

CRIMINAL RECORDS REVIEW COMMITTEE

Meeting Agenda

Tuesday, October 8, 2024 at 9:00a.m.

Maine State House, Room 228 (AFA) and via Zoom

Streaming: <https://legislature.maine.gov/Audio/#228>

1. Welcome and Introductions
 - Senator Donna Bailey, Senate Chair
 - Speaker Rachel Talbot Ross, House Chair
2. Update on Committee Information Requests from Sept. 24 Meeting
 - Office of Policy and Legal Analysis Staff
3. Public Comment on CRRC Duties
4. Written Comments from Residents of Correctional Facilities and County Jails
5. Invitation to Visit Maine State Prison's Re-entry Fair Oct. 23
 - Sam Prawer, Director of Government Affairs, Department of Corrections
6. Committee Discussion / Development of Proposed Recommendations
7. Planning for Final Meeting

The Committee may take a lunch break during the meeting

Future Meetings

- Tuesday, November 19, 9:00 a.m. (Hybrid: State House Room 228 and Zoom)

Additional information and materials are available on the Committee's webpage at:
<https://legislature.maine.gov/criminal-records-review-committee-131st-legislature>



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To: The Criminal Records Review Committee
From: Becky Smith, Director of Government and Community Relations
(207) 629-4015; bsmith@MaineCC.edu
Re: Questions Posed by CRRC to the Maine Community College System
Date: October 7, 2024

On behalf of the Maine Community College System (“MCCS”), I am writing to follow up from the written testimony I read aloud at the September 23, 2024 meeting of the Joint Criminal Records Review Committee of Maine Legislature, at which Sally Meredith, MCCS Associate General Counsel, was available to answer questions.

At the meeting, the Committee asked certain questions about MCCS policies, procedures, and practices regarding employment decisions and also college admission for individuals with criminal convictions. The Committee requested additional information regarding MCCS’s hiring process for such individuals. Specifically, “[d]oes the Maine Community College System have written guidance or standard protocols for hiring teams to use regarding the weight that a criminal conviction should be given in employment decisions?” I am writing to provide the information requested by the Committee and answer the above question, as well as provide some additional information regarding the MCCS college admission process for individuals with criminal convictions.

I hope you find the following information helpful and responsive to the Committee’s question. We appreciate the Committee’s important work in this area. As mentioned in my earlier testimony, MCCS strives to provide the widest open door to the neediest students, including those who are justice-involved, and we are excited about the MCCS colleges’ ongoing collaborations with the Maine Department of Corrections as well as with a number of Maine employers who have self-identified as “second chance” employers.

I. Employment

MCCS utilizes a consultative approach to hiring decisions for individuals with criminal convictions. The process and procedures are set forth in MCCS Policy 414 and MCCS Procedure 414.1 described below.

a. Policy

MCCS Policy “414 – Hiring Procedures”¹, Section D requires an online criminal records check before offering full-time employment for faculty, administrative, or confidential positions, as well for adjunct faculty and full and part-time student employees. The background check must include all states in which the person resided in the prior ten-year period. Further, Policy 414 states that, “Any person who obtains MCCS employment having made a material misrepresentation or omission about that

¹ https://mymccs.me.edu/ICS/icsfs/Policy_414.pdf?target=947263ff-5705-4bf5-a9f9-cf83db80191e

person's experience, record or other background shall be subject to discipline, up to and including termination."

Policy 414 describes when a background check is required. Below, please find a summary of the separate procedure, i.e., MCCS Procedure 414.1, which provides the guidance used across the seven Colleges and the MCCS System Office for meeting the policy criteria.

b. Procedure and Practice

MCCS Procedure "414.1 – Recruiting and Hiring"² Section 7 – Hiring Process states, "Employment shall be offered on the basis of skill, knowledge and ability needed to perform the duties of the position. The hiring authority will select the best-matched applicant based on all available information compared to the job-related criteria as advertised."

Most, but not every, position hired utilizes a search committee. The committee is charged with identifying the best candidate for the position. The committee screens applicants, conducts interviews, and makes recommendations to the hiring authority after conducting reference checks. The hiring authority, with Human Resources, makes a conditional offer of employment to the candidate of choice. The candidate of choice signals acceptance of the conditional offer by signing paperwork, including authorization to conduct a criminal background check in keeping with Policy 414.

Only System-level HR employees are authorized to conduct a criminal background check. Such requests and the requisite paperwork from all seven Colleges and from System departments are sent to System HR.

If a criminal background check yields information, System HR notifies the hiring authority and the General Counsel Office ("GCO"). The hiring authority reviews the information as it relates to the position-related criteria and discusses the findings with the GCO. Additionally, the hiring authority may consult with those in senior leadership at the institution, including those with a supervisory role for the position. As noted above, it is a consultative process.

The discussion includes the nature of the position and the specific tasks of the role; the nature of the conviction; and the recency of the conviction. There are over 350 unique positions and job titles within MCCS, each with differing job tasks. For example, an individual with a recent OUI conviction would be hired to work in the Business Office but might not be insurable under State of Maine Risk Management for a position driving a college vehicle. Likewise, a conviction of theft may preclude an individual from working in the Business Office but could allow for employment in Academic Affairs. Last, a conviction of theft from several years prior with no repeat theft offenses might allow for employment in the Business Office, depending on the type of theft.

² <https://mymccs.me.edu/ICS/icsfs/414.1.pdf?target=3dce0fd9-79a7-4437-8881-1abaefc3132a>

c. Training

Annually, MCCS HR staff complete non-discrimination training, in addition to affirmative action training. GCO staff, in addition to the above-mentioned training also complete mandatory harassment and non-discrimination training as required by the Maine Board of Bar Overseers.

II. College Admissions

MCCS utilizes a consultative approach to Admission decisions for individuals which criminal convictions. The Director of Admissions discusses the matter with the Dean of Students, and also with the Academic Department Chair for which the individual has applied, and potentially the Director of Campus Safety and Security. On occasion, the Dean of Students will also consult with the GCO.

a. Policy

MCCS Policy “504 – Special Conditions of Admission, Enrollment, and Participation”³ governs the approach an MCCS College uses when determining whether to admit a student with a criminal record. Specifically, Section B – Definitions, Subsection 3 states:

“Circumstances warranting special conditions” or “special circumstances” mean those acts that raise reasonable concerns for community safety and community order. They typically involve prior personal misconduct that demonstrates a diminished reliability to comply with the reasonable rules and regulations of the college, and/or a greater likelihood of risk of harm to self, others or property. Such circumstances often include, but are not limited to, a:

- a. Criminal conviction;
- b. Condition of bail, probation, restraining order or other judicial or administrative order;
- c. Pending arrest, indictment or other criminal charge;
- d. Report or recommendation of a law enforcement, probation or parole officer that relates to the risks of harm or disruption that an individual may present;
- e. Report or recommendation of a mental health professional that relates to the risks of harm or disruption that an individual may present;
- f. Civil litigation whose allegations raise like concerns for a college; or

³ https://mymccs.me.edu/ICS/Portlets/ICS/Handoutportlet/viewhandler.ashx?handout_id=33fae492-496d-495c-86a5-6fe64c79ed62

- g. Lack of evidence of an individual's ability to succeed academically or other evidence that the individual is unlikely to succeed. Such evidence includes but is not limited to the individual's prior performance at other educational institutions.

Section D – Authority to Exclude or Limit states in its entirety:

A college may exclude or limit an individual's admission, enrollment or participation to the extent that an individual's special circumstance diminishes the individual's:

- a. Likelihood of success in a program of academic study, particularly one for which admission is competitive;
- b. Ability to be placed in a required internship or clinical experience;
- c. Ability to qualify for a professional license after graduation;
- d. Ability to qualify for financial aid, especially federal financial aid if there is a drug-related conviction;
- e. Compatibility for placement in a college residence hall;
- f. Trustworthiness for on-campus employment;
- g. Reliability to comply with the reasonable rules and regulations of the college; and
- h. Reliability not to present a greater likelihood of risk of harm to self, others or property.

Section E – Determining Whether to Exclude or Limit a Student, states in its entirety:

1. In determining whether to apply any conditions to an individual with a special circumstance, a college should:
 - a. Whether the conduct underlying the special circumstance was admitted or proven, or is not yet admitted or proven;
 - b. When and how recently the conduct was committed or alleged to be committed, and whether the individual was a juvenile or adult at the time;

- c. Whether the conduct was against a person or property; violent or passive; and intentional, reckless, negligent or grossly negligent;
 - d. Whether the harm actually or allegedly caused was minor and temporary or serious and permanent;
 - e. Whether the individual acknowledged the individual's responsibility by plea, or contested by trial and/or appeal;
 - f. What punishment, if any, was imposed on the individual; whether that punishment was satisfactorily completed; whether the individual is on bail, probation or parole, and, if so, the terms and conditions thereof; and the perceived degree to which the individual has been rehabilitated; and
 - g. Any other factor that is relevant and material.
2. Consult, as appropriate, with the MCCS General Counsel;
 3. Weigh the individual's circumstances against the college's interests in, for example, those issues addressed in *Section D* above and determine the rational relationship between the facts of an individual's particular case and the college's interests in excluding or limiting the individual; and
 4. Impose those conditions that by amount, scope and duration are reasonable under the particular circumstances.

Section F – Designated Officials, Subsection 1 – Pre-Admission states:

On questions of whether an applicant's special circumstances shall affect an applicant's admission to a college, the college Director of Admissions, Dean of Students or designee shall make that determination consistent with the provisions of this policy and impose any special terms and conditions necessary to address the applicant's circumstances.

b. Procedures and Practice

Each MCCS College utilizes Policy 504 in its approach to determining participation for an individual with a criminal record. It is a consultative process and seeks to balance recognition of the circumstances leading to the conviction, punishment imposed and served, and the individual's circumstances as it relates to the College's interests in maintaining a safe college community and campus.

c. Training

Annually, MCCS College employees complete non-discrimination training. Additionally, Deans of Students receive implicit bias training utilizing Harvard's Implicit Bias Project⁴ and they receive heuristics recognition training. Each of the seven Colleges and the System Office are members of NABITA – National Association of Behavioral Intervention and Threat Assessment and utilize the tools developed by this national higher education association. Some of these tools, such as the threat assessment rubric, augment Policy 504. Other individuals at the Colleges who are trained by NABITA include Associate Deans and Directors of Campus Safety and Security.

⁴ <https://implicit.harvard.edu/implicit/takeatest.html>

DATE: Oct. 4, 2024
TO: Criminal Records Review Committee (131st Legislature)
FROM: Samantha Warren, UMS Director of Government & Community Relations
samantha.warren@maine.edu / 207-632-0389
RE: **Follow-up on UMS Criminal History Considerations**

Senator Bailey, Speaker Talbot Ross and distinguished members of the 131st Legislature's Criminal Records Review Committee:

Thank you for the opportunity to share at your Sept. 24 meeting how the University of Maine System (UMS) promotes equal opportunity in education and employment. The purpose of this brief memo and its attachment is to provide additional information requested by the Committee.

Attached you will find the page from the **application for student admission to the University of Maine School of Law** that contains questions about an applicant's criminal and disciplinary history. I have confirmed with our law school that juvenile, sealed or expunged incidents and the corresponding records are exempt from this disclosure. I can also share that CUNY Law School and the University of Buffalo School of Law are the two institutions we are aware of that do not consider criminal history as part of the law school admissions process. CUNY Law's 2022 press release announcing that decision is [available here](#).

Members of the Committee inquired about the **diversity of UMS students and employees**. To address this, I have included our most recent System workforce profile (2023) and our latest student enrollment report (Fall 2023), which both include self-reported demographic information including race and ethnicity.

Finally, the Committee asked about resources needed to expand and enhance the efforts of the University of Maine at Augusta (UMA), in partnership with the Maine Department of Corrections (MDOC), to **provide postsecondary education within State correctional facilities**. As you already heard from me and I am proud to restate here, since this program started in 2006, it has served approximately 800 incarcerated individuals, with at least 140 earning degrees and a three-year recidivism rate under 5%.

At all MDOC facilities except the Maine State Prison (MSP), UMA is meeting demand. It is important our students have continued access to technology and study spaces conducive to accessing and advancing their education. Additional resources that would help us better meet the interest from MSP residents and improve outcomes across all MDOC facilities include a full-time prisons-based coordinator position and laptops so our students can continue their coursework with UMA upon re-entry, as 70% of those released in the past year have done. Laptops are currently provided using grant funds but a permanent funding source has not been identified. Finally, it would not surprise this Committee to learn that like many Mainers, our students struggle to find affordable housing upon their re-entry, which greatly challenges their ability to remain enrolled to degree completion. We would strongly encourage you to also connect with MDOC about their perceived needs to sustain and grow this program.

Finally, I must note that appropriations for UMS have historically not kept pace with inflation and collectively bargained compensation and our students and their families still pay a greater share of our public System's operating costs than the State. While there have been meaningful increases recently, Maine still has much more to do to make up for decades of underfunding our public universities, which are burdened by at least \$1.6 billion in deferred maintenance.

We look forward to working with Governor Mills and the 132nd Legislature in the coming months to increase investment in UMS and ensure the transformative power of affordable, high-quality public postsecondary education is accessible to all Maine people, including justice-impacted scholars.

Sincerely,

Samantha Warren, Director of External Affairs | Director of Government & Community Relations
University of Maine System

Character and Fitness

Because of the high ethical standards governing lawyers, the failure to disclose an act or event, such as the ones described below, is often more significant and leads to more serious consequences than the act or event itself. Failure to provide full and truthful answers may result in revocation of admission, referral to LSAC, or disciplinary action by the School of Law, or denial of permission to practice law by the state in which you seek admission. Because state requirements vary, we advise you to obtain information about qualifications for admission to the bar of the state in which you intend to practice. Acceptance to Maine Law does not guarantee you meet the requirements for admission to any state's bar.

If you answer "Yes" to ANY of the following questions, you MUST provide a full and complete explanation in an attachment, clearly answering the question, including the ultimate disposition. Your file will remain incomplete if this addendum is not attached. Note: An affirmative answer to any of these questions will not automatically preclude your admission.

If you have any past or pending criminal charges, you must provide all court documents and police reports.

Should your response to any of these questions change while your application is pending or, if admitted, prior to matriculation, you must immediately inform the Admissions Office and update your application accordingly. Note also that you have a continuing duty to disclose any act or event relevant to the questions below that occurs up until your official graduation from Maine Law.

Have you ever been dropped, suspended, placed on disciplinary probation, or expelled, or have you withdrawn, requested to withdraw, or been allowed to withdraw in lieu of discipline from any school (excluding high school) or otherwise subjected to discipline by any such institution? Note: Academic probation does not need to be reported.

Yes

No

Have you ever been terminated, suspended, or disciplined, or have you resigned in lieu of termination, from any job or organization for any reason?

Yes

No

Have you ever had a professional license denied, suspended, or revoked, or are there now pending any charges, complaints, or grievances (formal or informal) concerning your conduct as a member of any profession or as a holder of public office?

Yes

No

Have you been cited or arrested for, charged with, or convicted of any moving traffic violation during the past ten years? You do not need to disclose citations, arrests, charges, or convictions for speeding unless you have more than five such incidents in the past two years. You do not need to disclose parking tickets.

Yes

No

Have you ever been cited for, arrested for, charged with, or convicted of any violation of any law, other than a violation that was resolved in juvenile court? (Moving traffic violations should be disclosed in response to the previous question.)

Yes

No

Are there any other criminal charges pending against you (not reported above) or is there an ongoing investigation that could lead to criminal charges being brought against you?

Yes

No

2023 WORKFORCE PROFILE

OFFICE OF HUMAN RESOURCES

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Workforce Profile Highlights

The Workforce Profile is an overview of the UMS workforce, reflecting full-time and part-time regular employees. This represents the 4,415 regular employees that were actively receiving a paycheck as of October 31, 2023. Additionally, there were 794 Part-Time Faculty members teaching in the Fall 2023 semester.

Count and Gender by Category

- Of the 4,415 UMS employees reported: 2.1% are administrators, 25.8% are faculty, 48.5% are salaried staff, and 23.6% are hourly paid staff.
- Overall, between the seven campuses, women make up a slight minority of full-time faculty at 49.5% of the population. UMA, UMF, Maine Law and USM have women comprise the majority of full-time faculty at their locations.
- 60.2% of the administrators are women.
- There are 93 administrators, 75 of whom are in the Management Group. In the Management Group, women make up the majority at 62.7% of the cohort.
- The slight minority of regular hourly employee cohort consists of women at 48.2% of the population. This is a new change for this cohort this year.
- Salaried employee cohort majority consists of women at 58.6%.

Average Salary by Category

- The average annual salary for administrators is \$174,678; \$92,763 for faculty; \$64,162 for salaried staff; and \$42,029 for hourly staff.
- Most faculty are appointed on an academic year basis and the annual salary is rated for the nine-month appointment.

Age

- The average age by employee category is: Administrators 55, faculty 51, salaried 45, and hourly employees average age is 50. These averages have held steady with little variation over the past few years.
- A significant proportion of administrators (55.0%) are 55 or older.
- The majority of faculty, salaried, and hourly employees are under the age of 55 with faculty at 61.3%, salaried at 72.6%, and hourly at 53.3%.

Highest Degree

- As would be expected, a high number of faculty (77.1%) hold doctoral degrees.
- 27.6% of hourly staff have self-reported a baccalaureate or higher degree. 78.7% of salaried employees report holding a baccalaureate or higher degree.
- Education level was not reported by 14.7% of employees which is down from last year's 16.0%.

Race and Ethnicity

- There is limited diversity as measured in the federal ethnicity categories. Overall, 8.4% of employees system wide report a minority race/ethnicity. This is an increase over 7.7% minority self-reported last year.
- The three units with the highest reported minority populations are: USM at 9.9%, UM at 9.3%, and UMPI at 9.2%.
- The University of Maine reports the highest quantity of minority employees with 198 employees followed by the University of Southern Maine with 101 employees identifying as such.

Years of Service/Average Years of Service

- UMS has many long-service employees. Average length of service ranges from 8.9 years for salaried staff to 11.8 years for faculty.
- 35.4% of faculty and 37.6% of administrators have 15 or more years of service.
- The University of Maine at Farmington has the highest average years of service for all employment categories at 13.2 years. The University of Maine at Augusta has the lowest average years of service at 8.9 years.

Part-Time Faculty

- In the Fall 2023 semester, there were approximately 794 Part-Time Faculty teaching 2,544 credit hours of course work. The University of Southern Maine employs the most Part-Time Faculty with 315 (39.67%), followed by the University of Maine with 201 (25.31%) and then the University of Maine at Augusta with 129 (16.25%).

Category Definitions

All UMS positions are categorized as administrator, faculty, salaried, or hourly depending upon the primary type of work performed. The categories, as defined by the IPEDS (Integrated Postsecondary Education Data System) Fall Staff Survey submitted biennially by colleges and universities to the National Center for Education Statistics, U.S. Department of Education, are defined below.

Administrators

All employees whose assignments require management of the institution, or a customarily recognized department or subdivision. Assignments require the performance of work directly related to management policies or general business operations of the institution, department or subdivision. Assignments in this category customarily and regularly require the incumbent to exercise discretion and independent judgment. This category includes employees holding the following titles who meet the above criteria: president, vice president (including assistant and associate), dean (including assistant and associate if their only activity is administrative and does not include a faculty workload), director (including assistant and associate), department head (including assistant and associate if their only activity is administrative and does not include a faculty workload). Employees in this category are in the management group.

Faculty

All individuals employed for the primary purpose of instruction, research, and/or public service and who hold academic rank of professor, associate professor, assistant professor, instructor, lecturer or the equivalent. These individuals may also hold titles such as associate dean, assistant dean, chairperson, and director if they also have a faculty work assignment. This report includes faculty in Cooperative Extension; the Tenure Report excludes faculty in this department.

Salaried

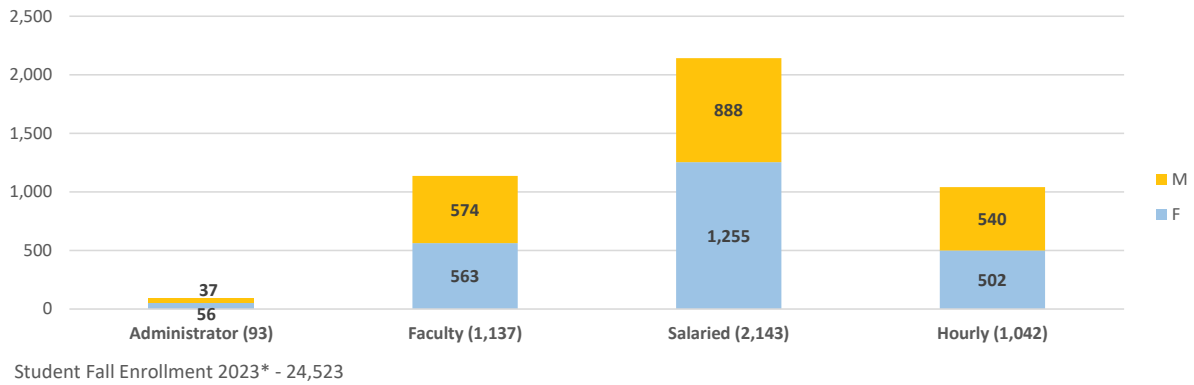
All individuals employed for the primary purpose of performing academic support, student service and institutional support, whose assignments require either a baccalaureate degree or higher or experience of such kind and amount as to provide a comparable background. Includes employees with job titles such as: Business Operations Specialist, Financial Specialist, Accountant, Budget Analyst, Admissions or Financial Aid Counselor, Computer Specialist, Computer Analyst, Database Administrator, Librarian, Resident Director.

Hourly Staff

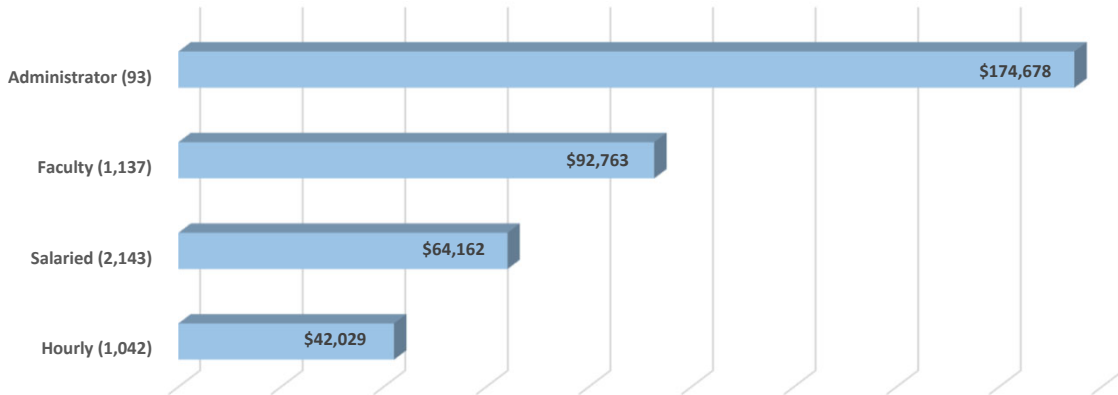
All employees whose assignments:

- Are technical or paraprofessional in nature (requires specialized knowledge or skills which may be acquired through experience, apprenticeship, on-the-job training or academic work in occupationally specific programs that result in a 2-year degree or other certificate or diploma). Includes such titles as Research or Laboratory Technician, Audiovisual Technician, Personnel Assistant. Or;
- Are associated with clerical or secretarial activities (responsible for internal and external communications, recording and retrieving data and/or information, and other paperwork required in an office). Includes such titles as Secretary, Administrative Assistant, Records Technician, Bookkeeper, Library Assistant. Or;
- Involve skilled crafts work (typically requires special manual skills and a thorough and comprehensive knowledge of the processes involved in the work, acquired through on-the-job-training and experience or through apprenticeship or other formal training programs). Includes such titles as Electrician, HVAC Technician, Printer, Garage Mechanic. Or;
- Involve service/maintenance work (requires limited degrees of previously acquired skills and knowledge, performs duties that result in or contribute to the comfort, convenience and hygiene of personnel and the student body or that contribute to the upkeep of the institutional property). Includes such titles as Custodian, Building & Grounds Maintenance Worker, Police Officer, Security Guard, Cook.

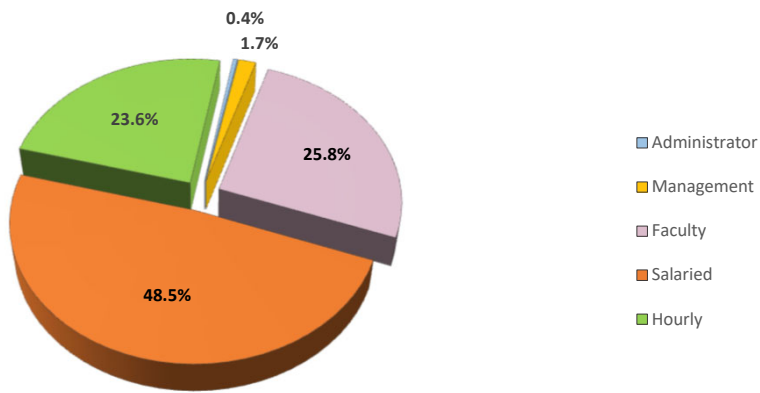
Employee Counts by Employment Category and Gender (4,415)



Average Salary By Employment Category

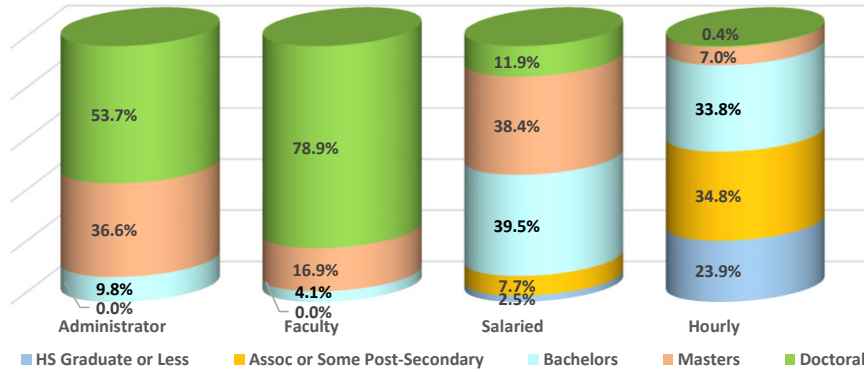


Employees by Employment Category



* Student Fall Enrollment 2023 includes undergraduate and graduate students. The source is Fall 2023 Enrollment Report - The University of Maine System, Fall Semester Headcount by Campus
 UMS Early College student headcount is no longer reported together with student headcount

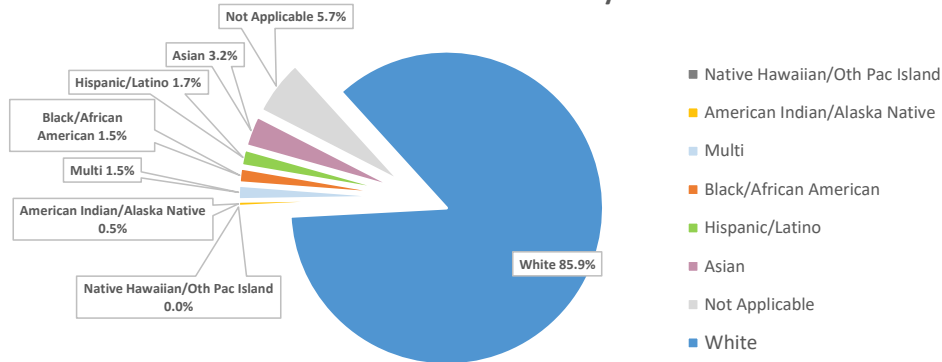
Highest Degree by Employment Category *



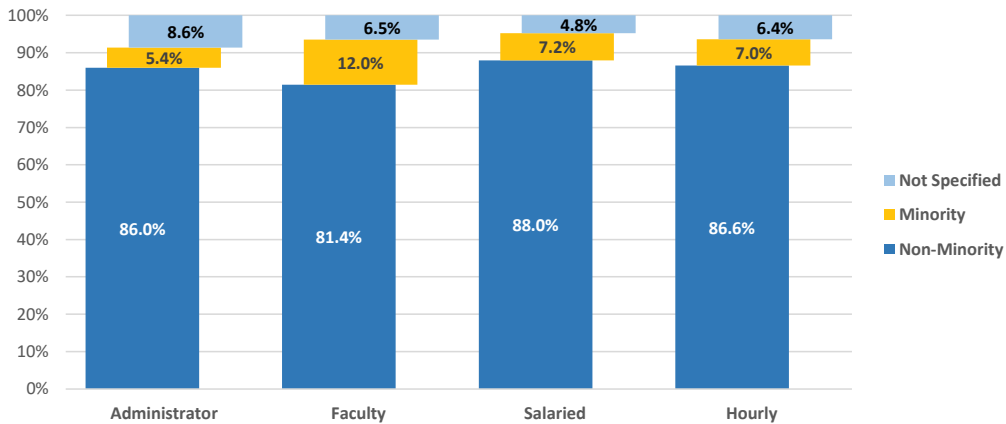
* Percentage shown for Highest Degree is a percent of the total employees who reported education level; 647 employees did not indicate.

