health service provider, a facilitator of a certified batterers' intervention program under section 4014 and 3 persons designated by a statewide coalition for family crisis services. Members who are not state officials serve a 2-year term without compensation, except that of those initially appointed by the chair, 1/2 must be appointed for a one-year term.

B. The panel shall recommend to state and local agencies methods of improving the system for protecting persons from domestic and sexual abuse, including modifications of laws, rules, policies and procedures following completion of adjudication.

C. The panel shall collect and compile data related to domestic and sexual abuse, including data relating to deaths resulting from domestic abuse when the victim was pregnant at the time of death.

D. In any case subject to review by the panel, upon oral or written request of the panel, any person that possesses information or records that are necessary and relevant to a homicide review shall as soon as practicable provide the panel with the information and records. Persons disclosing or providing information or records upon the request of the panel are not criminally or civilly liable for disclosing or providing information or records in compliance with this paragraph.

E. The proceedings and records of the panel are confidential and are not subject to subpoena, discovery or introduction into evidence in a civil or criminal action. The commission shall

**Public Records Exceptions For Review by RTKAC in 2021:
Exceptions for Review in Titles 13 to 19-A**

disclose conclusions of the review panel upon request, but may not disclose information, records or data that are otherwise classified as confidential.

The commission shall submit a report on the panel's activities, conclusions and recommendations to the joint standing committee of the Legislature having jurisdiction over judiciary matters by January 30, 2002 and biennially thereafter.