Count of ID

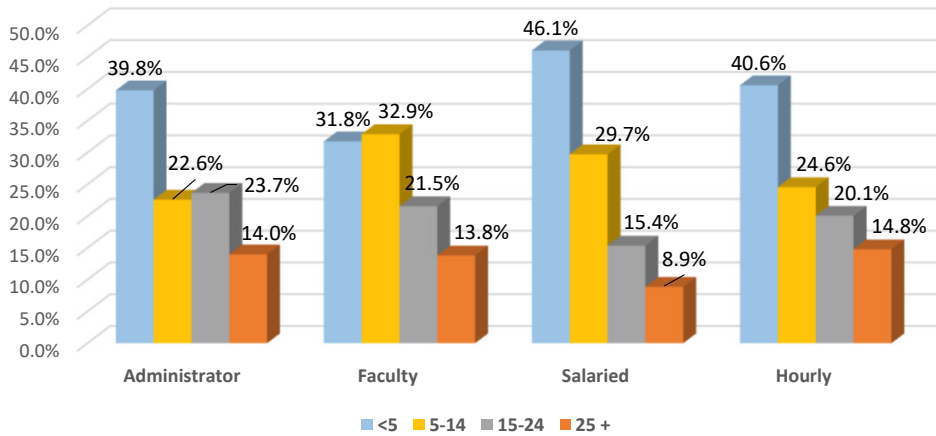
Race and Ethnicity



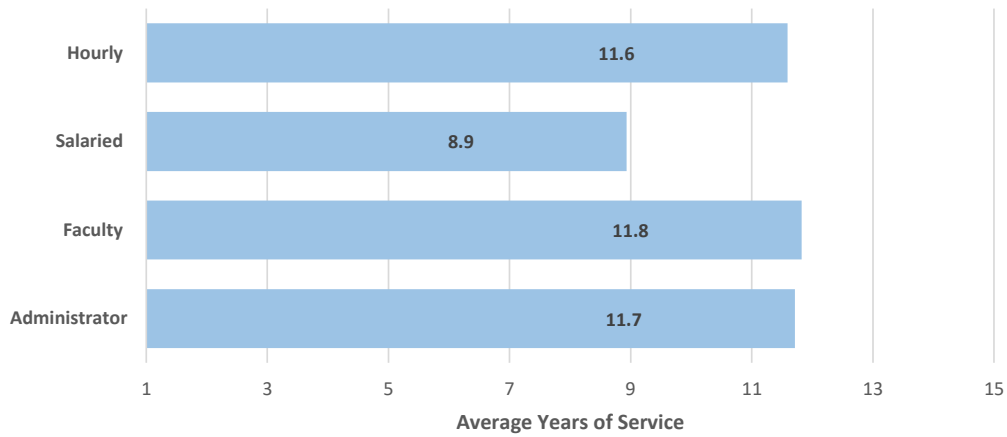
Employee Minority Grouping by Employee Category



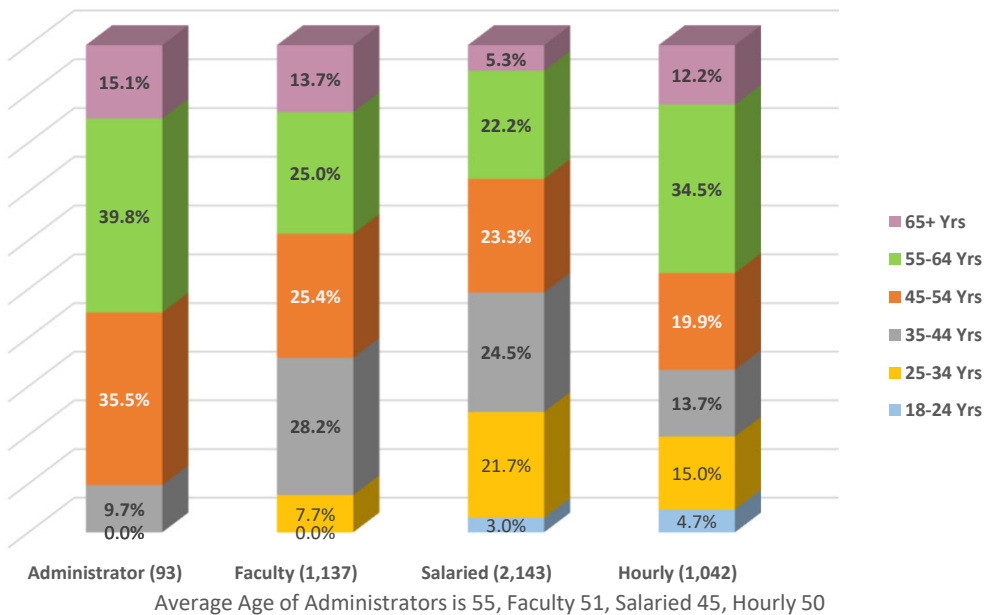
Years of Service by Employment Category



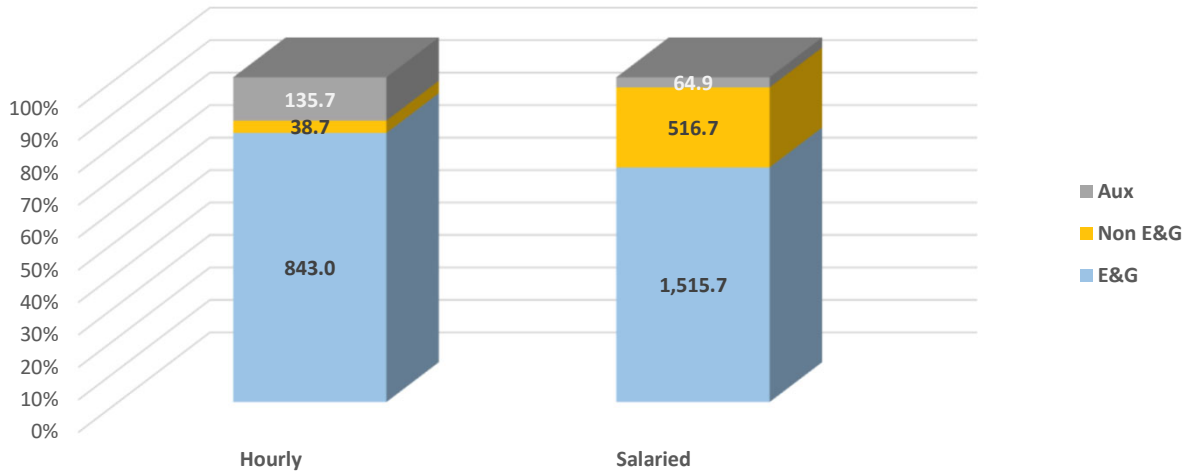
Average Years of Service by Employment Category



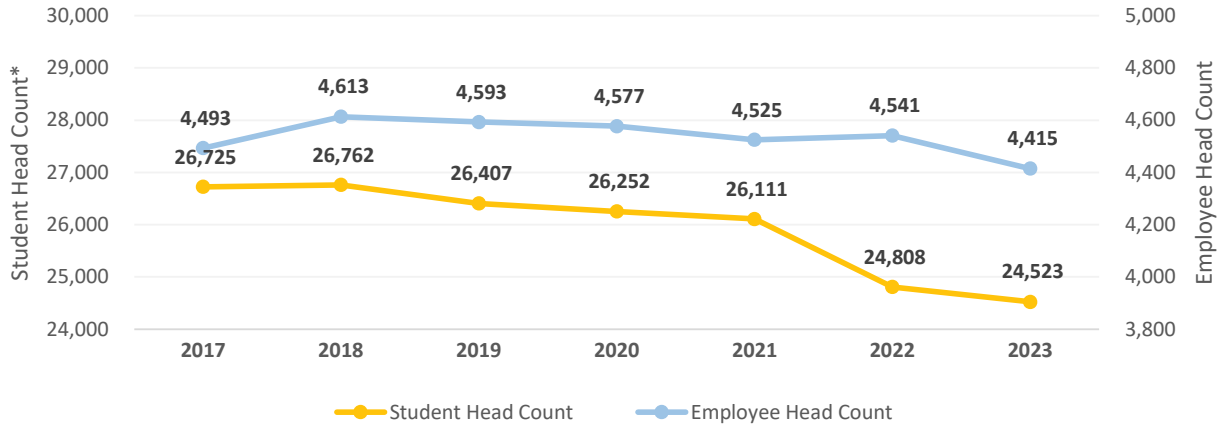
Age by Employment Category



Full Time Equivalent by Funding Source

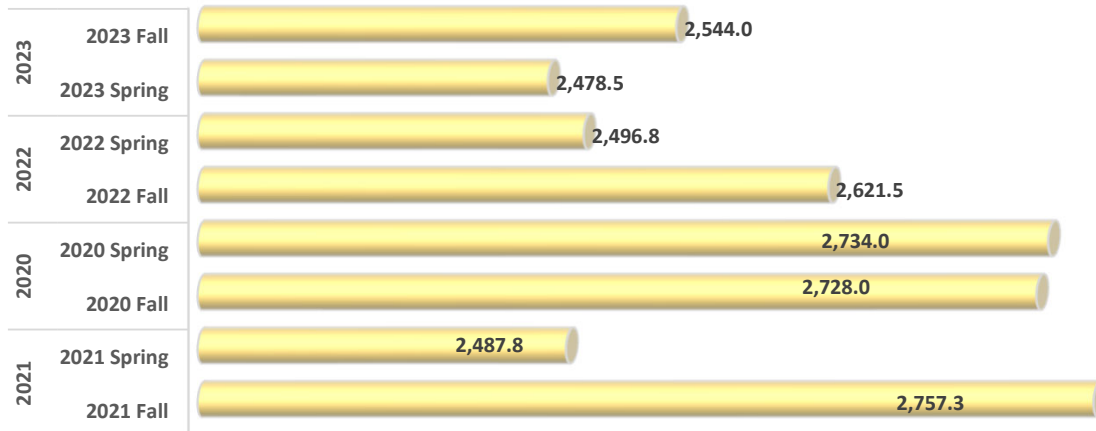


Student vs. Employee Head Count



* Student Head Count numbers were adjusted to match 2023 Fall Enrollment Report counts now that Early College students are no longer included

Part-Time Faculty Association Credit Hours by Semester



Counts by Employment Category and Gender

	University of Maine System				University of Maine & University of Maine at Machias				University of Maine at Augusta				University of Maine at Farmington				University of Maine at Fort Kent			
	F	M	U	Count	F	M	U	Count	F	M	U	Count	F	M	U	Count	F	M	U	Count
Administrators	55	37	0	92	14	13	0	27	5	3	0	8	4	3	0	7	2	1	0	3
Faculty	563	574	0	1,137	272	347	0	619	59	36	0	95	54	31	0	85	13	16	0	29
Salaried	1,255	888	0	2,143	542	463	0	1,005	78	46	0	124	57	37	0	94	27	11	0	38
Hourly	502	540	0	1,042	242	284	0	526	43	38	0	81	39	49	0	88	17	13	0	30
Total	2,375	2,039	0	4,414	1,070	1,107		2,177	185	123		308	154	120		274	59	41		100
Student Enrollment	24,606				11,593				3,366				1,711				867			

	University of Maine at Presque Isle				University of Southern Maine				University Governance				University Services				Maine Law			
	F	M	U	Count	F	M	U	Count	F	M	U	Count	F	M	U	Count	F	M	U	Count
Administrators	3	1	0	4	8	6	0	14	6	5	0	11	11	4	0	15	3	1	0	4
Faculty	16	16	0	32	137	118	0	255	0	0	0	0	0	0	0	0	12	10	0	22
Salaried	41	20	0	61	343	137	0	480	1	0	0	1	146	169	0	315	20	5	0	25
Hourly	13	20	0	33	107	109	0	216	0	0	0	0	41	27	0	68	0	0	0	0
Total	73	57		130	595	370		965	7	5		12	198	200		398	35	16		51
Student Enrollment	114				6,693												262			

* Student Enrollment counts from the University of Maine System - Fall 2023 Enrollment Report, Fall Semester Headcount by Campus.

Average Salary by Employment Category

	University of Maine System		University of Maine & University of Maine at Machias		University of Maine at Augusta		University of Maine at Farmington		University of Maine at Fort Kent	
	Count	Avg Salary	Count	Avg Salary	Count	Avg Salary	Count	Avg Salary	Count	Avg Salary
Administrators	93	174,678	27	187,376	8	139,360	7	120,970	3	146,085
Faculty	1,172	92,763	619	98,946	95	70,830	85	75,438	29	70,296
Salaried	2,140	64,162	1,005	65,300	124	56,384	94	52,509	38	51,103
Hourly	1,057	42,029	526	42,435	81	39,767	88	40,493	30	42,054
Total	4,462	68,632	2,177	70,856	308	58,625	274	57,512	100	56,804

	University of Maine at Presque Isle		University of Southern Maine		University Governance		University Services		Maine Law	
	Count	Avg Salary	Count	Avg Salary	Count	Avg Salary	Count	Avg Salary	Count	Avg Salary
Administrators	4	129,316	14	152,387	11	229,864	15	181,145	4	162,069
Faculty	32	75,369	290	82,123	0	0	0	0	22	116,827
Salaried	61	53,405	477	58,187	1	79,568	315	74,053	25	66,495
Hourly	33	43,022	231	36,619	0	0	68	43,746	0	0
Total	130	58,512	1,012	67,510	12	217,340	398	72,911	51	95,703

Average Age by Employment Category

	University of Maine System		University of Maine & University of Maine at Machias		University of Maine at Augusta		University of Maine at Farmington		University of Maine at Fort Kent	
	Count	Avg Age	Count	Avg Age	Count	Avg Age	Count	Avg Age	Count	Avg Age
Administrators	93	55	27	55	8	58	7	57	3	61
Faculty	1,137	51	619	49	95	53	85	54	29	51
Salaried	2,143	45	1,005	43	124	48	94	45	38	44
Hourly	1,042	50	526	51	81	49	88	54	30	54
Total	4,415	48	2,177	47	308	50	274	51	100	49

	University of Maine at Presque Isle		University of Southern Maine		University Governance		University Services		Maine Law	
	Count	Avg Age	Count	Avg Age	Count	Avg Age	Count	Avg Age	Count	Avg Age
Administrators	4	51	14	56	11	54	15	55	4	55
Faculty	32	53	255	53	0	0	0	0	22	53
Salaried	61	46	480	45	1	56	315	49	25	45
Hourly	33	56	216	47	0	0	68	44	0	0
Total	130	50	965	48	12	54	398	48	51	49

Age by Employment Category*

University of Maine System	Age Group											
	<= 34		35 - 44		45 - 54		55 - 64		65 Plus		Total	
	Count	% of Total	Count	% of Total	Count	% of Total	Count	% of Total	Count	% of Total	Count	% of Total
Administrators	0	0.0%	9	0.2%	33	0.7%	37	0.8%	14	0.3%	93	2.1%
Faculty	87	2.0%	321	7.3%	289	6.5%	284	6.4%	156	3.5%	1,137	25.8%
Salaried	530	12.0%	526	11.9%	499	11.3%	475	10.8%	113	2.6%	2,143	48.5%
Hourly	205	4.6%	143	3.2%	207	4.7%	360	8.2%	127	2.9%	1,042	23.6%
Total	822	18.6%	999	22.6%	1,028	23.3%	1,156	26.2%	410	9.3%	4,415	100.0%

University of Maine & University of Maine at Machias	Age Group											
	<= 34		35 - 44		45 - 54		55 - 64		65 Plus		Total	
	Count	% of Total	Count	% of Total	Count	% of Total	Count	% of Total	Count	% of Total	Count	% of Total
Administrators	0	0.0%	2	0.1%	11	0.5%	10	0.5%	4	0.2%	27	1.2%
Faculty	68	3.1%	201	9.2%	143	6.6%	129	5.9%	78	3.6%	619	28.4%
Salaried	294	13.5%	269	12.4%	198	9.1%	196	9.0%	48	2.2%	1,005	46.2%
Hourly	87	4.0%	68	3.1%	119	5.5%	191	8.8%	61	2.8%	526	24.2%
Total	449	20.6%	540	24.8%	471	21.6%	526	24.2%	191	8.8%	2,177	100.0%

University of Maine at Augusta	Age Group											
	<= 34		35 - 44		45 - 54		55 - 64		65 Plus		Total	
	Count	% of Total	Count	% of Total	Count	% of Total	Count	% of Total	Count	% of Total	Count	% of Total
Administrators	0	0.0%	0	0.0%	2	0.6%	5	1.6%	1	0.3%	8	2.6%
Faculty	3	1.0%	25	8.1%	27	8.8%	23	7.5%	17	5.5%	95	30.8%
Salaried	17	5.5%	31	10.1%	33	10.7%	36	11.7%	7	2.3%	124	40.3%
Hourly	15	4.9%	19	6.2%	14	4.5%	19	6.2%	14	4.5%	81	26.3%
Total	35	11.4%	75	24.4%	76	24.7%	83	26.9%	39	12.7%	308	100.0%

University of Maine at Farmington	Age Group											
	<= 34		35 - 44		45 - 54		55 - 64		65 Plus		Total	
	Count	% of Total	Count	% of Total	Count	% of Total	Count	% of Total	Count	% of Total	Count	% of Total
Administrators	0	0.0%	1	0.4%	1	0.4%	4	1.5%	1	0.4%	7	2.6%
Faculty	0	0.0%	20	7.3%	23	8.4%	31	11.3%	11	4.0%	85	31.0%
Salaried	29	10.6%	19	6.9%	20	7.3%	21	7.7%	5	1.8%	94	34.3%
Hourly	9	3.3%	9	3.3%	20	7.3%	38	13.9%	12	4.4%	88	32.1%
Total	38	13.9%	49	17.9%	64	23.4%	94	34.3%	29	10.6%	274	100.0%

University of Maine at Fort Kent	Age Group											
	<= 34		35 - 44		45 - 54		55 - 64		65 Plus		Total	
	Count	% of Total	Count	% of Total	Count	% of Total	Count	% of Total	Count	% of Total	Count	% of Total
Administrators	0	0.0%	0	0.0%	1	1.0%	1	1.0%	1	1.0%	3	3.0%
Faculty	3	3.0%	4	4.0%	11	11.0%	9	9.0%	2	2.0%	29	29.0%
Salaried	8	8.0%	12	12.0%	9	9.0%	8	8.0%	1	1.0%	38	38.0%
Hourly	3	3.0%	4	4.0%	5	5.0%	13	13.0%	5	5.0%	30	30.0%
Total	14	14.0%	20	20.0%	26	26.0%	31	31.0%	9	9.0%	100	100.0%

Age by Employment Category*

University of Maine at Presque Isle	Age Group											
	<= 34		35 - 44		45 - 54		55 - 64		65 Plus		Total	
	Count	% of Total	Count	% of Total	Count	% of Total	Count	% of Total	Count	% of Total	Count	% of Total
Administrators	0	0.0%	1	0.8%	1	0.8%	2	1.5%	0	0.0%	4	3.1%
Faculty	0	0.0%	5	3.8%	12	9.2%	12	9.2%	3	2.3%	32	24.6%
Salaried	18	13.8%	9	6.9%	19	14.6%	11	8.5%	4	3.1%	61	46.9%
Hourly	3	2.3%	2	1.5%	7	5.4%	17	13.1%	4	3.1%	33	25.4%
Total	21	16.2%	17	13.1%	39	30.0%	42	32.3%	11	8.5%	130	100.0%

University of Southern Maine	Age Group											
	<= 34		35 - 44		45 - 54		55 - 64		65 Plus		Total	
	Count	% of Total	Count	% of Total	Count	% of Total	Count	% of Total	Count	% of Total	Count	% of Total
Administrators	0	0.0%	2	0.2%	4	0.4%	6	0.6%	2	0.2%	14	1.5%
Faculty	13	1.3%	60	6.2%	66	6.8%	76	7.9%	40	4.1%	255	26.4%
Salaried	116	12.0%	118	12.2%	114	11.8%	103	10.7%	29	3.0%	480	49.7%
Hourly	62	6.4%	34	3.5%	29	3.0%	63	6.5%	28	2.9%	216	22.4%
Total	191	19.8%	214	22.2%	213	22.1%	248	25.7%	99	10.3%	965	100.0%

University Governance	Age Group											
	<= 34		35 - 44		45 - 54		55 - 64		65 Plus		Total	
	Count	% of Total	Count	% of Total	Count	% of Total	Count	% of Total	Count	% of Total	Count	% of Total
Administrators	0	0.0%	1	8.3%	6	50.0%	2	16.7%	2	16.7%	11	91.7%
Faculty	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%
Salaried	0	0.0%	0	0.0%	0	0.0%	1	8.3%	0	0.0%	1	8.3%
Hourly	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%
Total	0	0.0%	1	8.3%	6	50.0%	3	25.0%	2	16.7%	12	100.0%

University Services	Age Group											
	<= 34		35 - 44		45 - 54		55 - 64		65 Plus		Total	
	Count	% of Total	Count	% of Total	Count	% of Total	Count	% of Total	Count	% of Total	Count	% of Total
Administrators	0	0.0%	2	0.5%	4	1.0%	7	1.8%	2	0.5%	15	3.8%
Faculty	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%
Salaried	42	10.6%	65	16.3%	94	23.6%	95	23.9%	19	4.8%	315	79.1%
Hourly	26	6.5%	7	1.8%	13	3.3%	19	4.8%	3	0.8%	68	17.1%
Total	68	17.1%	74	18.6%	111	27.9%	121	30.4%	24	6.0%	398	100.0%

Maine Law	Age Group											
	<= 34		35 - 44		45 - 54		55 - 64		65 Plus		Total	
	Count	% of Total	Count	% of Total	Count	% of Total	Count	% of Total	Count	% of Total	Count	% of Total
Administrators	0	0.0%	0	0.0%	3	5.9%	0	0.0%	1	2.0%	4	7.8%
Faculty	0	0.0%	6	11.8%	7	13.7%	4	7.8%	5	9.8%	22	43.1%
Salaried	6	11.8%	3	5.9%	12	23.5%	4	7.8%	0	0.0%	25	49.0%
Hourly	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%
Total	6	11.8%	9	17.6%	22	43.1%	8	15.7%	6	11.8%	51	100.0%

* Note - Due to rounding the % of Total in the Total column may not equal the sum of the percents in each age category.

Highest Degree by Employment Category

University of Maine System	Degree													
	Not Indicated		HS Graduate		Associates		Bachelor's		Master's		Doctoral		Total	
	Count	Percent	Count	Percent	Count	Percent	Count	Percent	Count	Percent	Count	Percent	Count	Percent
Administrators	11	0.2%	0	0.0%	0	0.0%	8	0.2%	30	0.7%	44	1.0%	93	2.1%
Faculty	26	0.6%	0	0.0%	0	0.0%	46	1.0%	188	4.3%	877	19.9%	1,137	25.8%
Salaried	264	6.0%	46	1.0%	145	3.3%	742	16.8%	720	16.3%	224	5.1%	2,141	48.5%
Hourly	344	7.8%	167	3.8%	243	5.5%	236	5.3%	49	1.1%	3	0.1%	1,042	23.6%
Total	645	14.6%	213	4.8%	388	8.8%	1,032	23.4%	987	22.4%	1,148	26.0%	4,413	100.0%

University of Maine & University of Maine at Machias	Degree													
	Not Indicated		HS Graduate		Associates		Bachelor's		Master's		Doctoral		Total	
	Count	Percent	Count	Percent	Count	Percent	Count	Percent	Count	Percent	Count	Percent	Count	Percent
Administrators	2	0.1%	0	0.0%	0	0.0%	0	0.0%	9	0.4%	16	0.7%	27	1.2%
Faculty	21	1.0%	0	0.0%	0	0.0%	30	1.4%	88	4.0%	480	22.0%	619	28.4%
Salaried	101	4.6%	27	1.2%	66	3.0%	336	15.4%	347	15.9%	128	5.9%	1,005	46.2%
Hourly	186	8.5%	89	4.1%	121	5.6%	106	4.9%	22	1.0%	2	0.1%	526	24.2%
Total	310	14.2%	116	5.3%	187	8.6%	472	21.7%	466	21.4%	626	28.8%	2,177	100.0%

University of Maine at Augusta	Degree													
	Not Indicated		HS Graduate		Associates		Bachelor's		Master's		Doctoral		Total	
	Count	Percent	Count	Percent	Count	Percent	Count	Percent	Count	Percent	Count	Percent	Count	Percent
Administrators	2	0.6%	0	0.0%	0	0.0%	0	0.0%	3	1.0%	3	1.0%	8	2.6%
Faculty	1	0.3%	0	0.0%	0	0.0%	3	1.0%	29	9.4%	62	20.1%	95	30.8%
Salaried	12	3.9%	2	0.6%	9	2.9%	39	12.7%	46	14.9%	16	5.2%	124	40.3%
Hourly	34	11.0%	8	2.6%	15	4.9%	21	6.8%	3	1.0%	0	0.0%	81	26.3%
Total	49	15.9%	10	3.2%	24	7.8%	63	20.5%	81	26.3%	81	26.3%	308	100.0%

University of Maine at Farmington	Degree													
	Not Indicated		HS Graduate		Associates		Bachelor's		Master's		Doctoral		Total	
	Count	Percent	Count	Percent	Count	Percent	Count	Percent	Count	Percent	Count	Percent	Count	Percent
Administrators	0	0.0%	0	0.0%	0	0.0%	0	0.0%	3	1.1%	4	1.5%	7	2.6%
Faculty	1	0.4%	0	0.0%	0	0.0%	1	0.4%	16	5.8%	67	24.5%	85	31.0%
Salaried	6	2.2%	1	0.4%	1	0.4%	44	16.1%	34	12.4%	8	2.9%	94	34.3%
Hourly	20	7.3%	28	10.2%	22	8.0%	14	5.1%	4	1.5%	0	0.0%	88	32.1%
Total	27	9.9%	29	10.6%	23	8.4%	59	21.5%	57	20.8%	79	28.8%	274	100.0%

University of Maine at Fort Kent	Degree													
	Not Indicated		HS Graduate		Associates		Bachelor's		Master's		Doctoral		Total	
	Count	Percent	Count	Percent	Count	Percent	Count	Percent	Count	Percent	Count	Percent	Count	Percent
Administrators	1	1.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	2	2.0%	3	3.0%
Faculty	0	0.0%	0	0.0%	0	0.0%	5	5.0%	7	7.0%	17	17.0%	29	29.0%
Salaried	9	9.0%	0	0.0%	2	2.0%	15	15.0%	11	11.0%	1	1.0%	38	38.0%
Hourly	7	7.0%	10	10.0%	6	6.0%	6	6.0%	1	1.0%	0	0.0%	30	30.0%
Total	17	17.0%	10	10.0%	8	8.0%	26	26.0%	19	19.0%	20	20.0%	100	100.0%

Highest Degree by Employment Category

University of Maine at Presque Isle	Degree													
	Not Indicated		HS Graduate		Associates		Bachelor's		Master's		Doctoral		Total	
	Count	Percent	Count	Percent	Count	Percent	Count	Percent	Count	Percent	Count	Percent	Count	Percent
Administrators	1	0.8%	0	0.0%	0	0.0%	0	0.0%	1	0.8%	2	1.5%	4	3.1%
Faculty	1	0.8%	0	0.0%	0	0.0%	1	0.8%	11	8.5%	19	14.6%	32	24.6%
Salaried	12	9.2%	1	0.8%	3	2.3%	27	20.8%	14	10.8%	4	3.1%	61	46.9%
Hourly	10	7.7%	11	8.5%	10	7.7%	2	1.5%	0	0.0%	0	0.0%	33	25.4%
Total	24	18.5%	12	9.2%	13	10.0%	30	23.1%	26	20.0%	25	19.2%	130	100.0%

University of Southern Maine	Degree													
	Not Indicated		HS Graduate		Associates		Bachelor's		Master's		Doctoral		Total	
	Count	Percent	Count	Percent	Count	Percent	Count	Percent	Count	Percent	Count	Percent	Count	Percent
Administrators	2	0.2%	0	0.0%	0	0.0%	1	0.1%	4	0.4%	7	0.7%	14	1.5%
Faculty	2	0.2%	0	0.0%	0	0.0%	6	0.6%	37	3.8%	210	21.8%	255	26.4%
Salaried	48	5.0%	6	0.6%	16	1.7%	153	15.9%	205	21.2%	52	5.4%	480	49.7%
Hourly	66	6.8%	18	1.9%	51	5.3%	64	6.6%	16	1.7%	1	0.1%	216	22.4%
Total	118	12.2%	24	2.5%	67	6.9%	224	23.2%	262	27.2%	270	28.0%	965	100.0%

University Governance	Degree													
	Not Indicated		HS Graduate		Associates		Bachelor's		Master's		Doctoral		Total	
	Count	Percent	Count	Percent	Count	Percent	Count	Percent	Count	Percent	Count	Percent	Count	Percent
Administrators	3	25.0%	0	0.0%	0	0.0%	1	8.3%	3	25.0%	4	33.3%	11	91.7%
Faculty	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%
Salaried	0	0.0%	0	0.0%	0	0.0%	1	8.3%	0	0.0%	0	0.0%	1	8.3%
Hourly	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%
Total	3	25.0%	0	0.0%	0	0.0%	2	16.7%	3	25.0%	4	33.3%	12	100.0%

University Services	Degree													
	Not Indicated		HS Graduate		Associates		Bachelor's		Master's		Doctoral		Total	
	Count	Percent	Count	Percent	Count	Percent	Count	Percent	Count	Percent	Count	Percent	Count	Percent
Administrators	0	0.0%	0	0.0%	0	0.0%	5	1.3%	7	1.8%	3	0.8%	15	3.8%
Faculty	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%
Salaried	76	19.1%	9	2.3%	46	11.6%	119	29.9%	58	14.6%	7	1.8%	315	79.1%
Hourly	21	5.3%	3	0.8%	18	4.5%	23	5.8%	3	0.8%	0	0.0%	68	17.1%
Total	97	24.4%	12	3.0%	64	16.1%	147	36.9%	68	17.1%	10	2.5%	398	100.0%

Maine Law	Degree													
	Not Indicated		HS Graduate		Associates		Bachelor's		Master's		Doctoral		Total	
	Count	Percent	Count	Percent	Count	Percent	Count	Percent	Count	Percent	Count	Percent	Count	Percent
Administrators	0	0.0%	0	0.0%	0	0.0%	1	2.0%	0	0.0%	3	5.9%	4	33.3%
Faculty	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	22	43.1%	22	183.3%
Salaried	2	3.9%	0	0.0%	2	3.9%	8	15.7%	5	9.8%	8	15.7%	25	208.3%
Hourly	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%
Total	2	3.9%	0	0.0%	2	3.9%	9	17.6%	5	9.8%	33	64.7%	51	425.0%

Race and Ethnicity by Employment Category

	University of Maine System				University of Maine & University of Maine at Machias				University of Maine at Augusta				University of Maine at Farmington				University of Maine at Fort Kent			
	Minority %	Non Minority %	Not Specified %	Total %	Minority %	Non Minority %	Not Specified %	Total %	Minority %	Non Minority %	Not Specified %	Total %	Minority %	Non Minority %	Not Specified %	Total %	Minority %	Non Minority %	Not Specified %	Total %
Administrators	0.1%	1.8%	0.3%	2.2%	0.0%	1.1%	0.0%	1.2%	0.0%	2.6%	0.0%	2.6%	0.0%	2.6%	0.0%	2.6%	0.0%	2.0%	1.0%	3.0%
Faculty	3.1%	22.6%	1.6%	27.4%	4.0%	22.0%	2.4%	28.4%	1.0%	28.6%	1.3%	30.8%	1.1%	29.6%	0.4%	31.0%	3.0%	26.0%	0.0%	29.0%
Salaried	2.9%	38.4%	2.9%	44.1%	3.8%	40.2%	2.1%	46.2%	2.3%	35.4%	2.6%	40.3%	0.7%	32.8%	0.7%	34.3%	3.0%	32.0%	3.0%	38.0%
Hourly	1.3%	22.7%	2.3%	26.3%	1.4%	20.7%	2.1%	24.2%	0.6%	24.0%	1.6%	26.3%	1.1%	29.9%	1.1%	32.1%	1.0%	27.0%	2.0%	30.0%
Total	7.4%	85.5%	7.1%	100.0%	9.2%	84.1%	6.7%	100.0%	3.9%	90.6%	5.5%	100.0%	2.9%	94.9%	2.2%	100.0%	7.0%	87.0%	6.0%	100.0%

	University of Maine at Presque Isle				University of Southern Maine				University Governance				University Services				Maine Law			
	Minority %	Non Minority %	Not Specified %	Total %	Minority %	Non Minority %	Not Specified %	Total %	Minority %	Non Minority %	Not Specified %	Total %	Minority %	Non Minority %	Not Specified %	Total %	Minority %	Non Minority %	Not Specified %	Total %
Administrators	0.0%	2.3%	0.8%	3.1%	0.2%	1.0%	0.2%	1.5%	16.7%	58.3%	16.7%	91.7%	0.0%	3.8%	0.0%	3.8%	0.0%	5.9%	2.0%	7.8%
Faculty	2.3%	22.3%	0.0%	24.6%	3.7%	21.0%	1.7%	26.4%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	3.9%	37.3%	2.0%	43.1%
Salaried	3.1%	41.5%	2.3%	46.9%	3.8%	43.3%	2.6%	49.7%	0.0%	8.3%	0.0%	8.3%	4.3%	70.9%	4.0%	79.1%	3.9%	45.1%	0.0%	49.0%
Hourly	3.8%	20.0%	1.5%	25.4%	2.3%	19.2%	0.9%	22.4%	0.0%	0.0%	0.0%	0.0%	2.5%	14.6%	0.0%	17.1%	0.0%	0.0%	0.0%	0.0%
Total	9.2%	86.2%	4.6%	100.0%	10.1%	84.6%	5.4%	100.0%	16.7%	66.7%	16.7%	100.0%	6.8%	89.2%	4.0%	100.0%	7.8%	88.2%	3.9%	100.0%

Years of Service by Employment Category

University of Maine System	Years of Service				
	< 5 Years Svc Count	5 - 14 Yrs Count	15 - 24 Yrs Count	25 Plus Yrs Count	Total Count
Administrators	37	21	22	13	93
Faculty	361	374	245	157	1,137
Salaried	987	637	329	190	2,143
Hourly	423	256	209	154	1,042
Total	1,808	1,288	805	514	4,415

University of Maine & University of Maine at Machias	Years of Service				
	< 5 Years Svc Count	5 - 14 Yrs Count	15 - 24 Yrs Count	25 Plus Yrs Count	Total Count
Administrators	15	3	6	3	27
Faculty	187	208	135	89	619
Salaried	513	281	131	80	1,005
Hourly	197	126	110	93	526
Total	912	618	382	265	2,177

University of Maine at Augusta	Years of Service				
	< 5 Years Svc Count	5 - 14 Yrs Count	15 - 24 Yrs Count	25 Plus Yrs Count	Total Count
Administrators	2	3	3	0	8
Faculty	44	25	20	6	95
Salaried	60	33	17	14	124
Hourly	43	24	10	4	81
Total	149	85	50	24	308

University of Maine at Farmington	Years of Service				
	< 5 Years Svc Count	5 - 14 Yrs Count	15 - 24 Yrs Count	25 Plus Yrs Count	Total Count
Administrators	1	2	2	2	7
Faculty	14	30	26	15	85
Salaried	46	23	15	10	94
Hourly	25	17	31	15	88
Total	86	72	74	42	274

University of Maine at Fort Kent	Years of Service				
	< 5 Years Svc Count	5 - 14 Yrs Count	15 - 24 Yrs Count	25 Plus Yrs Count	Total Count
Administrators	2	0	1	0	3
Faculty	10	9	6	4	29
Salaried	20	11	5	2	38
Hourly	8	10	6	6	30
Total	40	30	18	12	100

Years of Service by Employment Category

University of Maine at Presque Isle	Years of Service				
	< 5 Years Svc	5 - 14 Yrs	15 - 24 Yrs	25 Plus Yrs	Total
	Count	Count	Count	Count	Count
Administrators	1	2	0	1	4
Faculty	11	9	10	2	32
Salaried	33	15	9	4	61
Hourly	11	14	4	4	33
Total	56	40	23	11	130

University of Southern Maine	Years of Service				
	< 5 Years Svc	5 - 14 Yrs	15 - 24 Yrs	25 Plus Yrs	Total
	Count	Count	Count	Count	Count
Administrators	6	2	4	2	14
Faculty	83	90	42	40	255
Salaried	215	145	88	32	480
Hourly	103	54	31	28	216
Total	407	291	165	102	965

University Governance	Years of Service				
	< 5 Years Svc	5 - 14 Yrs	15 - 24 Yrs	25 Plus Yrs	Total
	Count	Count	Count	Count	Count
Administrators	4	4	2	1	11
Faculty	0	0	0	0	0
Salaried	0	1	0	0	1
Hourly	0	0	0	0	0
Total	4	5	2	1	12

University Services	Years of Service				
	< 5 Years Svc	5 - 14 Yrs	15 - 24 Yrs	25 Plus Yrs	Total
	Count	Count	Count	Count	Count
Administrators	4	4	3	4	15
Faculty	0	0	0	0	0
Salaried	88	124	58	45	315
Hourly	36	11	17	4	68
Total	128	139	78	53	398

Maine Law	Years of Service				
	< 5 Years Svc	5 - 14 Yrs	15 - 24 Yrs	25 Plus Yrs	Total
	Count	Count	Count	Count	Count
Administrators	2	1	1	0	4
Faculty	12	3	6	1	22
Salaried	12	4	6	3	25
Hourly	0	0	0	0	0
Total	26	8	13	4	51

Average Years of Service by Employment Category

	<i>University of Maine System</i>	<i>University of Maine & University of Maine at Machias</i>	<i>University of Maine at Augusta</i>	<i>University of Maine at Farmington</i>	<i>University of Maine at Fort Kent</i>	<i>University of Maine at Presque Isle</i>	<i>University of Southern Maine</i>	<i>University Governance</i>	<i>University Services</i>	<i>Maine Law</i>
Administrators	11.7	10.1	11.4	18.3	9.0	11.3	11.8	10.4	14.1	8.8
Faculty	11.8	12.0	9.7	15.3	11.2	11.6	11.5	0.0	0.0	8.1
Salaried	8.9	8.1	9.1	9.7	6.9	7.5	8.9	6.0	11.7	9.2
Hourly	11.6	12.8	7.3	14.5	13.7	10.6	10.0	0.0	8.4	0.0
Average Yrs Srvc	10.4	10.4	8.9	13.2	10.3	9.4	9.9	10.0	11.3	8.7

Count of Employment Category with Management Group

	University of Maine System	University of Maine & University of Maine at Machias	University of Maine at Augusta	University of Maine at Farmington	University of Maine at Fort Kent	University of Maine at Presque Isle	University of Southern Maine	University Governance	University Services	Maine Law
Administrators	75	20	7	4	3	4	10	11	13	3
Management Grp	18	7	1	3	0	0	4	0	2	1
Faculty	1,137	619	95	85	29	32	255	0	0	22
Salaried	2,143	1,005	124	94	38	61	480	1	315	25
Hourly	1,042	526	81	88	30	33	216	0	68	0
Total	4,415	2,177	308	274	100	130	965	12	398	51

Full Time Equivalent by Funding Source

	University of Maine System				University of Maine & University of Maine at Machias				University of Maine at Augusta				University of Maine at Farmington				University of Maine at Fort Kent			
	E&G	Non E&G	Aux	Total	E&G	Non E&G	Aux	Total	E&G	Non E&G	Aux	Total	E&G	Non E&G	Aux	Total	E&G	Non E&G	Aux	Total
Administrators	86.1	6.9	0.0	93.0	24.9	2.1	0.0	27.0	7.1	1.0	0.0	8.0	7.0	0.0	0.0	7.0	3.0	0.0	0.0	3.0
Faculty	1,023.2	97.3	0.0	1,120.5	528.1	81.5	0.0	609.6	92.0	2.0	0.0	94.0	82.9	0.6	0.0	83.5	28.8	1.0	0.0	29.8
Salaried	1,515.7	516.7	64.9	2,097.3	683.7	261.4	40.6	985.7	96.3	25.5	1.0	122.8	75.6	9.5	6.5	91.6	34.3	3.2	0.5	38.0
Hourly	843.0	38.7	135.7	1,017.4	416.0	21.3	78.4	515.6	71.9	4.6	1.0	77.5	60.2	1.5	22.9	84.6	24.6	0.0	4.8	29.4
Total	3,468.0	659.6	200.6	4,328.2	1,652.6	366.3	119.0	2,137.9	267.3	33.0	2.0	302.2	225.8	11.6	29.4	266.7	90.6	4.2	5.3	100.2
	University of Maine at Presque Isle				University of Southern Maine				University Governance				University Services				Maine Law			
	E&G	Non E&G	Aux	Total	E&G	Non E&G	Aux	Total	E&G	Non E&G	Aux	Total	E&G	Non E&G	Aux	Total	E&G	Non E&G	Aux	Total
Administrators	3.5	0.5	0.0	4.0	12.8	1.3	0.0	14.0	11.0	0.0	0.0	11.0	13.9	1.1	0.0	15.0	3.0	1.0	0.0	4.0
Faculty	30.8	1.3	0.0	32.0	241.7	8.4	0.0	250.1	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	19.0	2.5	0.0	21.5
Salaried	43.4	14.0	1.3	58.7	271.6	174.9	15.0	461.5	1.0	0.0	0.0	1.0	289.1	24.2	0.0	313.3	20.8	4.0	0.0	24.8
Hourly	28.7	1.5	2.3	32.5	174.4	9.4	26.3	210.1	0.0	0.0	0.0	0.0	67.3	0.5	0.0	67.8	0.0	0.0	0.0	0.0
Total	106.3	17.2	3.6	127.2	700.4	194.0	41.3	935.7	12.0	0.0	0.0	12.0	370.3	25.8	0.0	396.1	42.8	7.5	0.0	50.3

Part-Time Faculty by University

	University of Maine System			University of Maine			University of Maine at Augusta			University of Maine at Farmington			University of Maine at Fort Kent		
	Count	Credit Hrs	Courses Taught	Count	Credit Hrs	Courses Taught	Count	Credit Hrs	Courses Taught	Count	Credit Hrs	Courses Taught	Count	Credit Hrs	Courses Taught
2021 Spring	861	4,335.0	1,547	200	611.3	232	116	404.0	136	47	170.0	48	39	118.0	39
2021 Fall	875	4,699.5	1,652	200	596.3	222	125	475.0	158	53	208.0	54	43	155.5	43
2022 Spring	869	4,520.0	1,601	206	600.8	240	118	437.0	145	47	175.0	49	25	77.5	25
2022 Fall	836	4,653.0	1,643	212	609.5	233	124	456.0	155	45	168.0	46	31	110.0	32
2023 Spring	804	4,343.5	1,553	210	631.0	245	108	428.0	145	34	113.0	36	24	75.0	24
2023 Fall	854	4,845.0	1,691	201	610.5	225	129	448.0	156	35	110.0	36	30	119.0	30

	University of Maine at Machias			University of Maine at Presque Isle			University of Southern Maine			Maine Law		
	Count	Credit Hrs	Courses Taught	Count	Credit Hrs	Courses Taught	Count	Credit Hrs	Courses Taught	Count	Credit Hrs	Courses Taught
2021 Spring	22	79.0	27	41	148.0	49	337	946.5	354	3	11.0	3
2021 Fall	23	77.0	27	49	181.0	59	364	1,064.5	391			
2022 Spring	25	83.0	29	46	186.0	61	324	937.5	346			
2022 Fall	19	55.0	20	55	196.0	64	352	1,022.0	370	2	5.0	2
2023 Spring	28	111.0	36	52	192.0	63	327	921.5	343	1	7.0	1
2023 Fall	24	117.5	39	64	238.0	77	314	898.0	334	1	3.0	1



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UNIVERSITY OF MAINE SYSTEM

Fall 2023 Enrollment Report

Robert Zuercher, UMS Senior Institutional Research & Planning Analyst
October 15, 2023

UNIVERSITY OF MAINE SYSTEM – FALL 2023 ENROLLMENT REPORT

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UNIVERSITY OF MAINE SYSTEM – FALL 2023 ENROLLMENT REPORT

INTRODUCTION

The following report provides summary information regarding enrollment at the University of Maine System (UMS) for the Fall 2023 semester. All data reported is as of the fall census date (October 15). Not included in the census are: 1) students who were enrolled for the term and withdrew prior to census, and 2) students who enrolled after census in abbreviated sessions (e.g., Academic Partnerships). Note: UMS early college students are now excluded from this report. Figures specific to UMS early college can be found in a separate Fall Early College Enrollment report.

Notes:

1. UMS early college students are now excluded from this report. Figures specific to UMS early college can be found in a separate Fall Early College Enrollment report.
2. Some totals may not appear to sum correctly due to rounding (e.g., credit hours, FTE, and percentages).
3. In the case of inter-institutional cross-listed courses, the Host institution (the UMS institution hosting/teaching the course) receives the credit hours for the course, while the Home institution (the UMS institution where the students' primary enrollment is) keeps the FTE and headcount.
4. FTE (for all campuses except UMF) = Undergraduate Credit Hours/15 + Law Credit Hours/15 + Graduate Credit Hours/9. FTE for UMF (Fall 2023 forward) = Undergraduate Credit Hours/15 + MA Counseling Psychology Credit Hours/15 + Other Graduate Credit Hours/9. FTE for UMF (prior to Fall 2023) = Undergraduate Credit Hours/16 + MA Counseling Psychology Credit Hours/15 + Other Graduate Credit Hours/9.
5. Students enrolled in multiple academic careers are reported under their highest academic career (in descending order: law, graduate, undergraduate).

Data Source: PeopleSoft CSRPT Database; the University of Maine System.

UNIVERSITY OF MAINE SYSTEM – FALL 2023 ENROLLMENT REPORT

HIGHLIGHTS

- Total headcount declined from Fall 2022 (-1.1%) and Fall 2019 (-7.1%). Total credit hours showed declines in Fall 2023 compared to last year (-2.3%) and five years ago (-11.6%).
- Undergraduate headcount enrollment decreased -2.4% from Fall 2022 and -12.3% from Fall 2019. Only UMPI showed an increase in undergraduate headcounts from last year (+18.9%). The other campuses saw declines in their undergraduate headcounts from last year with decreases ranging from -2.5% at UMFK to -8.2% at UMM. Undergraduate credit hours showed a -3.0% decrease from Fall 2022 and a -14.6% decrease from Fall 2019.
- Graduate headcount enrollment increased +4.4% from Fall 2022 and +22.0% from Fall 2019. All campuses with graduate programming saw increases in graduate enrollment from last year, ranging from +1.5% at UMA to +206.3% at UMFK. Graduate credit hours also increased by +3.8% from Fall 2022 and +24.1% from Fall 2019.
- Credit hours from in-state students continued to decline and showed a drop of -4.3% from Fall 2022 and -19.4% from Fall 2019. This decline is driven by decreases in in-state undergraduate headcounts (down -20.8% from Fall 2019). Credit hours for out-of-state and NEBHE students decreased from last year (-4.8% and -1.7% respectively). Credit hours for international (+4.8%), Canadian (+21.2%), non-resident online (+2.3%), and Academic Partnerships (+41.0%) students showed increases from last fall.
- The total number of first-time undergraduates decreased -5.3% from last year. In-state, first-time undergraduates declined -9.6% from Fall 2022, whereas all other first-time undergraduates increased by +3.7%. Total incoming transfers increased +13.0% from Fall 2022. Entering Academic Partnerships (AP) transfers increased +92.1% from last year. Non-resident (including AP) entering transfer students increased by +38.9% from last year and by +119.6% from Fall 2019. The total number of entering graduate students declined by 6.5% relative to last year but were up +15.6% since Fall 2019. Non-resident (including AP) entering graduate students were slightly down from last year (-6.4%), but up 80.2% from Fall 2019.
- Compared to either a year ago or five years ago, there are now more Black/African American, Hispanic/Latino, Asian, US nonresidents, and students who identify as belonging to more than one racial category. American Indian/Alaska Native students increased by +4.5% from Fall 2022 but decreased by -23.2% from five years ago. Native Hawaiian/Pacific Islander and white students declined compared to last year (-22.2% and -3.1% respectively) and five years ago (-12.5% and -10.9% respectively).
- Prior to Fall 2020, distance education saw continued growth and accounted for 23.5% of all credit hours in Fall 2019. In response to the COVID-19 pandemic, Fall 2020 saw a dramatic shift to distance modalities, with 78.6% of all credit hours delivered through distance modalities. In Fall 2021, campuses shifted back toward offering more in-person instruction as credit hours delivered through traditional modalities accounted for 59.9% of all credit hours. Distance education accounted for 37.0% of all credit hours in Fall 2022.

UNIVERSITY OF MAINE SYSTEM – FALL 2023 ENROLLMENT REPORT

HEADCOUNT BY CAMPUS AND STUDENT LEVEL

Undergraduate Headcount by Campus (Excludes Early College)

Campus	Fall 2019	Fall 2020	Fall 2021	Fall 2022	Fall 2023	% of Total	1-year Change	5-year Change
UM	9,110	9,050	9,051	8,536	8,218	42.1%	-3.7%	-9.8%
UMA	3,603	3,370	3,318	3,204	3,072	15.7%	-4.1%	-14.7%
UMF	1,578	1,524	1,413	1,257	1,179	6.0%	-6.2%	-25.3%
UMFK	958	950	867	709	691	3.5%	-2.5%	-27.9%
UMM	537	498	505	477	438	2.2%	-8.2%	-18.4%
UMPI	903	1,022	1,097	1,240	1,474	7.6%	18.9%	63.2%
USM	5,577	5,322	4,915	4,581	4,448	22.8%	-2.9%	-20.2%
Total	22,266	21,736	21,166	20,004	19,520	100.0%	-2.4%	-12.3%

Graduate Headcount by Campus

Campus	Fall 2019	Fall 2020	Fall 2021	Fall 2022	Fall 2023	% of Total	1-year Change	5-year Change
UM	2,131	2,276	2,542	2,457	2,493	52.6%	1.5%	17.0%
UMA	0	37	48	62	73	1.5%	17.7%	N/A
UMF	256	279	298	279	345	7.3%	23.7%	34.8%
UMFK	0	0	0	16	49	1.0%	206.3%	N/A
UMPI	0	0	17	23	35	0.7%	52.2%	N/A
USM	1,497	1,665	1,778	1,702	1,742	36.8%	2.4%	16.4%
Total	3,884	4,257	4,683	4,539	4,737	100.0%	4.4%	22.0%

Total Headcount by Campus (Excludes Early College)

Campus	Fall 2019	Fall 2020	Fall 2021	Fall 2022	Fall 2023	% of Total	1-year Change	5-year Change
UM	11,241	11,326	11,593	10,993	10,711	43.7%	-2.6%	-4.7%
UMA	3,603	3,407	3,366	3,266	3,145	12.8%	-3.7%	-12.7%
UMF	1,834	1,803	1,711	1,536	1,524	6.2%	-0.8%	-16.9%
UMFK	958	950	867	725	740	3.0%	2.1%	-22.8%
UMM	537	498	505	477	438	1.8%	-8.2%	-18.4%
UMPI	903	1,022	1,114	1,263	1,509	6.2%	19.5%	67.1%
USM	7,074	6,987	6,693	6,283	6,190	25.2%	-1.5%	-12.5%
LAW	257	259	262	265	266	1.1%	0.4%	3.5%
Total	26,407	26,252	26,111	24,808	24,523	100.0%	-1.1%	-7.1%
Unduplicated Total	26,385	26,060	25,703	24,379	24,134	100.0%	-1.0%	-8.5%

Total Headcount by Student Level (Excludes Early College)

Student Level	Fall 2019	Fall 2020	Fall 2021	Fall 2022	Fall 2023	% of Total	1-year Change	5-year Change
Undergraduate	22,266	21,736	21,166	20,004	19,520	79.6%	-2.4%	-12.3%
Graduate	3,884	4,257	4,683	4,539	4,737	19.3%	4.4%	22.0%
Law	257	259	262	265	266	1.1%	0.4%	3.5%
Total	26,407	26,252	26,111	24,808	24,523	100.0%	-1.1%	-7.1%
Unduplicated Total	26,385	26,060	25,703	24,379	24,134	100.0%	-1.0%	-8.5%

Note: The “Unduplicated Total” is the number of unique students enrolled in the UMS. Students may be enrolled in one or more UMS institutions, but they are only counted once in the “Unduplicated Total.”

UNIVERSITY OF MAINE SYSTEM – FALL 2023 ENROLLMENT REPORT

FTE BY CAMPUS AND STUDENT LEVEL

Undergraduate FTE by Campus (Excludes Early College)

Campus	Fall 2019	Fall 2020	Fall 2021	Fall 2022	Fall 2023	% of Total	1-year Change	5-year Change
UM	8,519.4	8,345.6	8,374.4	7,801.4	7,474.2	47.6%	-4.2%	-12.3%
UMA	2,084.5	2,020.6	2,003.8	1,883.3	1,820.8	11.6%	-3.3%	-12.6%
UMF	1,452.1	1,372.7	1,261.6	1,103.9	1,013.9	6.5%	-8.2%	-30.2%
UMFK	682.2	638.1	564.8	445.3	432.5	2.8%	-2.9%	-36.6%
UMM	374.7	335.7	321.6	292.7	262.9	1.7%	-10.2%	-29.8%
UMPI	675.5	772.9	845.3	884.0	1,097.6	7.0%	24.2%	62.5%
USM	4,493.2	4,226.8	3,909.3	3,703.9	3,601.2	22.9%	-2.8%	-19.9%
Total	18,281.7	17,712.6	17,280.7	16,114.4	15,703.2	100.0%	-2.6%	-14.1%

Graduate FTE by Campus

Campus	Fall 2019	Fall 2020	Fall 2021	Fall 2022	Fall 2023	% of Total	1-year Change	5-year Change
UM	1,188.1	1,324.4	1,459.8	1,463.9	1,482.5	51.1%	1.3%	24.8%
UMA	0.0	22.7	27.9	30.3	36.3	1.3%	19.8%	N/A
UMF	101.0	115.3	130.4	122.1	158.6	5.5%	29.9%	57.0%
UMFK	0.0	0.0	0.0	10.0	35.9	1.2%	258.9%	N/A
UMPI	0.0	0.0	10.0	16.7	23.3	0.8%	40.0%	N/A
USM	1,067.4	1,188.0	1,215.5	1,155.5	1,165.6	40.2%	0.9%	9.2%
Total	2,356.6	2,650.4	2,843.6	2,798.5	2,902.2	100.0%	3.7%	23.2%

Total FTE by Campus (Excludes Early College)

Campus	Fall 2019	Fall 2020	Fall 2021	Fall 2022	Fall 2023	% of Total	1-year Change	5-year Change
UM	9,707.5	9,670.1	9,834.3	9,265.3	8,956.7	47.5%	-3.3%	-7.7%
UMA	2,084.5	2,043.3	2,031.7	1,913.6	1,857.1	9.8%	-3.0%	-10.9%
UMF	1,553.1	1,488.0	1,392.0	1,226.1	1,172.5	6.2%	-4.4%	-24.5%
UMFK	682.2	638.1	564.8	455.3	468.4	2.5%	2.9%	-31.3%
UMM	374.7	335.7	321.6	292.7	262.9	1.4%	-10.2%	-29.8%
UMPI	675.5	772.9	855.3	900.7	1,120.9	5.9%	24.5%	65.9%
USM	5,560.7	5,414.8	5,124.8	4,859.4	4,766.8	25.3%	-1.9%	-14.3%
LAW	244.3	243.8	249.1	250.5	256.6	1.4%	2.4%	5.0%
Total	20,882.5	20,606.8	20,373.4	19,163.3	18,862.0	100.0%	-1.6%	-9.7%

Total FTE by Student Level (Excludes Early College)

Student Level	Fall 2019	Fall 2020	Fall 2021	Fall 2022	Fall 2023	% of Total	1-year Change	5-year Change
Undergraduate	18,281.7	17,712.6	17,280.7	16,114.4	15,703.2	83.3%	-2.6%	-14.1%
Graduate	2,356.6	2,650.4	2,843.6	2,798.5	2,902.2	15.4%	3.7%	23.2%
Law	244.3	243.8	249.1	250.5	256.6	1.4%	2.4%	5.0%
Total	20,882.5	20,606.8	20,373.4	19,163.3	18,862.0	100.0%	-1.6%	-9.7%

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CREDIT HOURS BY CAMPUS AND STUDENT LEVEL

Undergraduate Credit Hours by Campus (Excludes Early College)

Campus	Fall 2019	Fall 2020	Fall 2021	Fall 2022	Fall 2023	% of Total	1-year Change	5-year Change
UM	127,791	125,044	125,145	116,817	111,738	47.4%	-4.3%	-12.6%
UMA	31,187	30,232	30,080	28,276	27,369	11.6%	-3.2%	-12.2%
UMF	23,234	21,963	20,185	17,663	15,091	6.4%	-14.6%	-35.0%
UMFK	10,234	9,572	8,472	6,679	6,488	2.8%	-2.9%	-36.6%
UMM	5,701	5,257	5,275	4,567	4,304	1.8%	-5.8%	-24.5%
UMPI	10,132	11,594	12,679	13,260	16,546	7.0%	24.8%	63.3%
USM	67,399	63,400	58,637	55,558	54,013	22.9%	-2.8%	-19.9%
Total	275,677	267,061	260,473	242,820	235,548	100.0%	-3.0%	-14.6%

Graduate Credit Hours by Campus

Campus	Fall 2019	Fall 2020	Fall 2021	Fall 2022	Fall 2023	% of Total	1-year Change	5-year Change
UM	10,693	11,920	13,085	13,001	13,154	50.0%	1.2%	23.0%
UMA	0	228	240	234	291	1.1%	24.4%	N/A
UMF	909	1,086	1,295	1,243	1,623	6.2%	30.6%	78.5%
UMFK	0	0	0	90	323	1.2%	258.9%	N/A
UMM	0	0	57	78	90	0.3%	15.4%	N/A
UMPI	0	0	90	150	210	0.8%	40.0%	N/A
USM	9,607	10,668	10,961	10,553	10,625	40.4%	0.7%	10.6%
Total	21,209	23,902	25,727	25,348	26,316	100.0%	3.8%	24.1%

Law Credit Hours by Campus

Campus	Fall 2019	Fall 2020	Fall 2021	Fall 2022	Fall 2023	% of Total	1-year Change	5-year Change
UMA	0	3	0	0	0	0.0%	N/A	N/A
LAW	3,664	3,654	3,736	3,757	3,849	100.0%	2.4%	5.0%
Total	3,664	3,657	3,736	3,757	3,849	100.0%	2.4%	5.0%

Total Credit Hours by Campus (Excludes Early College)

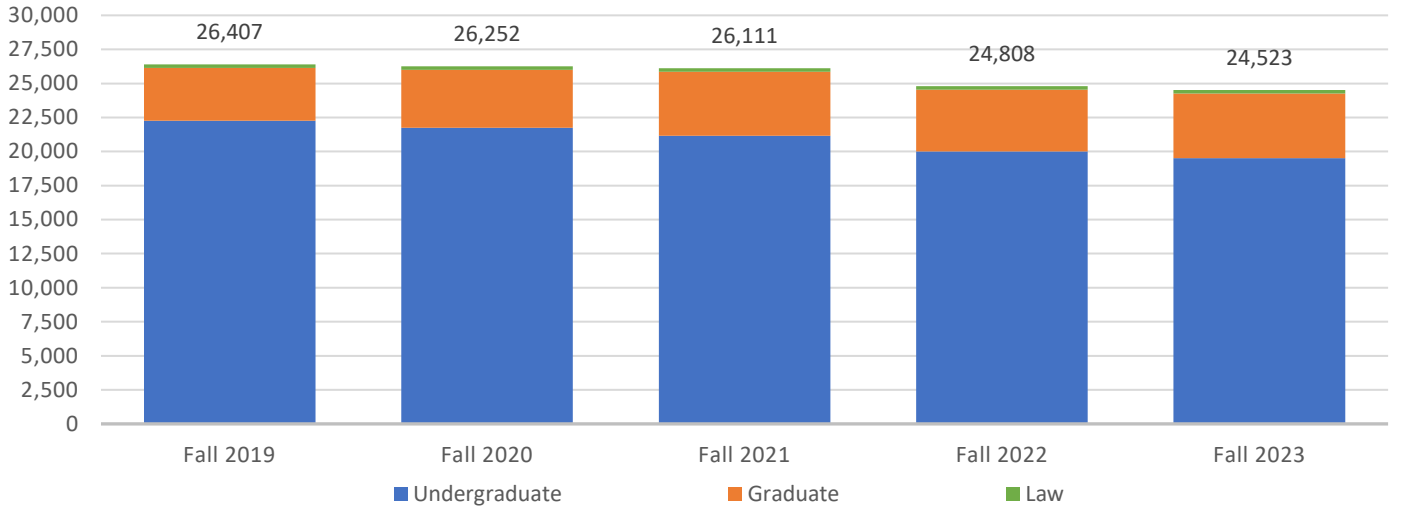
Campus	Fall 2019	Fall 2020	Fall 2021	Fall 2022	Fall 2023	% of Total	1-year Change	5-year Change
UM	138,484	136,964	138,230	129,818	124,892	47.0%	-3.8%	-9.8%
UMA	31,187	30,463	30,320	28,510	27,660	10.4%	-3.0%	-11.3%
UMF	24,143	23,049	21,480	18,906	16,714	6.3%	-11.6%	-30.8%
UMFK	10,234	9,572	8,472	6,769	6,811	2.6%	0.6%	-33.4%
UMM	5,701	5,257	5,332	4,645	4,394	1.7%	-5.4%	-22.9%
UMPI	10,132	11,594	12,769	13,410	16,756	6.3%	25.0%	65.4%
USM	77,006	74,068	69,597	66,111	64,638	24.3%	-2.2%	-16.1%
LAW	3,664	3,654	3,736	3,757	3,849	1.4%	2.4%	5.0%
Total	300,550	294,620	289,936	271,925	265,712	100.0%	-2.3%	-11.6%

Total Credit Hours by Student Level (Excludes Early College)

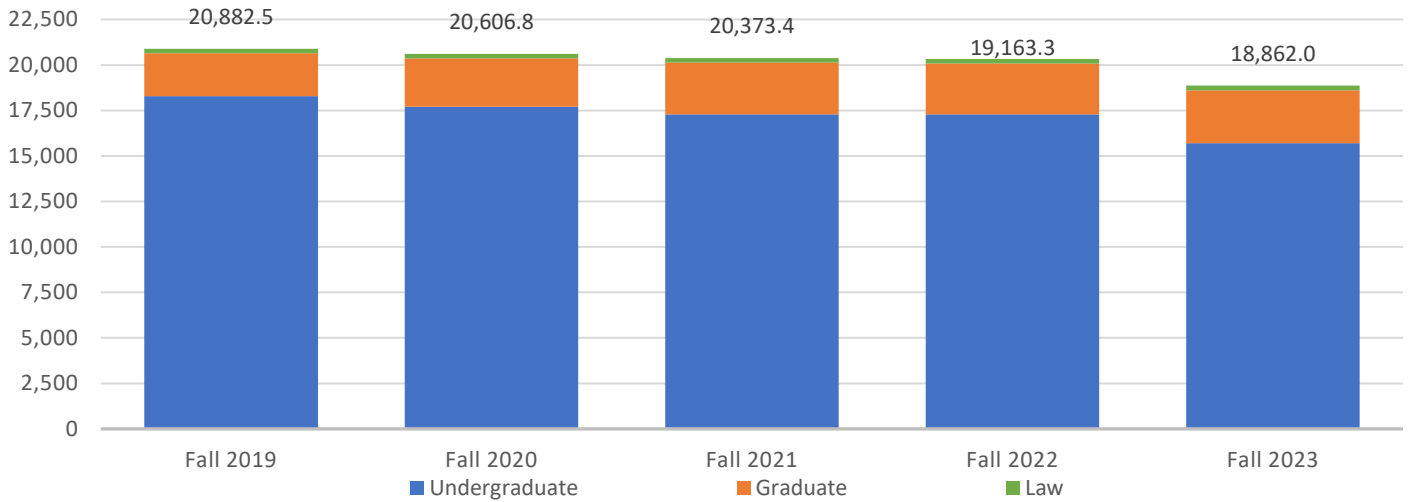
Student Level	Fall 2019	Fall 2020	Fall 2021	Fall 2022	Fall 2023	% of Total	1-year Change	5-year Change
Undergraduate	275,677	267,061	260,473	242,820	235,548	88.6%	-3.0%	-14.6%
Graduate	21,209	23,902	25,727	25,348	26,316	9.9%	3.8%	24.1%
Law	3,664	3,657	3,736	3,757	3,849	1.4%	2.4%	5.0%
Total	300,550	294,620	289,936	271,925	265,712	100.0%	-2.3%	-11.6%

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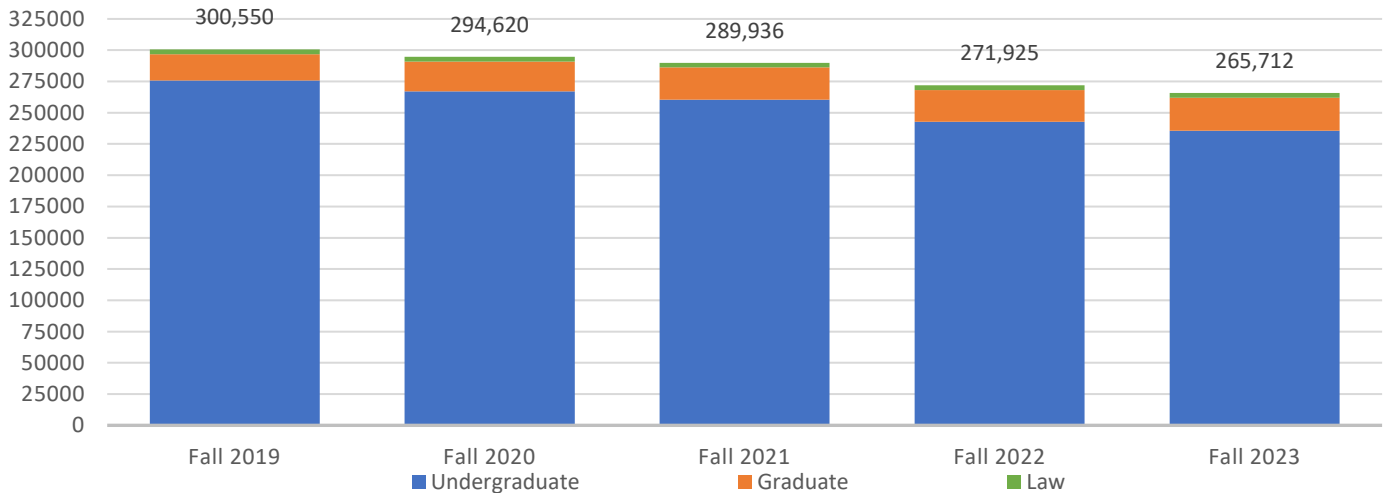
TOTAL HEADCOUNT (EXCLUDES EARLY COLLEGE)



TOTAL FTE (EXCLUDES EARLY COLLEGE)



TOTAL CREDIT HOURS (EXCLUDES EARLY COLLEGE)



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HEADCOUNT, FTE, AND CREDIT HOURS BY CREDENTIAL SOUGHT

Headcount by Credential Sought (Excludes Early College)

Credential Sought	Fall 2019	Fall 2020	Fall 2021	Fall 2022	Fall 2023	% of Total	1-year Change	5-year Change
Associates	583	521	479	461	479	2.0%	3.9%	-17.8%
Bachelors	20,302	19,970	19,430	18,208	17,787	72.5%	-2.3%	-12.4%
Undergraduate Certificate	116	144	176	207	213	0.9%	2.9%	83.6%
Non-Degree Undergraduate	1,265	1,097	1,071	1,123	1,038	4.2%	-7.6%	-17.9%
Masters	2,427	2,856	3,228	3,108	3,201	13.1%	3.0%	31.9%
Doctorate	497	570	606	635	690	2.8%	8.7%	38.8%
Graduate Certificate	355	388	413	375	427	1.7%	13.9%	20.3%
Non-Degree Graduate	605	447	446	426	422	1.7%	-0.9%	-30.2%
Law	255	257	259	261	264	1.1%	1.1%	3.5%
Non-Degree Law	2	2	3	4	2	0.0%	-50.0%	0.0%
Total	26,407	26,252	26,111	24,808	24,523	100.0%	-1.1%	-7.1%

FTE by Credential Sought (Excludes Early College)

Credential Sought	Fall 2019	Fall 2020	Fall 2021	Fall 2022	Fall 2023	% of Total	1-year Change	5-year Change
Associates	375.9	330.1	303.0	271.1	269.5	1.4%	-0.6%	-28.3%
Bachelors	17,471.4	17,013.8	16,594.4	15,446.6	15,060.9	79.8%	-2.5%	-13.8%
Undergraduate Certificate	47.3	51.4	57.3	65.2	65.1	0.3%	-0.1%	37.6%
Non-Degree Undergraduate	387.0	316.0	322.3	328.8	306.2	1.6%	-6.9%	-20.9%
Masters	1,755.5	2,024.4	2,208.9	2,145.3	2,197.3	11.6%	2.4%	25.2%
Doctorate	243.8	289.2	297.8	342.6	372.3	2.0%	8.7%	52.7%
Graduate Certificate	141.2	164.2	171.8	156.0	179.0	0.9%	14.7%	26.8%
Non-Degree Graduate	216.1	173.8	169.0	157.3	155.2	0.8%	-1.3%	-28.2%
Law	243.1	243.3	247.3	248.2	255.4	1.4%	2.9%	5.1%
Non-Degree Law	1.2	0.5	1.7	2.3	1.1	0.0%	-50.0%	-5.6%
Total	20,882.5	20,606.8	20,373.4	19,163.3	18,862.0	100.0%	-1.6%	-9.7%

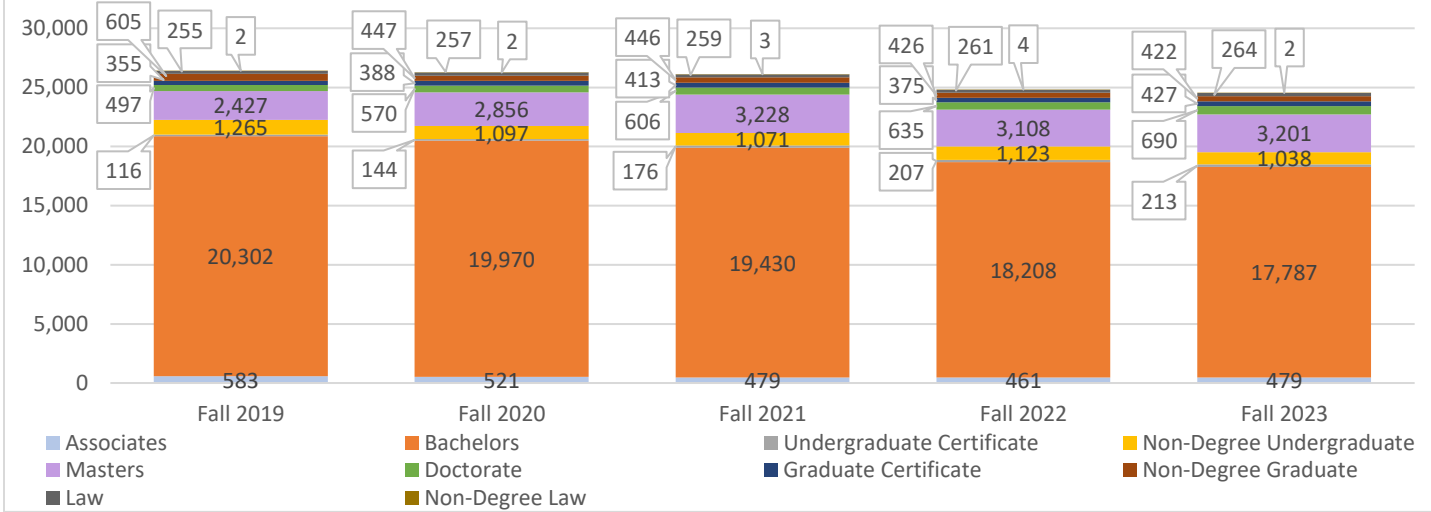
Credit Hours by Credential Sought (Excludes Early College)

Credential Sought	Fall 2019	Fall 2020	Fall 2021	Fall 2022	Fall 2023	% of Total	1-year Change	5-year Change
Associates	5,639	4,952	4,545	4,066	4,042	1.5%	-0.6%	-28.3%
Bachelors	263,520	256,576	250,170	232,794	225,913	85.0%	-3.0%	-14.3%
Undergraduate Certificate	710	772	860	978	977	0.4%	-0.1%	37.6%
Non-Degree Undergraduate	5,809	4,744	4,842	4,942	4,593	1.7%	-7.1%	-20.9%
Masters	15,800	18,275	20,024	19,468	19,981	7.5%	2.6%	26.5%
Doctorate	2,194	2,603	2,680	3,084	3,351	1.3%	8.7%	52.7%
Graduate Certificate	1,271	1,478	1,546	1,404	1,611	0.6%	14.7%	26.8%
Non-Degree Graduate	1,945	1,565	1,534	1,434	1,397	0.5%	-2.6%	-28.2%
Law	3,646	3,650	3,710	3,723	3,832	1.4%	2.9%	5.1%
Non-Degree Law	18	7	26	34	17	0.0%	-50.0%	-5.6%
Total	300,550	294,620	289,936	271,925	265,712	100.0%	-2.3%	-11.6%

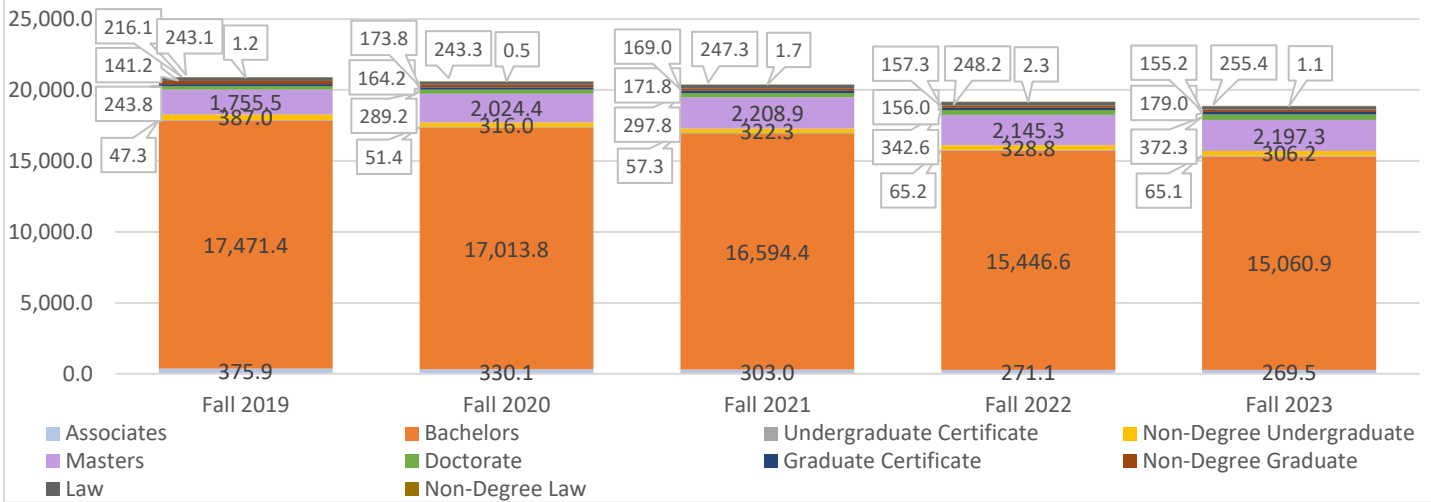
Note: “Credential sought” is derived from the student’s primary academic plan.

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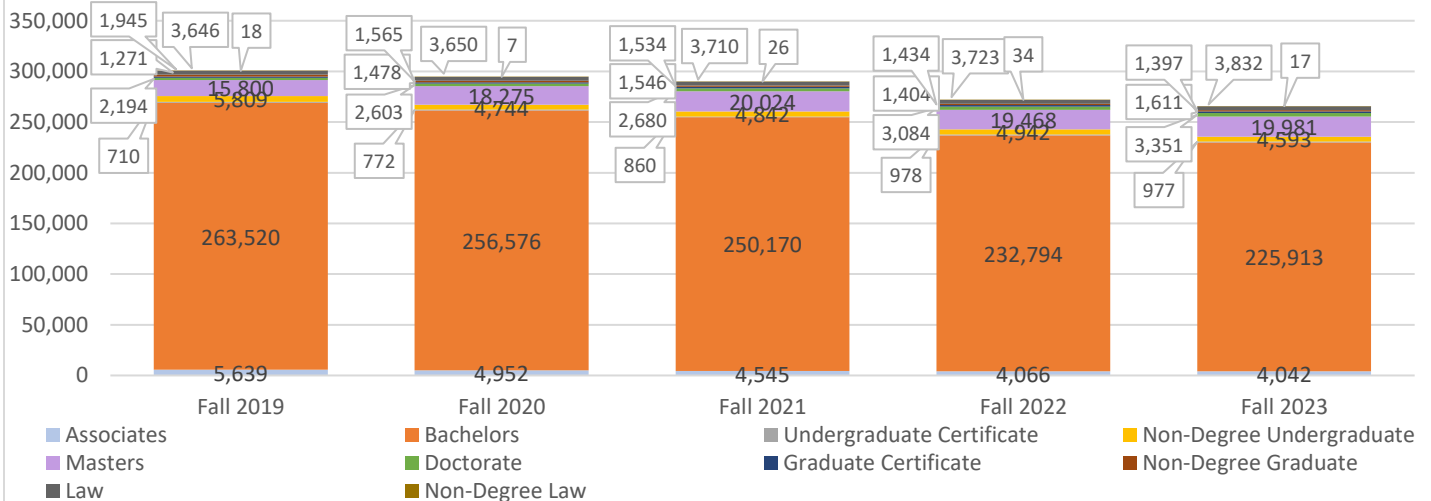
TOTAL HEADCOUNT BY CREDENTIAL SOUGHT (EXCLUDES EARLY COLLEGE)



TOTAL FTE BY CREDENTIAL SOUGHT (EXCLUDES EARLY COLLEGE)



TOTAL CREDIT HOURS BY CREDENTIAL SOUGHT (EXCLUDES EARLY COLLEGE)



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HEADCOUNT BY STUDENT LEVEL AND TUITION RESIDENCY

Undergraduate Headcount by Tuition Residency (Excludes Early College)

Tuition Residency	Fall 2019	Fall 2020	Fall 2021	Fall 2022	Fall 2023	% of Total	1-year Change	5-year Change
In-State	16,981	16,045	15,067	14,117	13,454	68.9%	-4.7%	-20.8%
Out-of-State	3,946	3,970	3,990	3,633	3,460	17.7%	-4.8%	-12.3%
International	295	298	321	282	258	1.3%	-8.5%	-12.5%
NEBHE	806	845	868	816	807	4.1%	-1.1%	0.1%
Canadian	90	92	135	159	193	1.0%	21.4%	114.4%
Non-Resident Online	101	180	240	281	318	1.6%	13.2%	214.9%
Academic Partnerships	47	306	545	716	1,030	5.3%	43.9%	2091.5%
Total	22,266	21,736	21,166	20,004	19,520	100.0%	-2.4%	-12.3%

Graduate Headcount by Tuition Residency

Tuition Residency	Fall 2019	Fall 2020	Fall 2021	Fall 2022	Fall 2023	% of Total	1-year Change	5-year Change
In-State	3,076	3,118	3,252	3,049	3,187	67.3%	4.5%	3.6%
Out-of-State	386	396	419	389	382	8.1%	-1.8%	-1.0%
International	204	209	213	267	334	7.1%	25.1%	63.7%
NEBHE	66	55	76	76	62	1.3%	-18.4%	-6.1%
Canadian	12	10	14	20	34	0.7%	70.0%	183.3%
Non-Resident Online	127	285	397	374	351	7.4%	-6.1%	176.4%
Academic Partnerships	13	184	312	364	387	8.2%	6.3%	2876.9%
Total	3,884	4,257	4,683	4,539	4,737	100.0%	4.4%	22.0%

Law Headcount by Tuition Residency

Tuition Residency	Fall 2019	Fall 2020	Fall 2021	Fall 2022	Fall 2023	% of Total	1-year Change	5-year Change
In-State	189	196	191	184	171	64.3%	-7.1%	-9.5%
Out-of-State	62	54	61	75	88	33.1%	17.3%	41.9%
International	0	4	7	2	4	1.5%	100.0%	N/A
NEBHE	5	4	2	2	1	0.4%	-50.0%	-80.0%
Canadian	1	1	1	2	2	0.8%	0.0%	100.0%
Total	257	259	262	265	266	100.0%	0.4%	3.5%

Total Headcount by Tuition Residency (Excludes Early College)

Tuition Residency	Fall 2019	Fall 2020	Fall 2021	Fall 2022	Fall 2023	% of Total	1-year Change	5-year Change
In-State	20,246	19,359	18,510	17,350	16,812	68.6%	-3.1%	-17.0%
Out-of-State	4,394	4,420	4,470	4,097	3,930	16.0%	-4.1%	-10.6%
International	499	511	541	551	596	2.4%	8.2%	19.4%
NEBHE	877	904	946	894	870	3.5%	-2.7%	-0.8%
Canadian	103	103	150	181	229	0.9%	26.5%	122.3%
Non-Resident Online	228	465	637	655	669	2.7%	2.1%	193.4%
Academic Partnerships	60	490	857	1,080	1,417	5.8%	31.2%	2261.7%
Total	26,407	26,252	26,111	24,808	24,523	100.0%	-1.1%	-7.1%

Note: UM graduate students with an out of state official residency and in an online tuition group are reported as “Non-Resident Online.”

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CREDIT HOURS BY TUITION RESIDENCY AND LEVEL

Undergraduate Credit Hours by Tuition Residency (Excludes Early College)

Tuition Residency	Fall 2019	Fall 2020	Fall 2021	Fall 2022	Fall 2023	% of Total	1-year Change	5-year Change
In-State	202,600	191,766	180,611	167,596	159,068	67.5%	-5.1%	-21.5%
Out-of-State	55,209	54,477	54,984	49,848	47,152	20.0%	-5.4%	-14.6%
International	3,812	3,989	4,086	3,502	3,218	1.4%	-8.1%	-15.6%
NEBHE	11,873	11,840	12,210	11,391	11,319	4.8%	-0.6%	-4.7%
Canadian	1,188	1,184	1,786	2,118	2,506	1.1%	18.3%	110.9%
Non-Resident Online	627	1,160	1,424	1,610	1,957	0.8%	21.6%	212.1%
Academic Partnerships	369	2,647	5,373	6,755	10,330	4.4%	52.9%	2699.5%
Total	275,677	267,061	260,473	242,820	235,548	100.0%	-3.0%	-14.6%

Graduate Credit Hours by Tuition Residency

Tuition Residency	Fall 2019	Fall 2020	Fall 2021	Fall 2022	Fall 2023	% of Total	1-year Change	5-year Change
In-State	16,259	17,036	17,306	16,389	17,133	65.1%	4.5%	5.4%
Out-of-State	2,544	2,579	2,671	2,411	2,313	8.8%	-4.1%	-9.1%
International	1,095	1,077	1,081	1,575	2,073	7.9%	31.6%	89.3%
NEBHE	526	424	573	574	458	1.7%	-20.2%	-13.0%
Canadian	107	99	134	207	321	1.2%	54.8%	199.5%
Non-Resident Online	613	1,499	2,055	2,015	1,752	6.7%	-13.1%	185.8%
Academic Partnerships	66	1,188	1,908	2,178	2,267	8.6%	4.1%	3334.8%
Total	21,209	23,902	25,727	25,348	26,316	100.0%	3.8%	24.1%

Law Credit Hours by Tuition Residency

Tuition Residency	Fall 2019	Fall 2020	Fall 2021	Fall 2022	Fall 2023	% of Total	1-year Change	5-year Change
In-State	2,703	2,751	2,692	2,567	2,423	62.9%	-5.6%	-10.4%
Out-of-State	873	775	914	1,100	1,324	34.4%	20.3%	51.6%
International	0	55	85	30	60	1.5%	98.3%	N/A
NEBHE	72	60	30	31	15	0.4%	-51.6%	-79.2%
Canadian	16	16	15	29	28	0.7%	-3.4%	75.0%
Total	3,664	3,657	3,736	3,757	3,849	100.0%	2.4%	5.0%

Total Credit Hours by Tuition Residency (Excludes Early College)

Tuition Residency	Fall 2019	Fall 2020	Fall 2021	Fall 2022	Fall 2023	% of Total	1-year Change	5-year Change
In-State	221,561	211,553	200,609	186,552	178,623	67.2%	-4.3%	-19.4%
Out-of-State	58,625	57,831	58,569	53,359	50,789	19.1%	-4.8%	-13.4%
International	4,907	5,121	5,252	5,107	5,350	2.0%	4.8%	9.0%
NEBHE	12,471	12,324	12,813	11,995	11,791	4.4%	-1.7%	-5.5%
Canadian	1,311	1,299	1,935	2,354	2,854	1.1%	21.2%	117.7%
Non-Resident Online	1,240	2,659	3,479	3,625	3,709	1.4%	2.3%	199.1%
Academic Partnerships	435	3,835	7,281	8,933	12,597	4.7%	41.0%	2795.9%
Total	300,550	294,620	289,936	271,925	265,712	100.0%	-2.3%	-11.6%

Note: UM graduate students with an out of state official residency and in an online tuition group are reported as “Non-Resident Online.”

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HEADCOUNT BY TUITION RESIDENCY AND CAMPUS

In-State Headcount by Campus (Excludes Early College)

Campus	Fall 2019	Fall 2020	Fall 2021	Fall 2022	Fall 2023	% of Total	1-year Change	5-year Change
UM	7,148	7,024	7,060	6,711	6,508	38.7%	-3.0%	-9.0%
UMA	3,324	3,060	2,999	2,920	2,801	16.7%	-4.1%	-15.7%
UMF	1,563	1,548	1,446	1,285	1,298	7.7%	1.0%	-17.0%
UMFK	736	577	392	295	271	1.6%	-8.1%	-63.2%
UMM	454	400	392	350	309	1.8%	-11.7%	-31.9%
UMPI	739	717	644	593	517	3.1%	-12.8%	-30.0%
USM	6,093	5,837	5,386	5,012	4,937	29.4%	-1.5%	-19.0%
LAW	189	196	191	184	171	1.0%	-7.1%	-9.5%
Total	20,246	19,359	18,510	17,350	16,812	100.0%	-3.1%	-17.0%

Out-Of-State Headcount by Campus (Excludes Early College)

Campus	Fall 2019	Fall 2020	Fall 2021	Fall 2022	Fall 2023	% of Total	1-year Change	5-year Change
UM	2,883	2,977	3,079	2,752	2,609	66.4%	-5.2%	-9.5%
UMA	236	293	296	274	266	6.8%	-2.9%	12.7%
UMF	160	145	124	123	102	2.6%	-17.1%	-36.3%
UMFK	147	152	149	120	100	2.5%	-16.7%	-32.0%
UMM	59	57	47	52	62	1.6%	19.2%	5.1%
UMPI	98	113	87	91	89	2.3%	-2.2%	-9.2%
USM	749	629	627	610	614	15.6%	0.7%	-18.0%
LAW	62	54	61	75	88	2.2%	17.3%	41.9%
Total	4,394	4,420	4,470	4,097	3,930	100.0%	-4.1%	-10.6%

International Headcount by Campus (Excludes Early College)

Campus	Fall 2019	Fall 2020	Fall 2021	Fall 2022	Fall 2023	% of Total	1-year Change	5-year Change
UM	397	360	358	396	457	76.7%	15.4%	15.1%
UMA	20	11	15	21	17	2.9%	-19.0%	-15.0%
UMF	4	2	2	7	3	0.5%	-57.1%	-25.0%
UMFK	46	64	81	59	56	9.4%	-5.1%	21.7%
UMM	13	14	20	15	6	1.0%	-60.0%	-53.8%
UMPI	18	18	17	16	18	3.0%	12.5%	0.0%
USM	1	38	41	35	35	5.9%	0.0%	3400.0%
LAW	0	4	7	2	4	0.7%	100.0%	N/A
Total	499	511	541	551	596	100.0%	8.2%	19.4%

UNIVERSITY OF MAINE SYSTEM – FALL 2023 ENROLLMENT REPORT

NEBHE Headcount by Campus (Excludes Early College)

Campus	Fall 2019	Fall 2020	Fall 2021	Fall 2022	Fall 2023	% of Total	1-year Change	5-year Change
UM	601	571	561	525	475	54.6%	-9.5%	-21.0%
UMA	20	40	49	45	48	5.5%	6.7%	140.0%
UMF	106	108	139	120	118	13.6%	-1.7%	11.3%
UMM	10	27	33	38	30	3.4%	-21.1%	200.0%
USM	135	154	162	164	198	22.8%	20.7%	46.7%
LAW	5	4	2	2	1	0.1%	-50.0%	-80.0%
Total	877	904	946	894	870	100.0%	-2.7%	-0.8%

Canadian Headcount by Campus (Excludes Early College)

Campus	Fall 2019	Fall 2020	Fall 2021	Fall 2022	Fall 2023	% of Total	1-year Change	5-year Change
UM	49	62	72	89	95	41.5%	6.7%	93.9%
UMA	3	3	7	6	13	5.7%	116.7%	333.3%
UMF	1	0	0	1	3	1.3%	200.0%	200.0%
UMFK	3	0	1	0	8	3.5%	N/A	166.7%
UMM	1	0	1	1	1	0.4%	0.0%	0.0%
UMPI	27	25	48	59	76	33.2%	28.8%	181.5%
USM	18	12	20	23	31	13.5%	34.8%	72.2%
LAW	1	1	1	2	2	0.9%	0.0%	100.0%
Total	103	103	150	181	229	100.0%	26.5%	122.3%

Non-Resident Online Headcount by Tuition Residency

Campus	Fall 2019	Fall 2020	Fall 2021	Fall 2022	Fall 2023	% of Total	1-year Change	5-year Change
UM	163	332	463	520	567	84.8%	9.0%	247.9%
UMM	0	0	12	21	30	4.5%	42.9%	N/A
USM	65	133	162	114	72	10.8%	-36.8%	10.8%
Total	228	465	637	655	669	100.0%	2.1%	193.4%

Academic Partnerships Headcount by Tuition Residency

Campus	Fall 2019	Fall 2020	Fall 2021	Fall 2022	Fall 2023	% of Total	1-year Change	5-year Change
UMFK	26	157	244	251	305	21.5%	21.5%	1073.1%
UMPI	21	149	318	504	809	57.1%	60.5%	3752.4%
USM	13	184	295	325	303	21.4%	-6.8%	2230.8%
Total	60	490	857	1,080	1,417	100.0%	31.2%	2261.7%

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Total Headcount by Tuition Residency (Excludes Early College)

Tuition Residency	Fall 2019	Fall 2020	Fall 2021	Fall 2022	Fall 2023	% of Total	1-year Change	5-year Change
In-State	20,246	19,359	18,510	17,350	16,812	68.6%	-3.1%	-17.0%
Out-of-State	4,394	4,420	4,470	4,097	3,930	16.0%	-4.1%	-10.6%
International	499	511	541	551	596	2.4%	8.2%	19.4%
NEBHE	877	904	946	894	870	3.5%	-2.7%	-0.8%
Canadian	103	103	150	181	229	0.9%	26.5%	122.3%
Non-Resident Online	228	465	637	655	669	2.7%	2.1%	193.4%
Academic Partnerships	60	490	857	1,080	1,417	5.8%	31.2%	2261.7%
Total	26,407	26,252	26,111	24,808	24,523	100.0%	-1.1%	-7.1%

Note: UM graduate students with an out of state official residency and in an online tuition group are reported as “Non-Resident Online.”

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CREDIT HOURS BY TUITION RESIDENCY AND CAMPUS

In-State Credit Hours by Campus (Excludes Early College)

Campus	Fall 2019	Fall 2020	Fall 2021	Fall 2022	Fall 2023	% of Total	1-year Change	5-year Change
UM	85,271	82,805	82,489	78,733	75,841	42.5%	-3.7%	-11.1%
UMA	28,615	27,132	27,041	25,454	24,677	13.8%	-3.1%	-13.8%
UMF	20,051	19,366	17,584	15,339	13,701	7.7%	-10.7%	-31.7%
UMFK	7,614	5,998	3,952	2,993	2,784	1.6%	-7.0%	-63.4%
UMM	4,683	4,212	3,985	3,125	2,857	1.6%	-8.6%	-39.0%
UMPI	8,014	7,982	6,996	5,958	5,551	3.1%	-6.8%	-30.7%
USM	64,611	61,310	55,871	52,384	50,790	28.4%	-3.0%	-21.4%
LAW	2,703	2,748	2,692	2,567	2,423	1.4%	-5.6%	-10.4%
Total	221,561	211,553	200,609	186,552	178,623	100.0%	-4.3%	-19.4%

Out-Of-State Credit Hours by Campus (Excludes Early College)

Campus	Fall 2019	Fall 2020	Fall 2021	Fall 2022	Fall 2023	% of Total	1-year Change	5-year Change
UM	39,746	40,476	41,759	36,957	34,714	68.4%	-6.1%	-12.7%
UMA	2,095	2,768	2,627	2,341	2,250	4.4%	-3.9%	7.4%
UMF	2,420	2,109	1,798	1,710	1,338	2.6%	-21.8%	-44.7%
UMFK	1,791	1,766	1,713	1,418	1,251	2.5%	-11.8%	-30.2%
UMM	691	495	623	743	820	1.6%	10.4%	18.7%
UMPI	1,275	1,431	1,105	1,101	1,091	2.1%	-0.9%	-14.4%
USM	9,735	8,011	8,030	7,990	8,002	15.8%	0.2%	-17.8%
LAW	873	775	914	1,100	1,324	2.6%	20.3%	51.6%
Total	58,625	57,831	58,569	53,359	50,789	100.0%	-4.8%	-13.4%

International Credit Hours by Campus (Excludes Early College)

Campus	Fall 2019	Fall 2020	Fall 2021	Fall 2022	Fall 2023	% of Total	1-year Change	5-year Change
UM	3,561	3,189	2,934	3,240	3,680	68.8%	13.6%	3.4%
UMA	234	130	148	222	174	3.3%	-21.6%	-25.6%
UMF	30	16	26	93	31	0.6%	-66.7%	3.3%
UMFK	645	812	1,093	703	696	13.0%	-0.9%	8.0%
UMM	165	200	256	169	66	1.2%	-60.9%	-60.0%
UMPI	267	232	220	226	232	4.3%	2.7%	-13.1%
USM	6	488	490	424	411	7.7%	-3.1%	6750.0%
LAW	0	55	85	30	60	1.1%	98.3%	N/A
Total	4,907	5,121	5,252	5,107	5,350	100.0%	4.8%	9.0%

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NEBHE Credit Hours by Campus (Excludes Early College)

Campus	Fall 2019	Fall 2020	Fall 2021	Fall 2022	Fall 2023	% of Total	1-year Change	5-year Change
UM	8,490	7,871	7,767	7,068	6,500	55.1%	-8.0%	-23.4%
UMA	211	395	440	435	469	4.0%	7.8%	122.3%
UMF	1,626	1,558	2,072	1,748	1,615	13.7%	-7.6%	-0.7%
UMM	150	350	372	410	416	3.5%	1.5%	177.3%
USM	1,922	2,090	2,132	2,304	2,777	23.5%	20.5%	44.5%
LAW	72	60	30	31	15	0.1%	-51.6%	-79.2%
Total	12,471	12,324	12,813	11,995	11,791	100.0%	-1.7%	-5.5%

Canadian Credit Hours by Campus (Excludes Early College)

Campus	Fall 2019	Fall 2020	Fall 2021	Fall 2022	Fall 2023	% of Total	1-year Change	5-year Change
UM	596	785	884	1,143	1,198	42.0%	4.8%	101.0%
UMA	32	38	61	55	78	2.7%	41.8%	143.8%
UMF	16	0	0	16	29	1.0%	81.3%	81.3%
UMFK	35	0	16	0	95	3.3%	N/A	170.0%
UMM	12	0	20	15	15	0.5%	0.0%	25.0%
UMPI	357	299	683	786	1,005	35.2%	27.9%	181.5%
USM	247	161	256	310	407	14.2%	31.1%	64.6%
LAW	16	16	15	29	28	1.0%	-3.4%	75.0%
Total	1,311	1,299	1,935	2,354	2,854	100.0%	21.2%	117.7%

Non-Resident Online Credit Hours by Campus

Campus	Fall 2019	Fall 2020	Fall 2021	Fall 2022	Fall 2023	% of Total	1-year Change	5-year Change
UM	821	1,838	2,398	2,677	2,959	79.8%	10.5%	260.4%
UMA	0	0	3	3	12	0.3%	300.0%	N/A
UMM	0	0	76	183	220	5.9%	20.2%	N/A
USM	419	821	1,002	762	518	14.0%	-32.0%	23.6%
Total	1,240	2,659	3,479	3,625	3,709	100.0%	2.3%	199.1%

Academic Partnerships Credit Hours by Campus

Campus	Fall 2019	Fall 2020	Fall 2021	Fall 2022	Fall 2023	% of Total	1-year Change	5-year Change
UMFK	150	997	1,698	1,656	1,986	15.8%	19.9%	1224.0%
UMPI	219	1,650	3,765	5,339	8,877	70.5%	66.3%	3953.4%
USM	66	1,188	1,818	1,938	1,734	13.8%	-10.5%	2527.3%
Total	435	3,835	7,281	8,933	12,597	100.0%	41.0%	2795.9%

UNIVERSITY OF MAINE SYSTEM – FALL 2023 ENROLLMENT REPORT

Total Credit Hours by Tuition Residency (Excludes Early College)

Tuition Residency	Fall 2019	Fall 2020	Fall 2021	Fall 2022	Fall 2023	% of Total	1-year Change	5-year Change
In-State	221,561	211,553	200,609	186,552	178,623	67.2%	-4.3%	-19.4%
Out-of-State	58,625	57,831	58,569	53,359	50,789	19.1%	-4.8%	-13.4%
International	4,907	5,121	5,252	5,107	5,350	2.0%	4.8%	9.0%
NEBHE	12,471	12,324	12,813	11,995	11,791	4.4%	-1.7%	-5.5%
Canadian	1,311	1,299	1,935	2,354	2,854	1.1%	21.2%	117.7%
Non-Resident Online	1,240	2,659	3,479	3,625	3,709	1.4%	2.3%	199.1%
Academic Partnerships	435	3,835	7,281	8,933	12,597	4.7%	41.0%	2795.9%
Total	300,550	294,620	289,936	271,925	265,712	100.0%	-2.3%	-11.6%

Note: UM graduate students with an out of state official residency and in an online tuition group are reported as “Non-Resident Online.”

UNIVERSITY OF MAINE SYSTEM – FALL 2023 ENROLLMENT REPORT

HEADCOUNT BY STUDENT LEVEL AND GENDER

Undergraduate Headcount by Gender (Excludes Early College)

Gender	Fall 2019	Fall 2020	Fall 2021	Fall 2022	Fall 2023	% of Total	1-year Change	5-year Change
Men	9,548	9,179	8,870	8,475	8,399	43.0%	-0.9%	-12.0%
Women	12,679	12,513	12,216	11,420	10,822	55.4%	-5.2%	-14.6%
Another Gender	--	--	--	--	163	0.8%	N/A	N/A
Unspecified	39	44	80	109	136	0.7%	24.8%	248.7%
Total	22,266	21,736	21,166	20,004	19,520	100.0%	-2.4%	-12.3%

Graduate Headcount by Gender

Gender	Fall 2019	Fall 2020	Fall 2021	Fall 2022	Fall 2023	% of Total	1-year Change	5-year Change
Men	1,131	1,313	1,437	1,383	1,395	29.4%	0.9%	23.3%
Women	2,730	2,902	3,181	3,078	3,223	68.0%	4.7%	18.1%
Another Gender	--	--	--	--	7	0.1%	N/A	N/A
Unspecified	23	42	65	78	112	2.4%	43.6%	387.0%
Total	3,884	4,257	4,683	4,539	4,737	100.0%	4.4%	22.0%

Law Headcount by Gender

Gender	Fall 2019	Fall 2020	Fall 2021	Fall 2022	Fall 2023	% of Total	1-year Change	5-year Change
Men	125	129	121	110	108	40.6%	-1.8%	-13.6%
Women	132	130	141	152	153	57.5%	0.7%	15.9%
Another Gender	--	--	--	--	<i>n < 5</i>	--	--	--
Unspecified	0	0	0	3	<i>n < 5</i>	--	--	--
Total	257	259	262	265	266	100.0%	0.4%	3.5%

Total Headcount by Gender (Excludes Early College)

Gender	Fall 2019	Fall 2020	Fall 2021	Fall 2022	Fall 2023	% of Total	1-year Change	5-year Change
Men	10,804	10,621	10,428	9,968	9,902	40.4%	-0.7%	-8.3%
Women	15,541	15,545	15,538	14,650	14,198	57.9%	-3.1%	-8.6%
Another Gender	--	--	--	--	173	0.7%	N/A	N/A
Unspecified	62	86	145	190	250	1.0%	31.6%	303.2%
Total	26,407	26,252	26,111	24,808	24,523	100.0%	-1.1%	-7.1%

Note: Starting in Fall 2023, the UMS implemented new response options for gender identity. "Another gender" includes: Agender, Demigender, Genderfluid, Genderqueer, Nonbinary, Not in list, Transgender, Trans Man, Trans Woman, and Two-spirit.

UNIVERSITY OF MAINE SYSTEM – FALL 2023 ENROLLMENT REPORT

HEADCOUNT BY GENDER AND CAMPUS

Headcount of Men by Campus (Excludes Early College)

Campus	Fall 2019	Fall 2020	Fall 2021	Fall 2022	Fall 2023	% of Total	1-year Change	5-year Change
UM	5,618	5,709	5,704	5,412	5,257	53.1%	-2.9%	-6.4%
UMA	1,095	1,009	1,008	994	999	10.1%	0.5%	-8.8%
UMF	552	523	485	467	462	4.7%	-1.1%	-16.3%
UMFK	262	245	239	193	185	1.9%	-4.1%	-29.4%
UMM	157	157	151	144	130	1.3%	-9.7%	-17.2%
UMPI	306	347	363	437	630	6.4%	44.2%	105.9%
USM	2,689	2,502	2,357	2,211	2,131	21.5%	-3.6%	-20.8%
LAW	125	129	121	110	108	1.1%	-1.8%	-13.6%
Total	10,804	10,621	10,428	9,968	9,902	100.0%	-0.7%	-8.3%

Headcount of Women by Campus (Excludes Early College)

Campus	Fall 2019	Fall 2020	Fall 2021	Fall 2022	Fall 2023	% of Total	1-year Change	5-year Change
UM	5,594	5,573	5,814	5,503	5,284	37.2%	-4.0%	-5.5%
UMA	2,508	2,396	2,358	2,252	2,092	14.7%	-7.1%	-16.6%
UMF	1,272	1,264	1,207	1,044	996	7.0%	-4.6%	-21.7%
UMFK	689	699	623	523	542	3.8%	3.6%	-21.3%
UMM	377	339	339	325	299	2.1%	-8.0%	-20.7%
UMPI	589	667	738	817	867	6.1%	6.1%	47.2%
USM	4,380	4,477	4,318	4,034	3,965	27.9%	-1.7%	-9.5%
LAW	132	130	141	152	153	1.1%	0.7%	15.9%
Total	15,541	15,545	15,538	14,650	14,198	100.0%	-3.1%	-8.6%

Headcount of Another Gender by Campus (Excludes Early College)

Campus	Fall 2019	Fall 2020	Fall 2021	Fall 2022	Fall 2023	% of Total	1-year Change	5-year Change
UM	--	--	--	--	71	41.0%	N/A	N/A
UMA	--	--	--	--	25	14.5%	N/A	N/A
UMF	--	--	--	--	20	11.6%	N/A	N/A
UMFK	--	--	--	--	<i>n < 5</i>	--	N/A	N/A
UMM	--	--	--	--	<i>n < 5</i>	--	N/A	N/A
UMPI	--	--	--	--	<i>n < 5</i>	--	N/A	N/A
USM	--	--	--	--	48	27.7%	N/A	N/A
LAW	--	--	--	--	<i>n < 5</i>	--	N/A	N/A
Total	--	--	--	--	173	100.0%	N/A	N/A

UNIVERSITY OF MAINE SYSTEM – FALL 2023 ENROLLMENT REPORT

Headcount of Unspecified Gender by Campus (Excludes Early College)

Campus	Fall 2019	Fall 2020	Fall 2021	Fall 2022	Fall 2023	% of Total	1-year Change	5-year Change
UM	29	44	75	78	99	39.6%	26.9%	241.4%
UMA	0	2	0	20	29	11.6%	45.0%	N/A
UMF	10	16	19	25	46	18.4%	84.0%	360.0%
UMFK	7	6	5	9	11	4.4%	22.2%	57.1%
UMM	3	2	15	8	7	2.8%	-12.5%	133.3%
UMPI	8	8	13	9	10	4.0%	11.1%	25.0%
USM	5	8	18	38	46	18.4%	21.1%	820.0%
LAW	0	0	0	3	2	0.8%	-33.3%	N/A
Total	62	86	145	190	250	100.0%	31.6%	303.2%

Total Headcount by Gender (Excludes Early College)

Gender	Fall 2019	Fall 2020	Fall 2021	Fall 2022	Fall 2023	% of Total	1-year Change	5-year Change
Men	10,804	10,621	10,428	9,968	9,902	40.4%	-0.7%	-8.3%
Women	15,541	15,545	15,538	14,650	14,198	57.9%	-3.1%	-8.6%
Another Gender	--	--	--	--	173	0.7%	N/A	N/A
Unspecified	62	86	145	190	250	1.0%	31.6%	303.2%
Total	26,407	26,252	26,111	24,808	24,523	100.0%	-1.1%	-7.1%

Note: Starting in Fall 2023, the UMS implemented new response options for gender identity. “Another gender” includes: Agender, Demigender, Genderfluid, Genderqueer, Nonbinary, Not in list, Transgender, Trans Man, Trans Woman, and Two-spirit.

UNIVERSITY OF MAINE SYSTEM – FALL 2023 ENROLLMENT REPORT

CREDIT HOURS BY GENDER AND CAMPUS

Credit Hours for Men by Campus (Excludes Early College)

Campus	Fall 2019	Fall 2020	Fall 2021	Fall 2022	Fall 2023	% of Total	1-year Change	5-year Change
UM	72,190	70,896	69,866	66,040	62,661	55.4%	-5.1%	-13.2%
UMA	9,727	8,976	8,835	8,497	8,418	7.4%	-0.9%	-13.5%
UMF	7,698	6,983	6,444	6,199	5,522	4.9%	-10.9%	-28.3%
UMFK	3,126	2,827	2,616	1,962	1,966	1.7%	0.2%	-37.1%
UMM	1,842	1,747	1,694	1,426	1,409	1.2%	-1.2%	-23.5%
UMPI	3,776	4,230	4,575	4,920	7,647	6.8%	55.4%	102.5%
USM	30,108	27,549	25,633	24,168	23,797	21.1%	-1.5%	-21.0%
LAW	1,791	1,840	1,731	1,561	1,602	1.4%	2.6%	-10.6%
Total	130,257	125,047	121,392	114,773	113,022	100.0%	-1.5%	-13.2%

Credit Hours for Women by Campus (Excludes Early College)

Campus	Fall 2019	Fall 2020	Fall 2021	Fall 2022	Fall 2023	% of Total	1-year Change	5-year Change
UM	66,139	65,819	67,883	63,299	60,648	40.8%	-4.2%	-8.3%
UMA	21,460	21,473	21,485	19,874	18,838	12.7%	-5.2%	-12.2%
UMF	16,393	16,000	14,929	12,565	10,657	7.2%	-15.2%	-35.0%
UMFK	7,056	6,695	5,819	4,738	4,733	3.2%	-0.1%	-32.9%
UMM	3,846	3,498	3,531	3,134	2,905	2.0%	-7.3%	-24.5%
UMPI	6,309	7,276	8,078	8,388	9,014	6.1%	7.5%	42.9%
USM	46,859	46,463	43,844	41,659	39,831	26.8%	-4.4%	-15.0%
LAW	1,867	1,814	2,005	2,151	2,178	1.5%	1.3%	16.7%
Total	169,928	169,037	167,573	155,808	148,803	100.0%	-4.5%	-12.4%

Credit Hours for Another Gender by Campus (Excludes Early College)

Campus	Fall 2019	Fall 2020	Fall 2021	Fall 2022	Fall 2023	% of Total	1-year Change	5-year Change
UM	--	--	--	--	932	42.8%	N/A	N/A
UMA	--	--	--	--	200	9.2%	N/A	N/A
UMF	--	--	--	--	281	12.9%	N/A	N/A
UMFK	--	--	--	--	27	1.2%	N/A	N/A
UMM	--	--	--	--	41	1.9%	N/A	N/A
UMPI	--	--	--	--	25	1.1%	N/A	N/A
USM	--	--	--	--	626	28.7%	N/A	N/A
LAW	--	--	--	--	47	2.2%	N/A	N/A
Total	--	--	--	--	2,179	100.0%	N/A	N/A

UNIVERSITY OF MAINE SYSTEM – FALL 2023 ENROLLMENT REPORT

Credit Hours for Unspecified Gender by Campus (Excludes Early College)

Campus	Fall 2019	Fall 2020	Fall 2021	Fall 2022	Fall 2023	% of Total	1-year Change	5-year Change
UM	156	249	481	479	652	38.1%	36.2%	317.8%
UMA	0	14	0	139	204	11.9%	46.8%	N/A
UMF	52	66	108	142	255	14.9%	79.9%	389.4%
UMFK	52	51	38	69	85	5.0%	23.2%	63.5%
UMM	13	12	107	85	39	2.3%	-54.1%	200.0%
UMPI	47	88	116	102	70	4.1%	-31.4%	48.9%
USM	45	56	121	284	384	22.5%	35.4%	753.3%
LAW	0	0	0	45	22	1.3%	-52.2%	N/A
Total	365	536	971	1,344	1,710	100.0%	27.3%	368.4%

Total Credit Hours by Gender

Gender	Fall 2019	Fall 2020	Fall 2021	Fall 2022	Fall 2023	% of Total	1-year Change	5-year Change
Men	130,257	125,047	121,392	114,773	113,022	42.5%	-1.5%	-13.2%
Women	169,928	169,037	167,573	155,808	148,803	56.0%	-4.5%	-12.4%
Another Gender	--	--	--	--	2,179	0.8%	N/A	N/A
Unspecified	365	536	971	1,344	1,710	0.6%	27.3%	368.4%
Total	300,550	294,620	289,936	271,925	265,712	100.0%	-2.3%	-11.6%

Note: Starting in Fall 2023, the UMS implemented new response options for gender identity. “Another gender” includes: Agender, Demigender, Genderfluid, Genderqueer, Nonbinary, Not in list, Transgender, Trans Man, Trans Woman, and Two-spirit.

UNIVERSITY OF MAINE SYSTEM – FALL 2023 ENROLLMENT REPORT

HEADCOUNT BY STUDENT LEVEL AND STATUS

Undergraduate Headcount by Status (Excludes Early College)

Status	Fall 2019	Fall 2020	Fall 2021	Fall 2022	Fall 2023	% of Total	1-year Change	5-year Change
Full-Time	16,465	15,930	15,566	14,484	14,083	72.1%	-2.8%	-14.5%
Part-Time	5,801	5,806	5,600	5,520	5,437	27.9%	-1.5%	-6.3%
Total	22,266	21,736	21,166	20,004	19,520	100.0%	-2.4%	-12.3%

Graduate Headcount by Status

Status	Fall 2019	Fall 2020	Fall 2021	Fall 2022	Fall 2023	% of Total	1-year Change	5-year Change
Full-Time	2,048	2,465	2,690	2,604	2,681	56.6%	3.0%	30.9%
Part-Time	1,836	1,792	1,993	1,935	2,056	43.4%	6.3%	12.0%
Total	3,884	4,257	4,683	4,539	4,737	100.0%	4.4%	22.0%

Law Headcount by Status

Status	Fall 2019	Fall 2020	Fall 2021	Fall 2022	Fall 2023	% of Total	1-year Change	5-year Change
Full-Time	237	236	244	241	246	92.5%	2.1%	3.8%
Part-Time	20	23	18	24	20	7.5%	-16.7%	0.0%
Total	257	259	262	265	266	100.0%	0.4%	3.5%

Total Headcount by Status (Excludes Early College)

Status	Fall 2019	Fall 2020	Fall 2021	Fall 2022	Fall 2023	% of Total	1-year Change	5-year Change
Full-Time	18,750	18,631	18,500	17,329	17,010	69.4%	-1.8%	-9.3%
Part-Time	7,657	7,621	7,611	7,479	7,513	30.6%	0.5%	-1.9%
Total	26,407	26,252	26,111	24,808	24,523	100.0%	-1.1%	-7.1%

UNIVERSITY OF MAINE SYSTEM – FALL 2023 ENROLLMENT REPORT

HEADCOUNT BY STATUS AND CAMPUS

Full-Time Headcount by Campus (Excludes Early College)

Campus	Fall 2019	Fall 2020	Fall 2021	Fall 2022	Fall 2023	% of Total	1-year Change	5-year Change
UM	9,118	9,110	9,305	8,747	8,487	49.9%	-3.0%	-6.9%
UMA	1,371	1,455	1,443	1,304	1,299	7.6%	-0.4%	-5.3%
UMF	1,549	1,468	1,360	1,207	1,105	6.5%	-8.5%	-28.7%
UMFK	548	524	442	351	369	2.2%	5.1%	-32.7%
UMM	325	273	251	227	192	1.1%	-15.4%	-40.9%
UMPI	598	677	739	714	855	5.0%	19.7%	43.0%
USM	5,004	4,888	4,716	4,538	4,457	26.2%	-1.8%	-10.9%
LAW	237	236	244	241	246	1.4%	2.1%	3.8%
Total	18,750	18,631	18,500	17,329	17,010	100.0%	-1.8%	-9.3%

Part-Time Headcount by Campus (Excludes Early College)

Campus	Fall 2019	Fall 2020	Fall 2021	Fall 2022	Fall 2023	% of Total	1-year Change	5-year Change
UM	2,123	2,216	2,288	2,246	2,224	29.6%	-1.0%	4.8%
UMA	2,232	1,952	1,923	1,962	1,846	24.6%	-5.9%	-17.3%
UMF	285	335	351	329	419	5.6%	27.4%	47.0%
UMFK	410	426	425	374	371	4.9%	-0.8%	-9.5%
UMM	212	225	254	250	246	3.3%	-1.6%	16.0%
UMPI	305	345	375	549	654	8.7%	19.1%	114.4%
USM	2,070	2,099	1,977	1,745	1,733	23.1%	-0.7%	-16.3%
LAW	20	23	18	24	20	0.3%	-16.7%	0.0%
Total	7,657	7,621	7,611	7,479	7,513	100.0%	0.5%	-1.9%

Total Headcount by Status (Excludes Early College)

Status	Fall 2019	Fall 2020	Fall 2021	Fall 2022	Fall 2023	% of Total	1-year Change	5-year Change
Full-Time	18,750	18,631	18,500	17,329	17,010	69.4%	-1.8%	-9.3%
Part-Time	7,657	7,621	7,611	7,479	7,513	30.6%	0.5%	-1.9%
Total	26,407	26,252	26,111	24,808	24,523	100.0%	-1.1%	-7.1%

UNIVERSITY OF MAINE SYSTEM – FALL 2023 ENROLLMENT REPORT

CREDIT HOURS BY STATUS AND CAMPUS

Full-Time Credit Hours by Campus (Excludes Early College)

Campus	Fall 2019	Fall 2020	Fall 2021	Fall 2022	Fall 2023	% of Total	1-year Change	5-year Change
UM	128,897	126,225	127,697	119,311	114,602	50.6%	-3.9%	-11.1%
UMA	17,936	18,896	18,975	17,009	16,924	7.5%	-0.5%	-5.6%
UMF	23,054	21,681	20,052	17,620	14,998	6.6%	-14.9%	-34.9%
UMFK	7,735	7,235	6,110	4,640	4,781	2.1%	3.0%	-38.2%
UMM	4,546	3,971	3,940	3,376	3,121	1.4%	-7.6%	-31.3%
UMPI	8,392	9,606	10,650	10,206	12,822	5.7%	25.6%	52.8%
USM	65,816	62,478	59,080	57,203	55,649	24.6%	-2.7%	-15.4%
LAW	3,505	3,478	3,594	3,561	3,701	1.6%	3.9%	5.6%
Total	259,881	253,570	250,097	232,924	226,597	100.0%	-2.7%	-12.8%

Part-Time Credit Hours by Campus (Excludes Early College)

Campus	Fall 2019	Fall 2020	Fall 2021	Fall 2022	Fall 2023	% of Total	1-year Change	5-year Change
UM	9,587	10,739	10,533	10,507	10,290	26.3%	-2.1%	7.3%
UMA	13,251	11,567	11,345	11,501	10,736	27.4%	-6.7%	-19.0%
UMF	1,089	1,368	1,428	1,286	1,716	4.4%	33.4%	57.6%
UMFK	2,499	2,337	2,363	2,130	2,030	5.2%	-4.7%	-18.8%
UMM	1,155	1,286	1,392	1,269	1,273	3.3%	0.3%	10.2%
UMPI	1,740	1,988	2,119	3,204	3,934	10.1%	22.8%	126.1%
USM	11,196	11,590	10,517	8,908	8,989	23.0%	0.9%	-19.7%
LAW	153	176	142	196	148	0.4%	-24.5%	-3.3%
Total	40,670	41,051	39,839	39,001	39,115	100.0%	0.3%	-3.8%

Total Credit Hours by Status (Excludes Early College)

Status	Fall 2019	Fall 2020	Fall 2021	Fall 2022	Fall 2023	% of Total	1-year Change	5-year Change
Full-Time	259,881	253,570	250,097	232,924	226,597	85.3%	-2.7%	-12.8%
Part-Time	40,670	41,051	39,839	39,001	39,115	14.7%	0.3%	-3.8%
Total	300,550	294,620	289,936	271,925	265,712	100.0%	-2.3%	-11.6%

UNIVERSITY OF MAINE SYSTEM – FALL 2023 ENROLLMENT REPORT

ENTERING DEGREE/CERTIFICATE-SEEKING HEADCOUNT BY ADMIT TYPE AND CAMPUS

First-Time Undergraduate Headcount by Campus

Campus	Fall 2019	Fall 2020	Fall 2021	Fall 2022	Fall 2023	% of Total	1-year Change	5-year Change
UM	2,140	2,059	2,225	1,877	1,813	55.0%	-3.4%	-15.3%
UMA	366	375	325	330	276	8.4%	-16.4%	-24.6%
UMF	384	370	345	264	230	7.0%	-12.9%	-40.1%
UMFK	130	90	67	57	71	2.2%	24.6%	-45.4%
UMM	112	70	92	62	56	1.7%	-9.7%	-50.0%
UMPI	189	187	172	141	133	4.0%	-5.7%	-29.6%
USM	893	808	896	751	718	21.8%	-4.4%	-19.6%
Total	4,214	3,959	4,122	3,482	3,297	100.0%	-5.3%	-21.8%

Transfer-In Undergraduate Headcount by Campus

Campus	Fall 2019	Fall 2020	Fall 2021	Fall 2022	Fall 2023	% of Total	1-year Change	5-year Change
UM	466	478	432	419	424	19.8%	1.2%	-9.0%
UMA	522	469	496	419	392	18.3%	-6.4%	-24.9%
UMF	79	81	67	48	66	3.1%	37.5%	-16.5%
UMFK	121	217	162	130	170	7.9%	30.8%	40.5%
UMM	32	29	32	51	28	1.3%	-45.1%	-12.5%
UMPI	106	158	222	325	604	28.2%	85.8%	469.8%
USM	624	550	542	503	457	21.3%	-9.1%	-26.8%
Total	1,950	1,982	1,953	1,895	2,141	100.0%	13.0%	9.8%

Readmitted Undergraduate Headcount by Campus

Campus	Fall 2019	Fall 2020	Fall 2021	Fall 2022	Fall 2023	% of Total	1-year Change	5-year Change
UM	138	153	189	133	113	36.7%	-15.0%	-18.1%
UMA	138	140	124	142	105	34.1%	-26.1%	-23.9%
UMF	14	9	8	12	13	4.2%	8.3%	-7.1%
UMFK	10	14	8	7	8	2.6%	14.3%	-20.0%
UMM	18	13	8	5	3	1.0%	-40.0%	-83.3%
UMPI	21	17	14	21	4	1.3%	-81.0%	-81.0%
USM	49	57	58	50	62	20.1%	24.0%	26.5%
Total	388	403	409	370	308	100.0%	-16.8%	-20.6%

Entering Post-Baccalaureate Headcount by Campus

Campus	Fall 2019	Fall 2020	Fall 2021	Fall 2022	Fall 2023	% of Total	1-year Change	5-year Change
UMFK	2	2	3	0	2	12.5%	N/A	0.0%
UMM	0	7	0	0	0	0.0%	N/A	N/A
UMPI	0	0	8	4	14	87.5%	250.0%	N/A
Total	2	9	11	4	16	12.5%	300.0%	700.0%

UNIVERSITY OF MAINE SYSTEM – FALL 2023 ENROLLMENT REPORT

Entering Graduate Headcount by Campus

Campus	Fall 2019	Fall 2020	Fall 2021	Fall 2022	Fall 2023	% of Total	1-year Change	5-year Change
UM	581	752	700	680	556	45.9%	-18.2%	-4.3%
UMA	0	37	24	28	25	2.1%	-10.7%	N/A
UMF	36	50	47	53	64	5.3%	20.8%	77.8%
UMFK	0	0	0	16	33	2.7%	106.3%	N/A
UMPI	0	0	9	16	23	1.9%	43.8%	N/A
USM	431	588	579	503	511	42.2%	1.6%	18.6%
Total	1,048	1,427	1,359	1,296	1,212	100.0%	-6.5%	15.6%

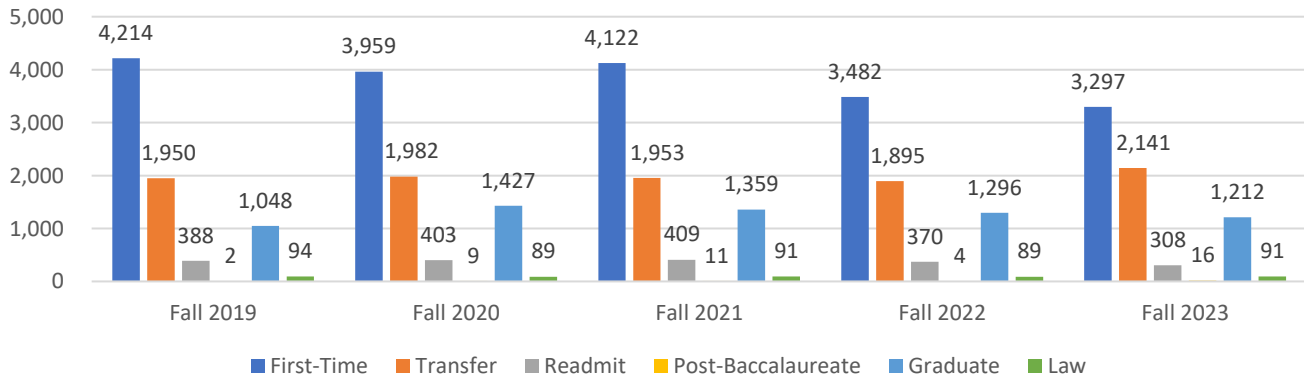
Total Entering Degree/Certificate-Seeking Headcount by Campus

Campus	Fall 2019	Fall 2020	Fall 2021	Fall 2022	Fall 2023	% of Total	1-year Change	5-year Change
UM	3,325	3,442	3,546	3,109	2,906	41.7%	-6.5%	-12.6%
UMA	1,026	1,021	969	919	798	11.4%	-13.2%	-22.2%
UMF	513	510	467	377	373	5.3%	-1.1%	-27.3%
UMFK	263	323	240	210	284	4.1%	35.2%	8.0%
UMM	162	119	132	118	87	1.2%	-26.3%	-46.3%
UMPI	316	362	425	507	778	11.2%	53.5%	146.2%
USM	1,997	2,003	2,075	1,807	1,748	25.1%	-3.3%	-12.5%
LAW	94	89	91	89	91	1.3%	2.2%	-3.2%
Total	7,696	7,869	7,945	7,136	7,065	100.0%	-1.0%	-8.2%

Total Entering Degree/Certificate-Seeking Headcount by Admit Type

Admit Type	Fall 2019	Fall 2020	Fall 2021	Fall 2022	Fall 2023	% of Total	1-year Change	5-year Change
First-Time	4,214	3,959	4,122	3,482	3,297	47.3%	-5.3%	-21.8%
Transfer	1,950	1,982	1,953	1,895	2,141	30.7%	13.0%	9.8%
Readmit	388	403	409	370	308	4.4%	-16.8%	-20.6%
Post-Baccalaureate	2	9	11	4	16	0.2%	300.0%	700.0%
Graduate	1,048	1,427	1,359	1,296	1,212	17.4%	-6.5%	15.6%
Law	94	89	91	89	91	1.3%	2.2%	-3.2%
Total	7,696	7,869	7,945	7,136	7,065	101.3%	-1.0%	-8.2%

TOTAL ENTERING DEGREE/CERTIFICATE-SEEKING BY ADMIT TYPE



UNIVERSITY OF MAINE SYSTEM – FALL 2023 ENROLLMENT REPORT
FIRST-TIME, DEGREE/CERTIFICATE-SEEKING UNDERGRADUATE HEADCOUNT
BY TUITION RESIDENCY AND STATUS

In-State Headcount by Status

Status	Fall 2019	Fall 2020	Fall 2021	Fall 2022	Fall 2023	% of Total	1-year Change	5-year Change
Full-time	2,889	2,536	2,507	2,170	1,964	92.1%	-9.5%	-32.0%
Part-time	177	195	171	189	168	7.9%	-11.1%	-5.1%
Total	3,066	2,731	2,678	2,359	2,132	100.0%	-9.6%	-30.5%

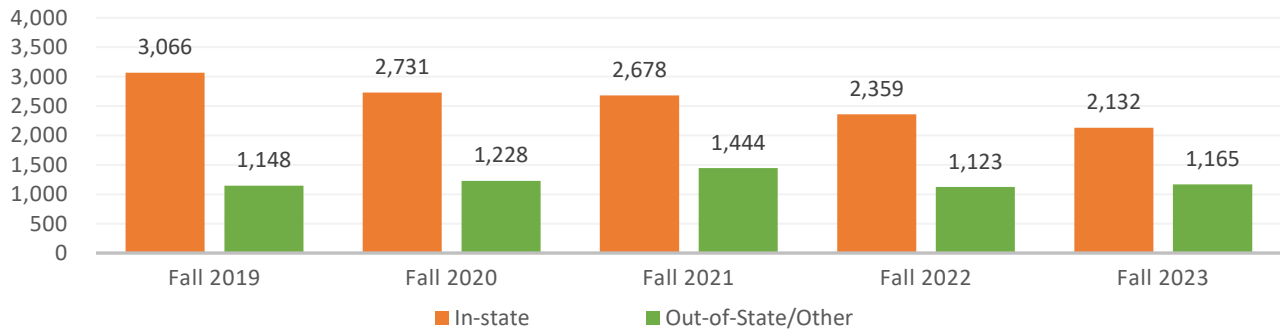
Out-Of-State/Other Headcount by Status

Status	Fall 2019	Fall 2020	Fall 2021	Fall 2022	Fall 2023	% of Total	1-year Change	5-year Change
Full-time	1,126	1,195	1,398	1,078	1,120	96.1%	3.9%	-0.5%
Part-time	22	33	46	45	45	3.9%	0.0%	104.5%
Total	1,148	1,228	1,444	1,123	1,165	100.0%	3.7%	1.5%

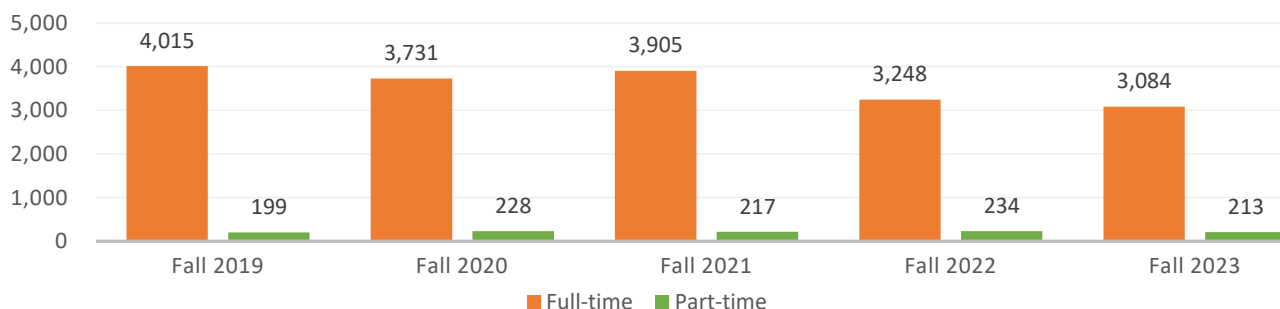
Total Headcount by Status

Status	Fall 2019	Fall 2020	Fall 2021	Fall 2022	Fall 2023	% of Total	1-year Change	5-year Change
Full-time	4,015	3,731	3,905	3,248	3,084	93.5%	-5.0%	-23.2%
Part-time	199	228	217	234	213	6.5%	-9.0%	7.0%
Total	4,214	3,959	4,122	3,482	3,297	100.0%	-5.3%	-21.8%

FIRST-TIME, DEGREE/CERTIFICATE-SEEKING UNDERGRADUATE HEADCOUNT BY TUITION RESIDENCY



FIRST-TIME, DEGREE/CERTIFICATE-SEEKING UNDERGRADUATE HEADCOUNT BY STATUS



UNIVERSITY OF MAINE SYSTEM – FALL 2023 ENROLLMENT REPORT
FIRST-TIME, DEGREE/CERTIFICATE-SEEKING UNDERGRADUATE HEADCOUNT
BY TUITION RESIDENCY AND CAMPUS

In-State Headcount by Campus

Campus	Fall 2019	Fall 2020	Fall 2021	Fall 2022	Fall 2023	% of Total	1-year Change	5-year Change
UM	1,328	1,180	1,240	1,130	1,091	51.2%	-3.5%	-17.8%
UMA	352	341	295	310	248	11.6%	-20.0%	-29.5%
UMF	317	311	252	211	184	8.6%	-12.8%	-42.0%
UMFK	103	63	37	40	37	1.7%	-7.5%	-64.1%
UMM	81	58	62	35	32	1.5%	-8.6%	-60.5%
UMPI	153	140	125	94	76	3.6%	-19.1%	-50.3%
USM	732	638	667	539	464	21.8%	-13.9%	-36.6%
Total	3,066	2,731	2,678	2,359	2,132	100.0%	-9.6%	-30.5%

Out-Of-State/Other Headcount by Campus

Campus	Fall 2019	Fall 2020	Fall 2021	Fall 2022	Fall 2023	% of Total	1-year Change	5-year Change
UM	812	879	985	747	722	62.0%	-3.3%	-11.1%
UMA	14	34	30	20	28	2.4%	40.0%	100.0%
UMF	67	59	93	53	46	3.9%	-13.2%	-31.3%
UMFK	27	27	30	17	34	2.9%	100.0%	25.9%
UMM	31	12	30	27	24	2.1%	-11.1%	-22.6%
UMPI	36	47	47	47	57	4.9%	21.3%	58.3%
USM	161	170	229	212	254	21.8%	19.8%	57.8%
Total	1,148	1,228	1,444	1,123	1,165	100.0%	3.7%	1.5%

Total Headcount by Tuition Residency

Tuition Residency	Fall 2019	Fall 2020	Fall 2021	Fall 2022	Fall 2023	% of Total	1-year Change	5-year Change
In-State	3,066	2,731	2,678	2,359	2,132	64.7%	-9.6%	-30.5%
Out-of-State/International	956	1,010	1,158	875	915	27.8%	4.6%	-4.3%
NEBHE	176	177	235	178	191	5.8%	7.3%	8.5%
Canadian	15	19	26	34	22	0.7%	-35.3%	46.7%
Non-Resident Online	1	5	4	12	7	0.2%	-41.7%	600.0%
Academic Partnerships	0	17	21	24	30	0.9%	25.0%	N/A
Total	4,214	3,959	4,122	3,482	3,297	100.0%	-5.3%	-21.8%

UNIVERSITY OF MAINE SYSTEM – FALL 2023 ENROLLMENT REPORT

**TRANSFER-IN, DEGREE/CERTIFICATE-SEEKING UNDERGRADUATE HEADCOUNT
BY TUITION RESIDENCY AND STATUS**

In-State Headcount by Status

Status	Fall 2019	Fall 2020	Fall 2021	Fall 2022	Fall 2023	% of Total	1-year Change	5-year Change
Full-time	994	917	875	812	748	64.8%	-7.9%	-24.7%
Part-time	507	439	412	373	407	35.2%	9.1%	-19.7%
Total	1,501	1,356	1,287	1,185	1,155	100.0%	-2.5%	-23.1%

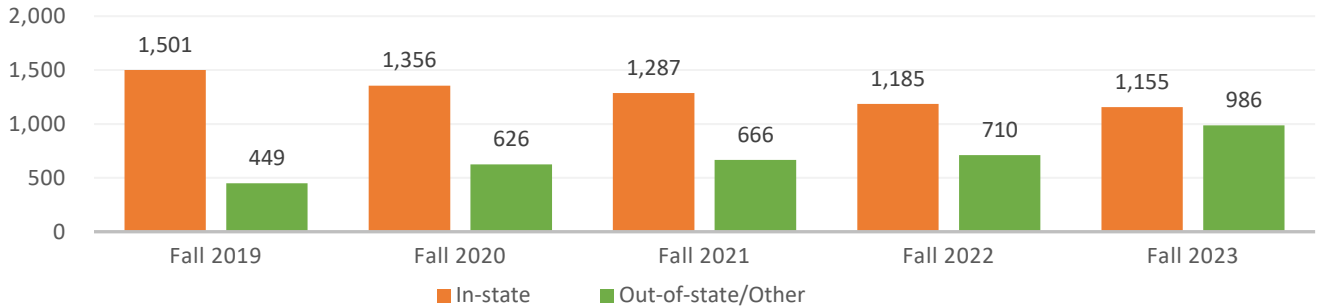
Out-Of-State/Other Headcount by Status

Status	Fall 2019	Fall 2020	Fall 2021	Fall 2022	Fall 2023	% of Total	1-year Change	5-year Change
Full-time	334	384	401	395	508	51.5%	28.6%	52.1%
Part-time	115	242	265	315	478	48.5%	51.7%	315.7%
Total	449	626	666	710	986	100.0%	38.9%	119.6%

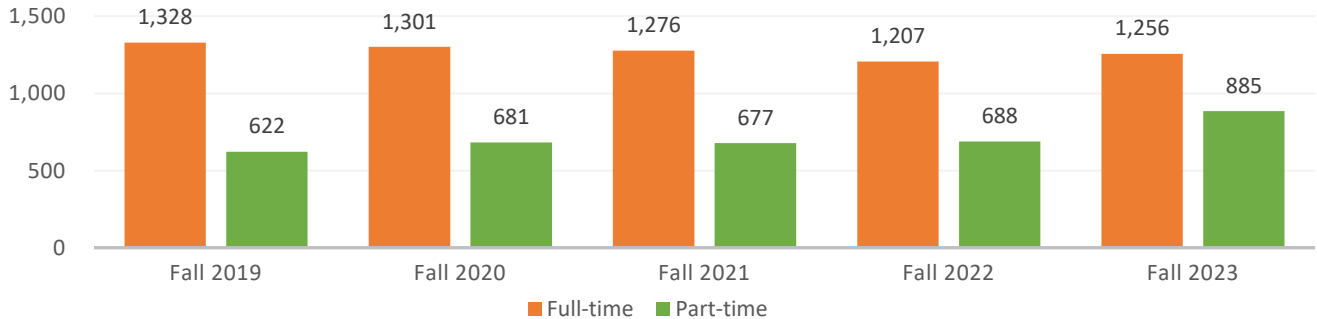
Total Headcount by Status

Status	Fall 2019	Fall 2020	Fall 2021	Fall 2022	Fall 2023	% of Total	1-year Change	5-year Change
Full-time	1,328	1,301	1,276	1,207	1,256	58.7%	4.1%	-5.4%
Part-time	622	681	677	688	885	41.3%	28.6%	42.3%
Total	1,950	1,982	1,953	1,895	2,141	100.0%	13.0%	9.8%

**TRANSFER-IN, DEGREE/CERTIFICATE-SEEKING UNDERGRADUATE
HEADCOUNT BY TUITION RESIDENCY**



**TRANSFER-IN, DEGREE/CERTIFICATE-SEEKING UNDERGRADUATE
HEADCOUNT BY STATUS**



UNIVERSITY OF MAINE SYSTEM – FALL 2023 ENROLLMENT REPORT

**TRANSFER-IN, DEGREE/CERTIFICATE-SEEKING UNDERGRADUATE HEADCOUNT
BY TUITION RESIDENCY AND CAMPUS**

In-State Headcount by Campus

Campus	Fall 2019	Fall 2020	Fall 2021	Fall 2022	Fall 2023	% of Total	1-year Change	5-year Change
UM	308	286	254	241	243	21.0%	0.8%	-21.1%
UMA	437	382	399	356	344	29.8%	-3.4%	-21.3%
UMF	69	69	61	40	60	5.2%	50.0%	-13.0%
UMFK	57	45	27	36	30	2.6%	-16.7%	-47.4%
UMM	21	25	30	44	24	2.1%	-45.5%	14.3%
UMPI	70	64	38	37	41	3.5%	10.8%	-41.4%
USM	539	485	478	431	413	35.8%	-4.2%	-23.4%
Total	1,501	1,356	1,287	1,185	1,155	100.0%	-2.5%	-23.1%

Out-Of-State/Other Headcount by Campus

Campus	Fall 2019	Fall 2020	Fall 2021	Fall 2022	Fall 2023	% of Total	1-year Change	5-year Change
UM	158	192	178	178	181	18.4%	1.7%	14.6%
UMA	85	87	97	63	48	4.9%	-23.8%	-43.5%
UMF	10	12	6	8	6	0.6%	-25.0%	-40.0%
UMFK	64	172	135	94	140	14.2%	48.9%	118.8%
UMM	11	4	2	7	4	0.4%	-42.9%	-63.6%
UMPI	36	94	184	288	563	57.1%	95.5%	1463.9%
USM	85	65	64	72	44	4.5%	-38.9%	-48.2%
Total	449	626	666	710	986	100.0%	38.9%	119.6%

Total Headcount by Tuition Residency

Tuition Residency	Fall 2019	Fall 2020	Fall 2021	Fall 2022	Fall 2023	% of Total	1-year Change	5-year Change
In-State	1,501	1,356	1,287	1,185	1,155	53.9%	-2.5%	-23.1%
Out-of-State/International	310	321	296	242	213	9.9%	-12.0%	-31.3%
NEBHE	40	40	41	43	17	0.8%	-60.5%	-57.5%
Canadian	16	16	18	17	31	1.4%	82.4%	93.8%
Non-Resident Online	43	65	50	78	91	4.3%	16.7%	111.6%
Academic Partnerships	40	184	261	330	634	29.6%	92.1%	1485.0%
Total	1,950	1,982	1,953	1,895	2,141	100.0%	13.0%	9.8%

UNIVERSITY OF MAINE SYSTEM – FALL 2023 ENROLLMENT REPORT

**TRANSFER-IN, DEGREE/CERTIFICATE-SEEKING UNDERGRADUATE HEADCOUNT
BY TYPE OF INSTITUTION LAST ATTENDED AND TUITION RESIDENCY**

Internal (UMS) Headcount by Tuition Residency

Tuition Residency	Fall 2019	Fall 2020	Fall 2021	Fall 2022	Fall 2023	% of Total	1-year Change	5-year Change
In-State	325	289	306	287	245	85.1%	-14.6%	-24.6%
Out-of-State/Other	16	46	36	36	43	14.9%	19.4%	168.8%
Total	341	335	342	323	288	100.0%	-10.8%	-15.5%

Maine Community College System (MCCS) Headcount by Tuition Residency

Tuition Residency	Fall 2019	Fall 2020	Fall 2021	Fall 2022	Fall 2023	% of Total	1-year Change	5-year Change
In-State	633	568	544	436	448	82.1%	2.8%	-29.2%
Out-of-State/Other	28	85	81	61	98	17.9%	60.7%	250.0%
Total	661	653	625	497	546	100.0%	9.9%	-17.4%

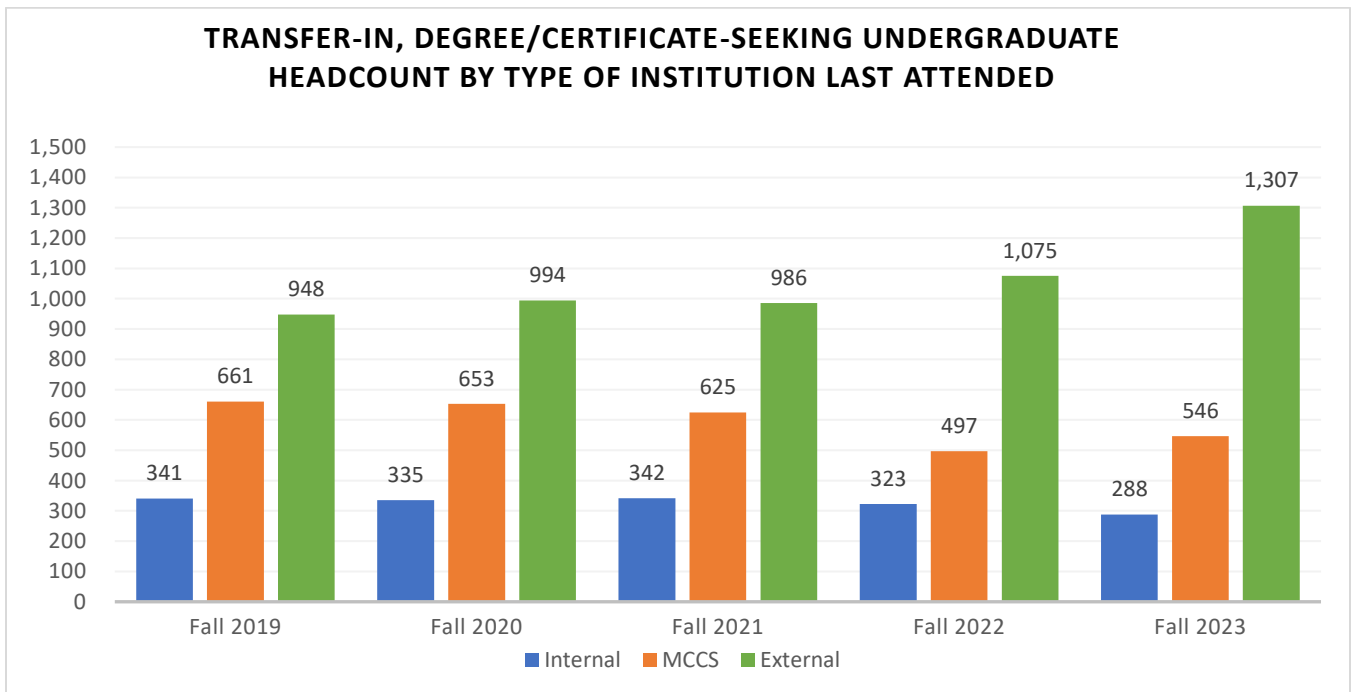
External (Excludes MCCS) Headcount by Tuition Residency

Tuition Residency	Fall 2019	Fall 2020	Fall 2021	Fall 2022	Fall 2023	% of Total	1-year Change	5-year Change
In-State	543	499	437	462	462	35.3%	0.0%	-14.9%
Out-of-State/Other	405	495	549	613	845	64.7%	37.8%	108.6%
Total	948	994	986	1,075	1,307	100.0%	21.6%	37.9%

Total Headcount by Tuition Residency

Tuition Residency	Fall 2019	Fall 2020	Fall 2021	Fall 2022	Fall 2023	% of Total	1-year Change	5-year Change
In-State	1,501	1,356	1,287	1,185	1,155	53.9%	-2.5%	-23.1%
Out-of-State/Other	449	626	666	710	986	46.1%	38.9%	119.6%
Total	1,950	1,982	1,953	1,895	2,141	100.0%	13.0%	9.8%

**TRANSFER-IN, DEGREE/CERTIFICATE-SEEKING UNDERGRADUATE
HEADCOUNT BY TYPE OF INSTITUTION LAST ATTENDED**



UNIVERSITY OF MAINE SYSTEM – FALL 2023 ENROLLMENT REPORT

FALL 2023 TRANSFER-IN, DEGREE/CERTIFICATE-SEEKING UNDERGRADUATE HEADCOUNT BY TYPE OF INSTITUTION LAST ATTENDED, TUITION RESIDENCY, AND CAMPUS

Internal (UMS) Headcount by Tuition Residency and Campus

Tuition Residency	UM	UMA	UMF	UMFK	UMM	UMPI	USM	Total
In-State	33	84	23	18	7	5	75	245
Out-of-State/Other	1	1	1	10	0	28	2	43
Total	34	85	24	28	7	33	77	288

Maine Community College System (MCCS) Headcount by Tuition Residency and Campus

Tuition Residency	UM	UMA	UMF	UMFK	UMM	UMPI	USM	Total
In-State	76	154	22	2	9	16	169	448
Out-of-State/Other	4	1	0	53	0	32	8	98
Total	80	155	22	55	9	48	177	546

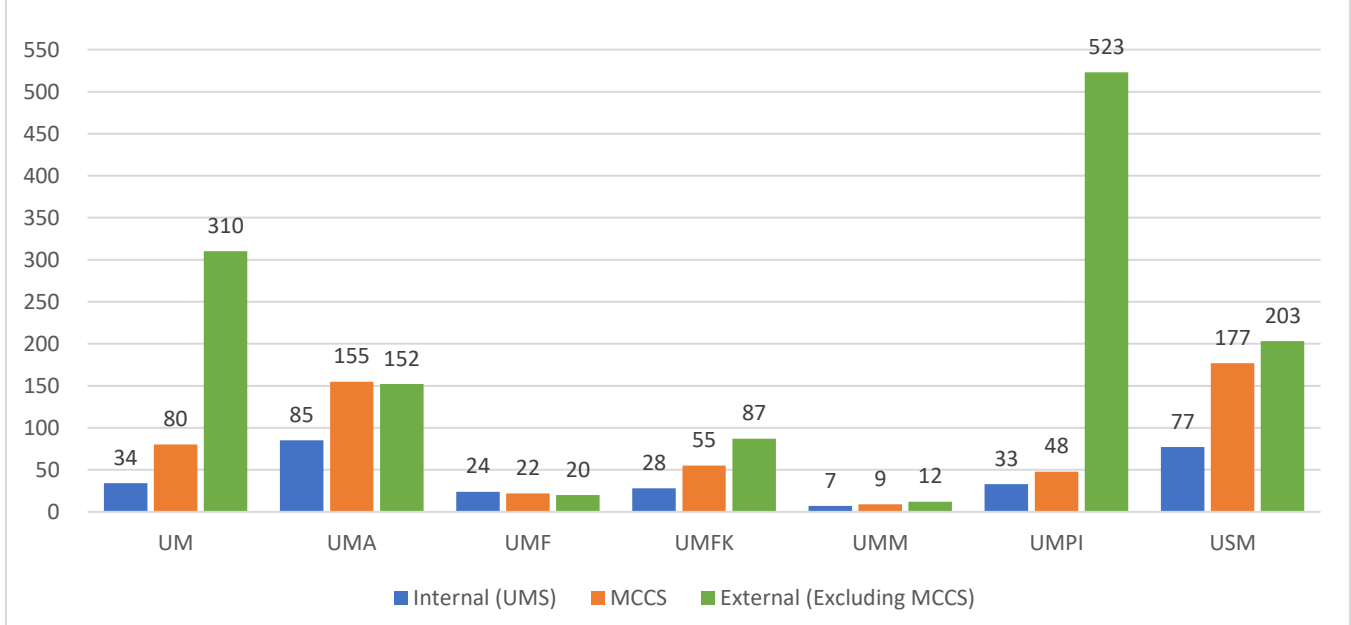
External (Excludes MCCS) Headcount by Tuition Residency and Campus

Tuition Residency	UM	UMA	UMF	UMFK	UMM	UMPI	USM	Total
In-State	134	106	15	10	8	20	169	462
Out-of-State/Other	176	46	5	77	4	503	34	845
Total	310	152	20	87	12	523	203	1,307

Total by Tuition Residency and Campus

Tuition Residency	UM	UMA	UMF	UMFK	UMM	UMPI	USM	Total
In-State	243	344	60	30	24	41	413	1,155
Out-of-State/Other	181	48	6	140	4	563	44	986
Total	424	392	66	170	28	604	457	2,141

FALL 2023 TRANSFER-IN, DEGREE/CERTIFICATE-SEEKING UNDERGRADUATE HEADCOUNT BY TYPE OF INSTITUTION LAST ATTENDED AND CAMPUS



UNIVERSITY OF MAINE SYSTEM – FALL 2023 ENROLLMENT REPORT

**READMITTED, DEGREE/CERTIFICATE-SEEKING UNDERGRADUATE HEADCOUNT
BY TUITION RESIDENCY AND STATUS**

In-State Headcount by Status

Status	Fall 2019	Fall 2020	Fall 2021	Fall 2022	Fall 2023	% of Total	1-year Change	5-year Change
Full-time	107	129	140	113	114	43.8%	0.9%	6.5%
Part-time	230	201	191	191	146	56.2%	-23.6%	-36.5%
Total	337	330	331	304	260	100.0%	-14.5%	-22.8%

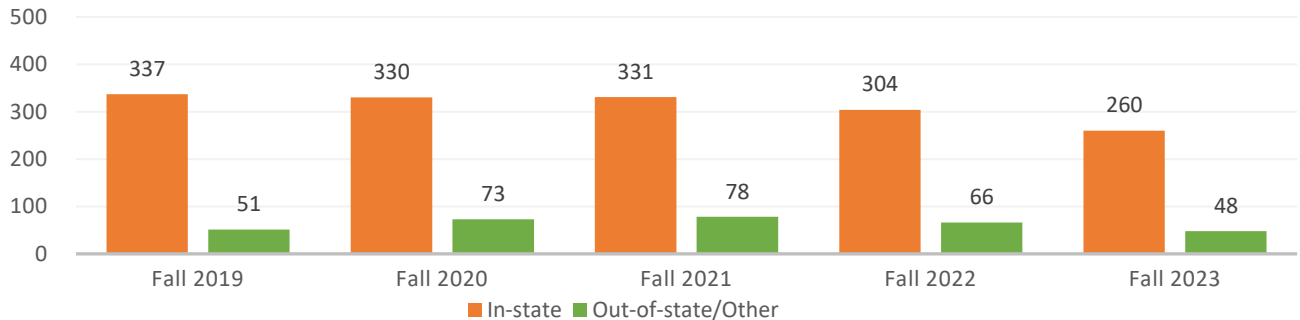
Out-Of-State/Other Headcount by Status

Status	Fall 2019	Fall 2020	Fall 2021	Fall 2022	Fall 2023	% of Total	1-year Change	5-year Change
Full-time	28	40	40	25	24	50.0%	-4.0%	-14.3%
Part-time	23	33	38	41	24	50.0%	-41.5%	4.3%
Total	51	73	78	66	48	100.0%	-27.3%	-5.9%

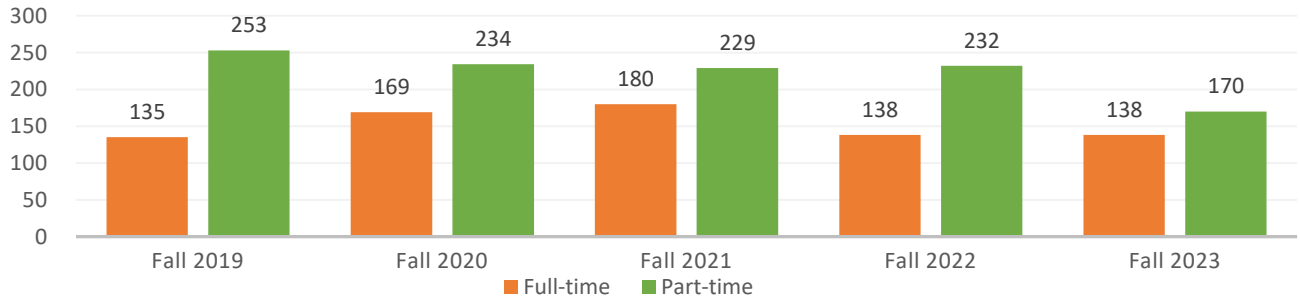
Total Headcount by Status

Status	Fall 2019	Fall 2020	Fall 2021	Fall 2022	Fall 2023	% of Total	1-year Change	5-year Change
Full-time	135	169	180	138	138	44.8%	0.0%	2.2%
Part-time	253	234	229	232	170	55.2%	-26.7%	-32.8%
Total	388	403	409	370	308	100.0%	-16.8%	-20.6%

**READMITTED, DEGREE/CERTIFICATE-SEEKING UNDERGRADUATE
HEADCOUNT BY TUITION RESIDENCY**



**READMITTED, DEGREE/CERTIFICATE-SEEKING UNDERGRADUATE
HEADCOUNT BY STATUS**



UNIVERSITY OF MAINE SYSTEM – FALL 2023 ENROLLMENT REPORT
ENTERING GRADUATE, DEGREE/CERTIFICATE-SEEKING HEADCOUNT
BY TUITION RESIDENCY AND STATUS

In-State Headcount by Status

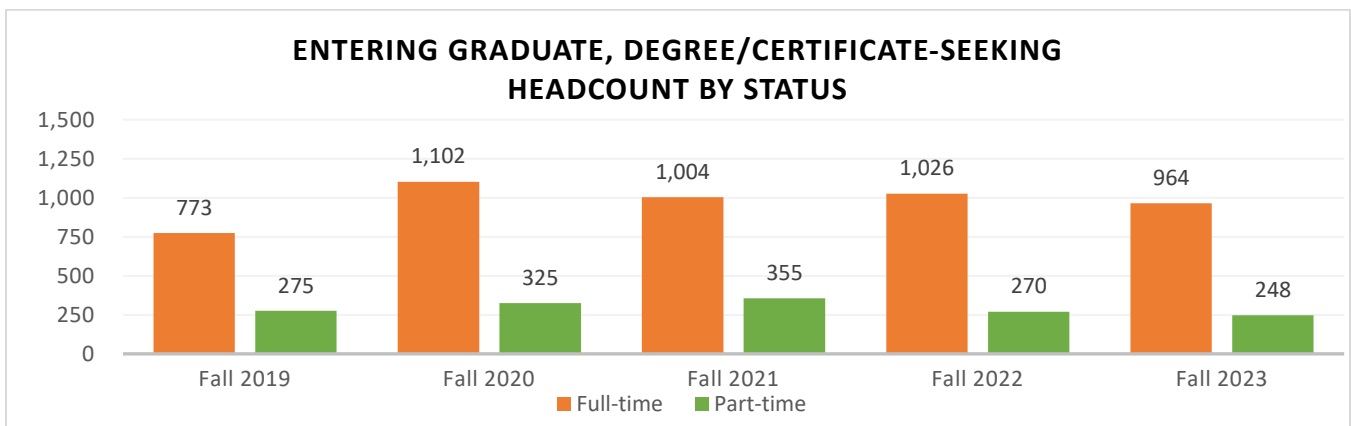
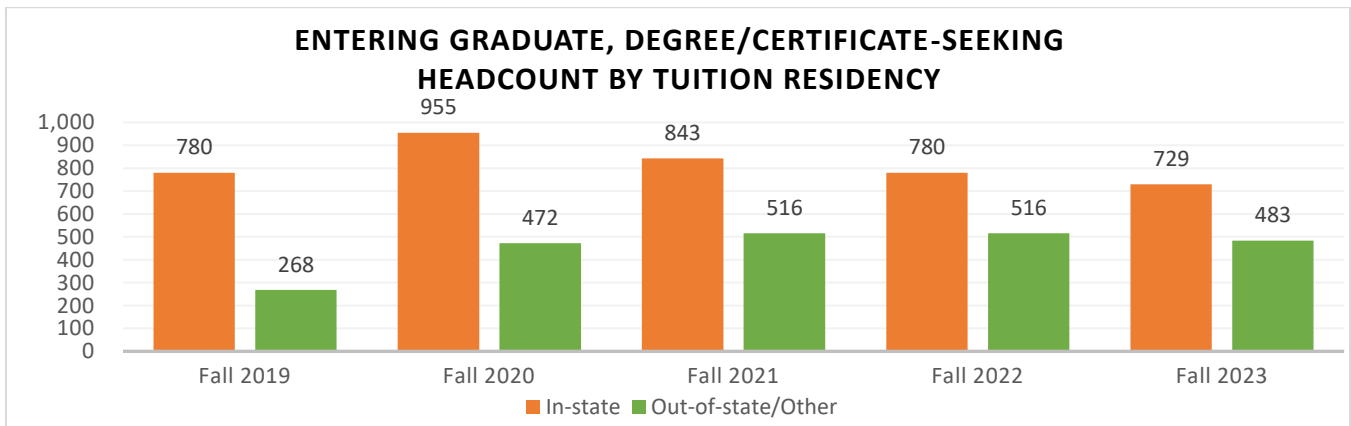
Status	Fall 2019	Fall 2020	Fall 2021	Fall 2022	Fall 2023	% of Total	1-year Change	5-year Change
Full-time	533	708	590	586	572	78.5%	-2.4%	7.3%
Part-time	247	247	253	194	157	21.5%	-19.1%	-36.4%
Total	780	955	843	780	729	100.0%	-6.5%	-6.5%

Out-Of-State/Other Headcount by Status

Status	Fall 2019	Fall 2020	Fall 2021	Fall 2022	Fall 2023	% of Total	1-year Change	5-year Change
Full-time	240	394	414	440	392	81.2%	-10.9%	63.3%
Part-time	28	78	102	76	91	18.8%	19.7%	225.0%
Total	268	472	516	516	483	100.0%	-6.4%	80.2%

Total Headcount by Status

Status	Fall 2019	Fall 2020	Fall 2021	Fall 2022	Fall 2023	% of Total	1-year Change	5-year Change
Full-time	773	1,102	1,004	1,026	964	79.5%	-6.0%	24.7%
Part-time	275	325	355	270	248	20.5%	-8.1%	-9.8%
Total	1,048	1,427	1,359	1,296	1,212	100.0%	-6.5%	15.6%



Note: Graduate includes readmitted graduate students.

UNIVERSITY OF MAINE SYSTEM – FALL 2023 ENROLLMENT REPORT

**ENTERING LAW, DEGREE/CERTIFICATE-SEEKING HEADCOUNT
BY TUITION RESIDENCY AND STATUS**

In-State Headcount by Status

Status	Fall 2019	Fall 2020	Fall 2021	Fall 2022	Fall 2023	% of Total	1-year Change	5-year Change
Full-time	60	69	53	50	52	92.9%	4.0%	-13.3%
Part-time	9	4	4	4	4	7.1%	0.0%	-55.6%
Total	69	73	57	54	56	100.0%	3.7%	-18.8%

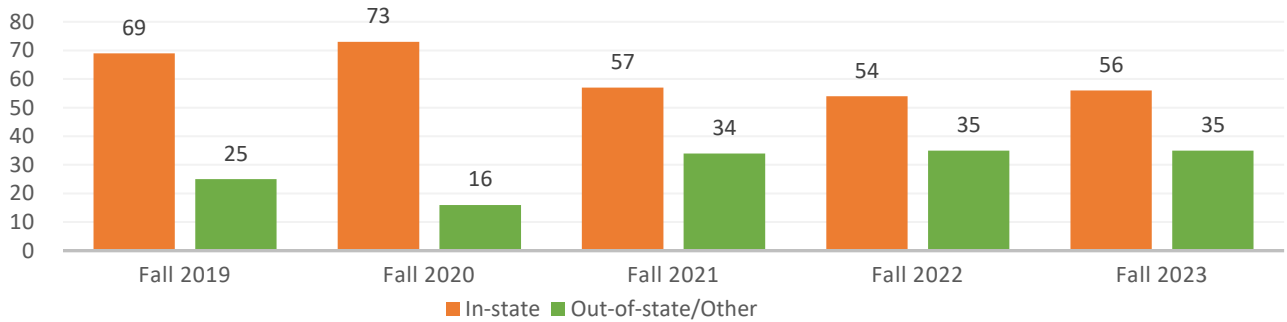
Out-Of-State/Other Headcount by Status

Status	Fall 2019	Fall 2020	Fall 2021	Fall 2022	Fall 2023	% of Total	1-year Change	5-year Change
Full-time	24	16	34	34	35	100.0%	2.9%	45.8%
Part-time	1	0	0	1	0	0.0%	-100.0%	-100.0%
Total	25	16	34	35	35	100.0%	0.0%	40.0%

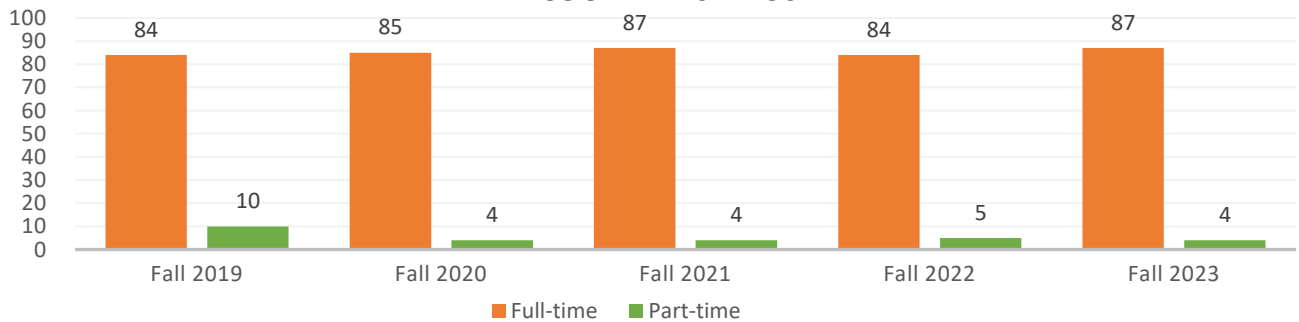
Total Headcount by Status

Status	Fall 2019	Fall 2020	Fall 2021	Fall 2022	Fall 2023	% of Total	1-year Change	5-year Change
Full-time	84	85	87	84	87	95.6%	3.6%	3.6%
Part-time	10	4	4	5	4	4.4%	-20.0%	-60.0%
Total	94	89	91	89	91	100.0%	2.2%	-3.2%

**ENTERING LAW, DEGREE/CERTIFICATE-SEEKING
HEADCOUNT BY TUITION RESIDENCY**



**ENTERING LAW, DEGREE/CERTIFICATE-SEEKING
HEADCOUNT BY STATUS**

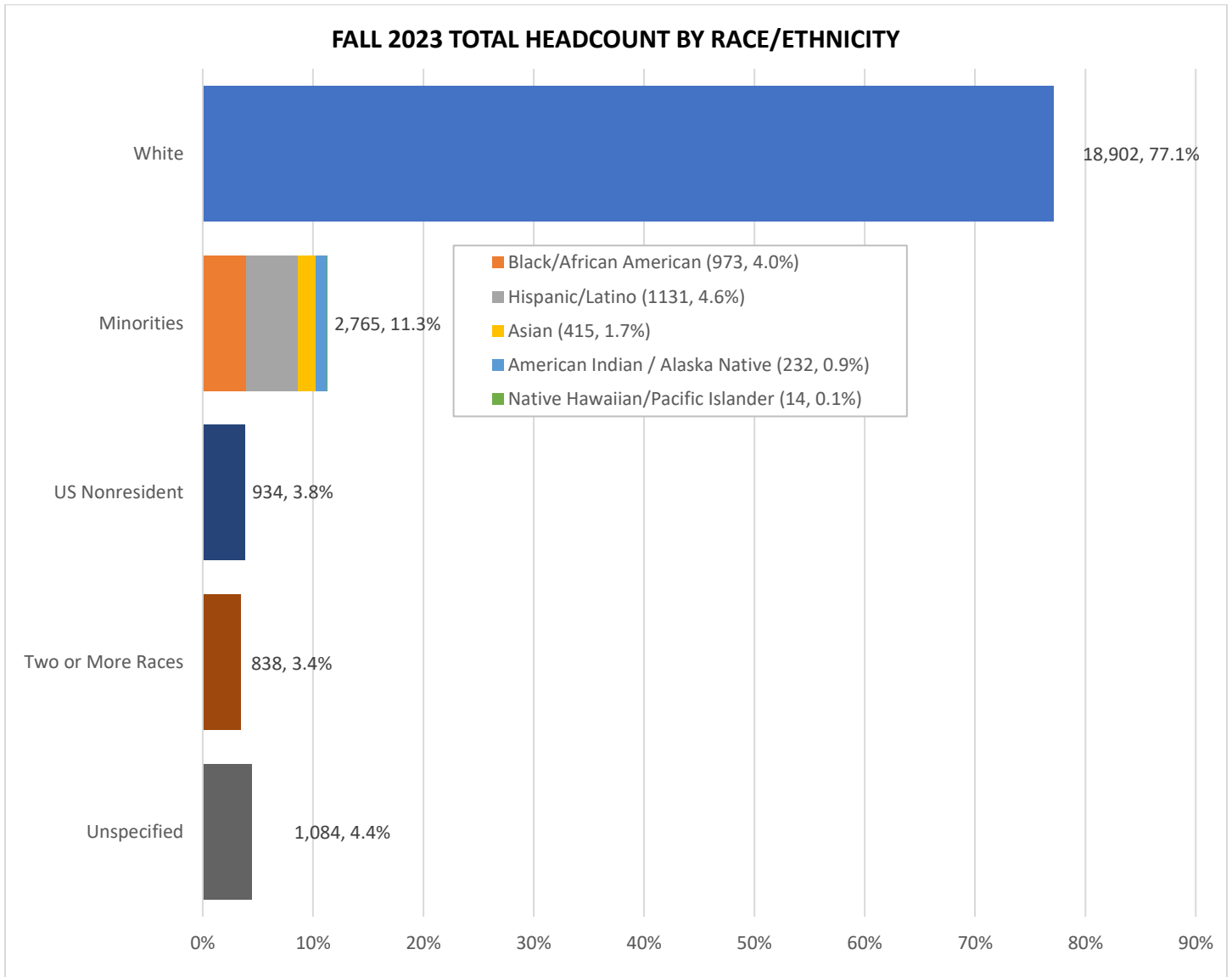


UNIVERSITY OF MAINE SYSTEM – FALL 2023 ENROLLMENT REPORT

TOTAL HEADCOUNT BY RACE/ETHNICITY

Race/Ethnicity	Fall 2019	Fall 2020	Fall 2021	Fall 2022	Fall 2023	% of Total	1-year Change	5-year Change
White	21,225	20,998	20,759	19,508	18,902	77.1%	-3.1%	-10.9%
Black/African American	830	876	869	874	973	4.0%	11.3%	17.2%
Hispanic/Latino	858	1,002	1,051	1,089	1,131	4.6%	3.9%	31.8%
Asian	384	405	421	401	415	1.7%	3.5%	8.1%
American Indian/Alaska Native	302	262	247	222	232	0.9%	4.5%	-23.2%
Native Hawaiian/Pacific Islander	16	16	17	18	14	0.1%	-22.2%	-12.5%
US Non-Resident	829	836	767	825	934	3.8%	13.2%	12.7%
Two or More Races	693	659	803	805	838	3.4%	4.1%	20.9%
Unspecified	1,270	1,198	1,177	1,066	1,084	4.4%	1.7%	-14.6%
Total	26,407	26,252	26,111	24,808	24,523	100.0%	-1.1%	-7.1%

FALL 2023 TOTAL HEADCOUNT BY RACE/ETHNICITY



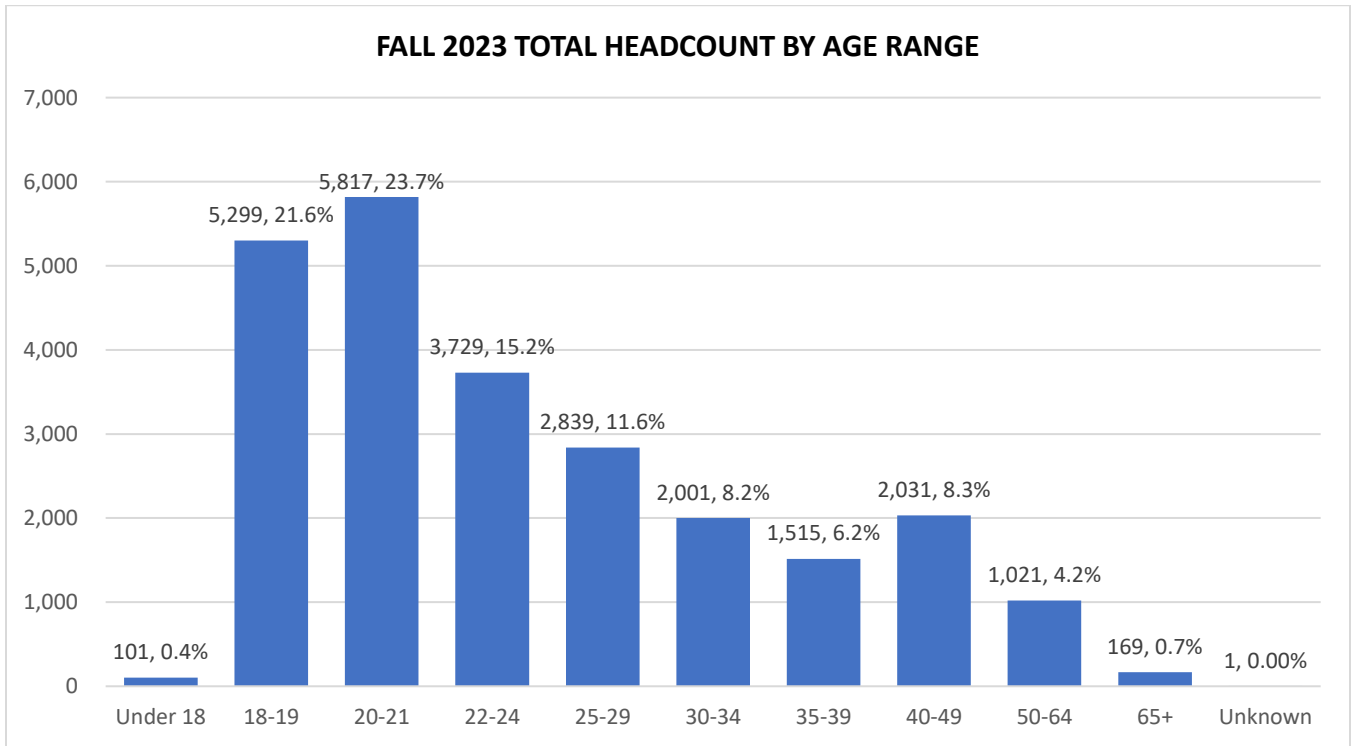
Note: Excludes early college.

UNIVERSITY OF MAINE SYSTEM – FALL 2023 ENROLLMENT REPORT

TOTAL HEADCOUNT BY AGE RANGE

Age Range	Fall 2019	Fall 2020	Fall 2021	Fall 2022	Fall 2023	% of Total	1-year Change	5-year Change
Under 18	98	84	104	92	101	0.4%	9.8%	3.1%
18-19	6,826	6,573	6,417	5,757	5,299	21.6%	-8.0%	-22.4%
20-21	6,482	6,498	6,321	5,997	5,817	23.7%	-3.0%	-10.3%
22-24	3,947	4,003	3,913	3,804	3,729	15.2%	-2.0%	-5.5%
25-29	2,996	3,020	2,983	2,762	2,839	11.6%	2.8%	-5.2%
30-34	1,880	1,905	1,982	1,937	2,001	8.2%	3.3%	6.4%
35-39	1,253	1,317	1,357	1,451	1,515	6.2%	4.4%	20.9%
40-49	1,718	1,715	1,845	1,842	2,031	8.3%	10.3%	18.2%
50-64	1,037	977	1,032	996	1,021	4.2%	2.5%	-1.5%
65+	169	160	155	170	169	0.7%	-0.6%	0.0%
Unknown	1	0	2	0	1	0.0%	N/A	0.0%
Total	26,407	26,252	26,111	24,808	24,523	100%	-1.1%	-7.1%

FALL 2023 TOTAL HEADCOUNT BY AGE RANGE



TOTAL HEADCOUNT BY SUMMARIZED AGE RANGE

Age Range	Fall 2019	Fall 2020	Fall 2021	Fall 2022	Fall 2023	% of Total	1-year Change	5-year Change
Under 18	98	84	104	92	101	0.4%	9.8%	3.1%
18-24	17,255	17,074	16,651	15,558	14,845	60.5%	-4.6%	-14.0%
25-39	6,129	6,242	6,322	6,150	6,355	25.9%	3.3%	3.7%
40-64	2,755	2,692	2,877	2,838	3,052	12.4%	7.5%	10.8%
65+	169	160	155	170	169	0.7%	-0.6%	0.0%
Unknown	1	0	2	0	1	0.0%	N/A	0.0%
Total	26,407	26,252	26,111	24,808	24,523	100%	-1.1%	-7.1%

Note: Excludes early college.

UNIVERSITY OF MAINE SYSTEM – FALL 2023 ENROLLMENT REPORT

FALL 2023 TOTAL HEADCOUNT BY RESIDENCY (BASED ON ORIGINAL HOME ADDRESS)

In-State Headcount by County

County	Headcount	% of Total
Cumberland	4,003	24.0%
Penobscot	2,297	13.7%
York	1,941	11.6%
Kennebec	1,685	10.1%
Androscoggin	1,100	6.6%
Aroostook	1,086	6.5%
Hancock	643	3.8%
Knox	595	3.6%
Oxford	550	3.3%
Somerset	544	3.3%
Washington	497	3.0%
Waldo	434	2.6%
Sagadahoc	420	2.5%
Lincoln	368	2.2%
Franklin	322	1.9%
Piscataquis	197	1.2%
Unknown	24	0.1%
Total	16,706	100.0%

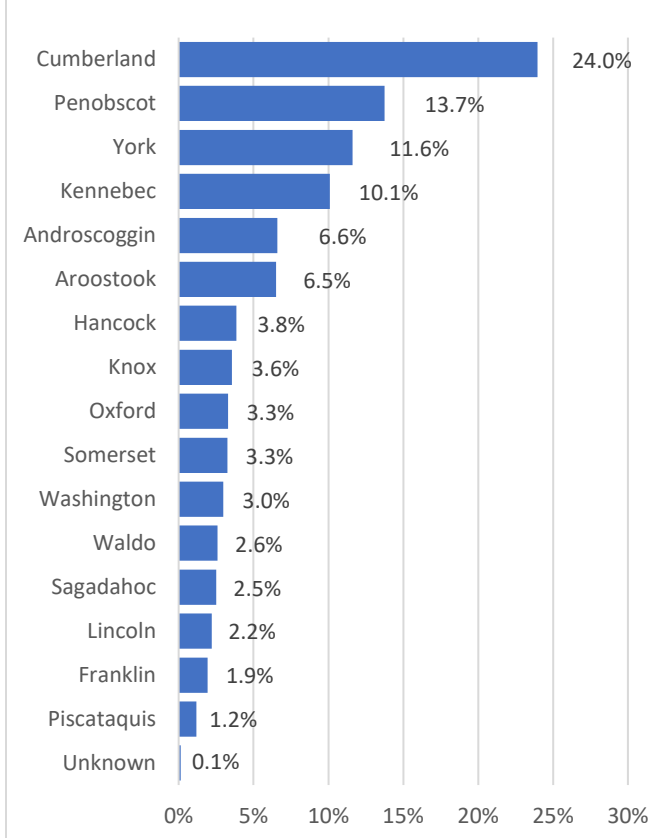
Out-Of-State Headcount by State

State	Headcount	% of Total
Massachusetts	1,838	26.4%
New Hampshire	666	9.6%
Connecticut	650	9.3%
New York	422	6.1%
New Jersey	322	4.6%
Pennsylvania	248	3.6%
California	247	3.5%
Vermont	234	3.4%
Texas	220	3.2%
Florida	207	3.0%
Other States	1,904	27.4%
Total	6,958	100.0%

International Headcount by Country

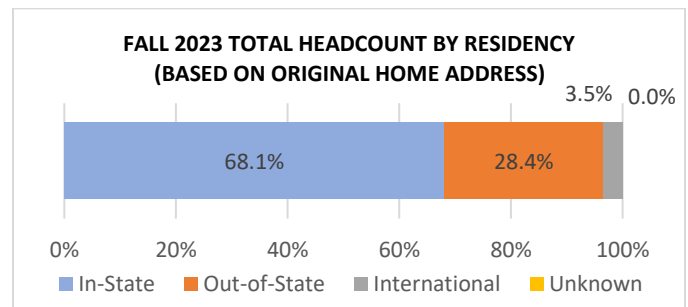
Country	Headcount	% of Total
Canada	258	30.0%
China	44	5.1%
Ghana	40	4.7%
Nigeria	37	4.3%
Nepal	37	4.3%
India	33	3.8%
Jamaica	28	3.3%
Bangladesh	26	3.0%
Iran	24	2.8%
South Africa	14	1.6%
Other Countries	318	37.0%
Total	859	100.0%

PERCENTAGE OF IN-STATE STUDENTS BY COUNTY



Total Headcount by Residency

Residency	Headcount	% of Total
In-State	16,706	68.1%
Out-of-State	6,958	28.4%
International	859	3.5%
Unknown	0	0.0%
Total	24,523	100.0%



Note: Original home address is the first address on file for the student and can differ from tuition residency. Excludes early college.

UNIVERSITY OF MAINE SYSTEM – FALL 2023 ENROLLMENT REPORT

TOTAL CREDIT HOURS BY DISTANCE MODALITY

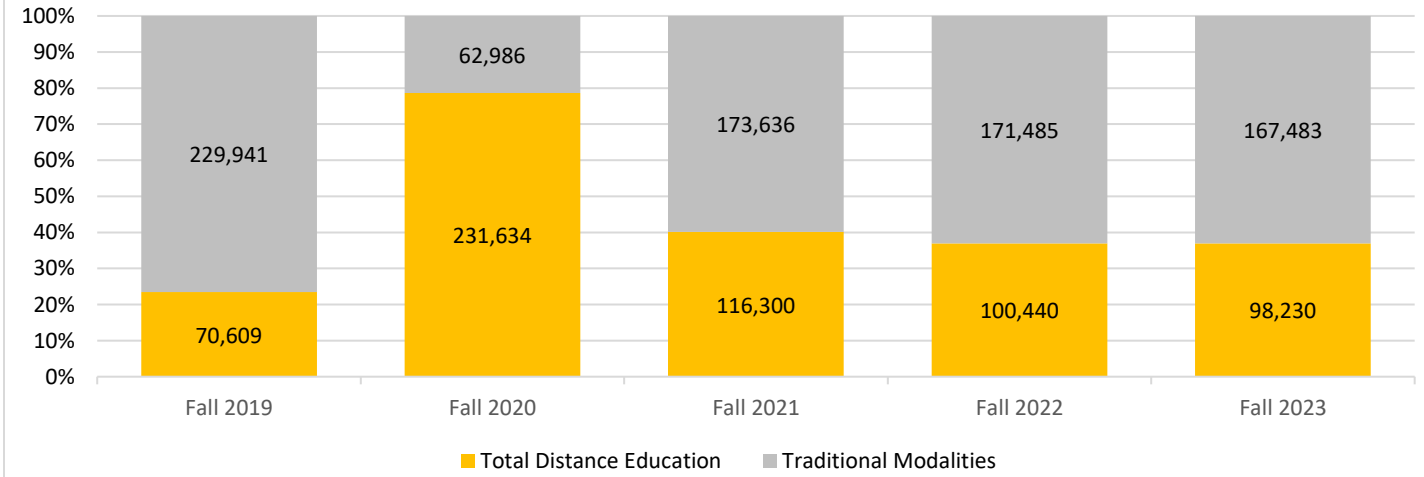
Fall 2023 Total Credit Hours by Distance Modality and Campus (#) (Excludes Early College)

Distance Modality	UM	UMA	UMF	UMFK	UMM	UMPI	USM	LAW	Total
Online	21,571	18,152	1,391	3,661	2,127	11,907	20,451	6	79,266
Distance Synchronous	2,545	3,661	1,011	0	621	294	1,654	121	9,907
Hybrid/Blended	4,378	939	1,191	160	0	238	2,120	32	9,057
Total Distance	28,494	22,752	3,593	3,821	2,748	12,439	24,224	159	98,230
Traditional Modalities	96,398	4,908	13,121	2,990	1,646	4,317	40,414	3,690	167,483
Total	124,892	27,660	16,714	6,811	4,394	16,756	64,638	3,849	265,712

Fall 2023 Total Credit Hours by Distance Modality and Campus (%) (Excludes Early College)

Distance Modality	UM	UMA	UMF	UMFK	UMM	UMPI	USM	LAW	Total
Online	17.3%	65.6%	8.3%	53.8%	48.4%	71.1%	31.6%	0.2%	29.8%
Distance Synchronous	2.0%	13.2%	6.0%	0.0%	14.1%	1.8%	2.6%	3.1%	3.7%
Hybrid/Blended	3.5%	3.4%	7.1%	2.3%	0.0%	1.4%	3.3%	0.8%	3.4%
Total Distance	22.8%	82.3%	21.5%	56.1%	62.5%	74.2%	37.5%	4.1%	37.0%
Traditional Modalities	77.2%	17.7%	78.5%	43.9%	37.5%	25.8%	62.5%	95.9%	63.0%
Total	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%

TOTAL CREDIT HOURS FOR DISTANCE AND TRADITIONAL MODALITIES



Definitions

Online: Course sections where 100% of the course activity and class meetings are completed asynchronously (not in real time) online with no required online meeting times. Includes all online, online asynchronous, online low residency, and remote asynchronous courses.

Distance Synchronous: These classes never meet in person. Instruction is delivered through technology (Internet, interactive television, or video conference), and the instructor is expected to deliver instruction synchronously (in real time) at the times for which the class is scheduled. Includes distance synchronous, distance ITV, distance onsite, distance video conference, online/web synchronous, remote synchronous, and receive courses.

Hybrid/Blended: These classes have both in-person and online components. The dates/times of in-person meetings are scheduled. Includes all blended and hybrid courses.

Traditional Modalities: Includes all courses where instruction is primarily in person. This includes all in person, by arrangement, service learning, split delivery, and Hyflex courses.

UNIVERSITY OF MAINE SYSTEM – FALL 2023 ENROLLMENT REPORT

TOTAL CREDIT HOURS BY STUDENT LEVEL AND MODALITY TYPE

Undergraduate Credit Hours by Modality Type (Excludes Early College)

Modality Type	Fall 2019	Fall 2020	Fall 2021	Fall 2022	Fall 2023	% of Total	1-year Change	5-year Change
Online	53,165	87,676	67,276	66,208	68,882	29.2%	4.0%	29.6%
Distance Synchronous	5,505	107,357	15,421	10,645	6,640	2.8%	-37.6%	20.6%
Hybrid/Blended	3,370	15,061	17,660	7,999	6,542	2.8%	-18.2%	94.2%
Total Distance	62,039	210,094	100,357	84,851	82,064	34.8%	-3.3%	32.3%
Traditional Modalities	213,638	56,968	160,116	157,969	153,485	65.2%	-2.8%	-28.2%
Total	275,677	267,061	260,473	242,820	235,548	100.0%	-3.0%	-14.6%

Graduate Credit Hours by Modality Type

Modality Type	Fall 2019	Fall 2020	Fall 2021	Fall 2022	Fall 2023	% of Total	1-year Change	5-year Change
Online	6,137	9,414	10,071	9,563	10,378	39.4%	8.5%	69.1%
Distance Synchronous	1,014	7,957	3,866	3,835	3,146	12.0%	-18.0%	210.3%
Hybrid/Blended	1,389	762	1,746	2,045	2,483	9.4%	21.4%	78.7%
Total Distance	8,540	18,133	15,682	15,442	16,007	60.8%	3.7%	87.4%
Traditional Modalities	12,669	5,770	10,045	9,906	10,309	39.2%	4.1%	-18.6%
Total	21,209	23,902	25,727	25,348	26,316	100.0%	3.8%	24.1%

Law Credit Hours by Modality Type

Modality Type	Fall 2019	Fall 2020	Fall 2021	Fall 2022	Fall 2023	% of Total	1-year Change	5-year Change
Online	30	6	0	0	6	0.2%	N/A	-80.0%
Distance Synchronous	0	1,882	261	147	121	3.1%	-17.7%	N/A
Hybrid/Blended	0	1,520	0	0	32	0.8%	N/A	N/A
Total Distance	30	3,408	261	147	159	4.1%	8.2%	430.0%
Traditional Modalities	3,634	249	3,475	3,610	3,690	95.9%	2.2%	1.5%
Total	3,664	3,657	3,736	3,757	3,849	100.0%	2.4%	5.0%

Total Credit Hours by Modality Type (Excludes Early College)

Modality Type	Fall 2019	Fall 2020	Fall 2021	Fall 2022	Fall 2023	% of Total	1-year Change	5-year Change
Online	59,332	97,096	77,346	75,771	79,266	29.8%	4.6%	33.6%
Distance Synchronous	6,519	117,196	19,548	14,627	9,907	3.7%	-32.3%	52.0%
Hybrid/Blended	4,759	17,343	19,406	10,043	9,057	3.4%	-9.8%	90.3%
Total Distance	70,609	231,634	116,300	100,440	98,230	37.0%	-2.2%	39.1%
Traditional Modalities	229,941	62,986	173,636	171,485	167,483	63.0%	-2.3%	-27.2%
Total	300,550	294,620	289,936	271,925	265,712	100.0%	-2.3%	-11.6%

Stocco, Janet

From: Bellows, Shenna <Shenna.Bellows@maine.gov>
Sent: Friday, October 4, 2024 2:58 PM
To: Stocco, Janet
Cc: Bautista, Joann
Subject: queries from legislature re: driving record information

Follow Up Flag: Follow up
Flag Status: Flagged

This message originates from outside the Maine Legislature.

Question 1: Any member of the public may request *in writing* a driving history of another individual. We review the records and may redact certain information to remain in compliance with DPPA and Maine statute (ie, some PII and/or medical information).

Questions 2: Rescinded items do NOT appear on a 3 or 10 year driver history, but they DO remain in our BMV/DLS system. That said, rescinded events DO appear on a lifetime driving record. Our staff executes a filter function before releasing a lifetime record to a member of the public at large.

Questions 3-4: We have posed the questions to the FMCSA and await responses. Any response to Question 5 awaits responses on 3 & 4.

Take care,
Shenna

From: Stocco, Janet <Janet.Stocco@legislature.maine.gov>
Sent: Friday, September 27, 2024 9:03:54 AM
To: Bellows, Shenna <Shenna.Bellows@maine.gov>; Bautista, Joann <Joann.Bautista@maine.gov>
Cc: Paddon, Sophia <Sophia.Paddon@legislature.maine.gov>; Murphy, Elias <elias.murphy@legislature.maine.gov>
Subject: Thank you and follow up from CRRC

Dear Secretary Bellows,

Thank you for presenting to the Criminal Records Review Committee (CRRC) on Tuesday. The Committee truly appreciated you taking the time to present and receiving the information you provided, especially when you were under the weather.

I wanted to let you know that my notes reflect CRRC members requested the following follow-up information:

- (1) Who may access the portions of a driving record that are more than 10 years old and what are the procedures/requirements for access?
- (2) If an administrative suspension for OUI/failure to test is rescinded on appeal, is the suspension removed from the driving record?

In addition, my notes reflect that your office offered to reach out to federal partners with respect to the following questions:

- (3) Can Maine law be amended to provide that an individual's driving history be "sealed" from the public (or some portion of the public) after 10 years without violating federal laws?
- (4) Can Maine law be amended to provide that Class E motor-vehicle-related criminal convictions that have been "sealed" under Title 15, Chapter 310-A be removed from the version of the driving record available to the public (but not from law enforcement or other states) without violating federal law?

- (5) If not, is there a way to remove this information not available via an online driving record request and only available through a request in person or that requires more effort?

Because the next CRRC meeting will be on Tuesday, October 8th, it would be helpful to have this information by the Friday before the meeting (October 4th) if that is at all possible.

Thank you again,

Janet

--

Janet A. Stocco, Esq.
Legislative Analyst
Office of Policy and Legal Analysis
Maine State Legislature
Office Tel.: (207) 287-1670

Post-Conviction Advocacy for Survivors of Human Trafficking: A Guide for Attorneys

The Survivor Reentry Project

American Bar Association
Commission on Domestic & Sexual Violence



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How to Use This Guide

The crime of human trafficking occurs throughout and across the United States. With increased awareness of the prevalence and characteristics of human trafficking, many state governments and law enforcement officials now recognize that victims are not consistently or accurately identified. Instead, “authorities often fail to properly screen and identify victims of human trafficking when they detain or arrest criminal suspects. This can result in a second victimization when victims are punished for their engagement in the crimes their traffickers forced them to commit.”¹ The approach of treating victims as criminals also increases the prevalence of human trafficking by allowing perpetrators to use the threat of criminalization as a way to coerce victims.

Victims are then saddled with the heavy burden of a criminal record for crimes resulting from having been trafficked. While there are various efforts currently underway in some jurisdictions to reform and prevent this phenomenon, across much of the country trafficking survivors still confront the long lasting impact of their own prior criminalization.

Many victims of human trafficking in the United States remain unidentified because they fear coming forward. This fear is based, in part, on the current treatment of many victims of human trafficking as criminals in our legal system. The criminal legal system fails to correctly identify them, largely because of resource constraints, lack of training, and systemic inflexibility. The U.S. Department of State’s Trafficking in Persons (TIP) report notes:

Compounding the injustice, a criminal record can have a profoundly negative effect on victims throughout their lives—for example, a survivor of sex trafficking who cannot rent an apartment because of prior arrests for prostitution; or an individual forced by a criminal gang to steal or sell drugs who cannot get a job due to the resulting criminal record. Even if a trafficking victim never faces charges, or if charges are dropped, arrest records and stigma remain, affecting where victims live, their employment opportunities, and how others perceive them.²

In response, New York State enacted landmark legislation³ in 2010 that provides post-conviction relief to survivors. The law allows survivors to seek a court order vacating the criminal convictions that were entered against them as a result of their trafficking into prostitution. Many other states have now enacted similar laws.

Vacatur laws create an opportunity for certain trafficking survivors to correct past injustices and eliminate debilitating obstacles. It is important to recognize the limitations of the majority of existing laws – many limit relief to only certain crimes *and/or* the relief is available only to sex trafficking victims. Yet, vacatur laws represent a significant step forward in recognizing the harmful impact of criminalization on survivors of human trafficking. Although many laws currently limit relief to survivors of trafficking into prostitution only, they demonstrate the beginning of a paradigm shift that will hopefully continue to evolve to encompass relief for survivors of all forms of trafficking and to more fully prevent their criminalization in the first place.

This guide serves as a roadmap for practitioners, such as public defenders, legal services lawyers and pro bono attorneys, and other stakeholders who will be representing trafficking survivors in vacatur proceedings. This non-state-specific manual provides general information for lawyers who are new to post-conviction relief practices and/or working with trafficking survivors. In this guide you will find an introduction to post-conviction practice for survivors of human trafficking, basic definitions of important concepts and elements contained in typical vacatur laws, important filing considerations for motion practice, and best practices for

¹ US DEP’T OF STATE, TRAFFICKING IN PERSONS REPORT 2016 26 (June 2016), <http://www.state.gov/documents/organization/258876.pdf>.

² *Id.*

³ See N.Y. CRIM. PROC. LAW § 440.10(1)(i) (McKinney 2016).

employing a trauma-informed and survivor-centered approach to client interviewing and representation, along with other best practices for advocates.

Acknowledgments

This guide was developed based on the experience of Kate Mogulescu, the lead attorney on the Survivor Reentry Project, and the work of the Exploitation Intervention Project at The Legal Aid Society in New York City, one of the organizations spearheading efforts to obtain post-conviction relief for trafficking survivors across New York State. Professor Bridgette Carr, Director of the Human Trafficking Clinic at the University of Michigan Law School, provided extensive guidance and writing support. In addition, the guide's development was furthered by the stellar efforts of the Stein Public Interest Scholar Program at Fordham Law School, and particularly the work of Marjorie Dugan, Lucy Gubernick, Javed Yunus and Joshua Liebman, as well as the oversight of Namita Dwarakanath, Survivor Reentry Project Program Coordinator, and the further contributions of Eli Johns, Sydne Schecter, Deborah Tang and Alice Wang, Exploitation Intervention Project legal interns.

Finally, many experts in the field provided additional experience and wisdom as the guide took shape. Liz Afton, Melissa Broudo, Crystal DeBoise, Professor Jessica Emerson, Christine Evans, Miriam Goodman, Jessica Kitson, Danielle Latimer, Assistant District Attorney Roni Piplani, Robin Richardson, Assistant District Attorney John Temple and Brent Woody are acknowledged with appreciation and admiration.

A Note About Language and Word Choice

- **Vacatur.** Recognizing tremendous nuance in state criminal law and practice, this guide attempts to familiarize attorneys with general concepts and best approaches. In an effort to keep language consistent throughout, we will use “vacatur” to refer to post-conviction efforts to clear, vacate, expunge, or seal criminal records pertaining to arrests caused as a result of being trafficked. See chart in Section II for additional information.
- **Victim/Survivor/Client.** These terms also reflect significant nuance. For ease of reference, this guide will use all three to refer to individuals who were trafficked. In accordance with the approach of the Federal Strategic Action Plan on Services for Victims of Human Trafficking, “victim” has legal implications within the criminal legal process and generally means an individual who has suffered harm because of criminal conduct. “Victims” also have specific rights within the criminal process.⁴ Law enforcement agencies often use the term “victim” as part of their official duties. “Survivor” is a term used by many in the services field to recognize the strength it takes to continue on a journey toward healing in the aftermath of a traumatic experience.⁵ Client is used when describing the scope of representation and the attorney-client relationship. All of these terms “are intended to honor those who have suffered, or are suffering, the effects of being trafficked.”⁶
- **Pronouns.** This guide utilizes gender-neutral pronouns “they/them” wherever possible. It is worth noting that human trafficking does not only impact one gender alone. Furthermore, best practice dictates avoiding assumptions about your client’s gender identity and preferred names/pronouns, and instead ascertaining this information from clients directly at the outset of representation. For example, clients may be transgender, in the process of transitioning genders, or have fluid gender identities.

⁴ See, e.g., Crime Victims’ Rights Act, 18 U.S.C. § 3771(a); Victims’ Rights and Restitution Act, 42 U.S.C. § 10607 (e)(2)(A); Trafficking Victims Protection Act, 22 U.S.C. § 7102(14) & (15).

⁵ Federal Strategic Action Plan on Services for Victims of Human Trafficking in the United States 2013-2017, at 8, available at <http://www.ovc.gov/pubs/FederalHumanTraffickingStrategicPlan.pdf>.

⁶ *Id.*

-
- **Minors.** The legal definition of a “minor” varies by state and context. This guide uses “minor” to refer to persons under the age of 18. However, it is imperative that practitioners identify the applicable state law definition of minors in their jurisdiction and utilize accordingly. Furthermore, some states offer specific relief to minor victims. This is an area that varies greatly across jurisdictions, and also depends on the intersection of juvenile justice, criminal and family law, which is highly state-specific.
 - **Labor/Sex Trafficking.** Wherever possible, this guide differentiates between labor and sex trafficking. Overwhelmingly, as states have passed vacatur laws, they have done so with the primary goal of addressing convictions stemming from trafficking into commercial sex and prostitution. Therefore, these laws may not apply to convictions relating to trafficking into other forms of labor. This guide attempts to highlight this throughout, but, where unspecified, consider the primacy of sex trafficking in state vacatur laws.

Location of Appendices

The appendices to this guide are available online to reduce bulk and ensure they are kept as current as possible. Please visit www.ambar.org/srp to access the most recent version.

I. Introduction to Trafficking and Post-Conviction Practice

A. What Is Human Trafficking?

Human trafficking occurs when power, violence or coercion is used to control victims for the purpose of commercial sex acts or other labor or services.⁷ Human trafficking is a crime under international law, federal law, and in almost every state, although there are slight variations in each law's definition. Federal trafficking law recognizes two types of severe forms of human trafficking, commonly known as sex trafficking and labor trafficking.

Common misconception: Trafficking is a crime of movement. In fact, the law does not require any movement or crossing of jurisdictional boundaries for trafficking to occur. The "harm" that results from human trafficking is exploitation of another. "Human trafficking occurs when an individual's freedom is curtailed and labor or other services are extracted by another individual, often, but not always, for financial or material gain."⁸ It is important for advocates and stakeholders to remember that clients who have not been transported across international, state, or county borders may still be trafficking victims.⁹

1. Federal Law: The Trafficking Victims Protection Act (TVPA)

Many, if not most, state vacatur laws allow relief for victims of trafficking who meet the definition in the TVPA.

Sex Trafficking. The recruitment, harboring, transportation, provision, obtaining, patronizing, or soliciting of a person for the purposes of a commercial sex act in which the commercial sex act is induced by **force, fraud, or coercion**, or in which the person induced to perform such an act has not attained 18 years of age.¹⁰

Labor Trafficking. "The recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of **force, fraud or coercion** for the purpose of subjection to involuntary servitude, peonage, debt bondage or slavery."¹¹

- **Defining force, fraud or coercion:*** All labor trafficking and sex trafficking of adults requires force, fraud, or coercion.¹²
 - ◆ **Force** refers to physical assaults, sexual assaults, beatings, and isolation and/or confinement;
 - ◆ **Fraud** refers to false or deceptive offers of employment, education, romance, marriage or a better life, and/or debt bondage;

⁷ JEAN BRUGGEMAN & ELIZABETH KEYES, AMERICAN BAR ASSOCIATION, MEETING THE LEGAL NEEDS OF HUMAN TRAFFICKING VICTIMS: AN INTRODUCTION FOR DOMESTIC VIOLENCE ATTORNEYS & ADVOCATES, AT 9 (AMANDA KLOER ET AL. EDS., 2009).

⁸ *Id.*, at 9.

⁹ *Id.*

¹⁰ Under federal law this definition is called a "severe form of human trafficking," for purposes of this guide we will use "sex trafficking" to refer to this definition. See 22 U.S.C § 7102 (9)(A).

¹¹ Under federal law this definition is called a "severe form of human trafficking," for purposes of this guide we will use "labor trafficking" to refer to this definition. See 22 U.S.C § 7102 (9)(B).

¹² 22 U.S.C § 7102.

- ◆ **Coercion** predominantly consists of threat of serious harm to the victim, the victim’s family or other loved ones, psychological abuse/manipulation designed to create dependency (otherwise known as “trauma bonding”), use, or exploitation of dependency on, controlled substances,¹³ and/or threatened abuse of legal or immigration systems.

*These lists are not exhaustive.

Note: the definition of “serious harm” is broad, it means: “any harm, whether physical or nonphysical, including psychological, financial, or reputational harm, that is sufficiently serious, under all the surrounding circumstances, to compel a reasonable person of the same background and in the same circumstances to perform or to continue performing labor or services [or commercial sexual activity] in order to avoid incurring that harm.”¹⁴

Case Profiles

The notion of what constitutes force, fraud or coercion extends beyond physical violence, assault and/or unlawful imprisonment. In addition, victims may be vulnerable for a whole host of reasons, including manipulation of addiction to controlled substances and the belief in seemingly irrational threats.

For example in **United States v. Fields**, a Florida case, a trafficker was convicted after testimony showed that he recruited and enticed women to engage in prostitution by (1) proposing to advertise their prostitution services online, (2) driving them to their prostitution locations, and (3) offering them drugs, money, and a place to live if they prostituted for him.

After he recruited victims, the trafficker manipulated their drug addictions to prescription pills in order to deepen his control and increase his profit. He would withhold pills to make victims engage in prostitution, relying on the threat of withdrawal sickness if they did not comply. Many victims explained that the withdrawal sickness was so severe that it caused the victims to want to die. As part of his exploitation, the trafficker isolated victims “to preclude them from obtaining drugs elsewhere and to render them dependent on him and subservient to his demands.” Notably, the trafficker seized on the victims’ specific vulnerability. In upholding his conviction and sentence, the 11th Circuit noted that “[t]he victims’ drug addictions rendered them particularly susceptible to Field’s selling and dispensing of controlled substances.” *United States v. Fields*, 625 F. App’x 949, 953 (11th Cir. 2015).

Traffickers may use threats that seem irrational to others but are coercive to the victim. For example in **United States v. Alzanki**, the victim was compelled to engage in domestic work up to fifteen hours a day. The victim, who was from Sri Lanka, was forbidden to leave the house, go out on the porch or even look out of the window. The trafficker threatened her by telling her that police in the United States would shoot her on sight if she left the house. The trafficker, who was ultimately convicted of holding the victim in involuntary servitude, also threatened the victim, on almost a daily basis, with deportation, death or serious harm should she disobey him. *United States v. Alzanki* 54 F.3d 994 (1st Cir. 1995).

¹³ See, e.g., *United States v. Fields*, 625 F. App’x 949 (11th Cir. 2015).

¹⁴ 18 U.S.C. §§ 1589 & 1591.

B. Who Are the Victims of Human Trafficking?

There is no single profile for trafficking victims. Trafficking impacts people of all genders, sexes, ages, abilities, socioeconomic backgrounds, and immigration statuses.¹⁵ However, traffickers frequently target marginalized populations as well as individuals with particular vulnerabilities. For example, women with histories of abuse and economic deprivation have a higher susceptibility to victimization, as do LGBT individuals or people with disabilities who face exclusion and discrimination.¹⁶

Human trafficking is caused and exacerbated by structures of socioeconomic disparity, limited employment opportunities, lack of a living wage, education inequality, and discrimination based on gender, sexuality, class, and race.¹⁷ Victims may be trafficked for a few days or weeks, or may remain in a trafficking situation for years.¹⁸ Either way, victims of trafficking face long-lasting consequences from their exploitation.

Common misconception: Victims of human trafficking will immediately ask for help or assistance and will self-identify as a victim of a crime. In reality, victims of human trafficking often do not immediately seek help or self-identify as victims of a crime. In fact a client may never self-identify as a victim, however self-identification is not required to obtain relief. There are a variety of reasons for this, including a lack of trust, self-blame, or specific restrictions imposed by traffickers regarding how to behave when talking to law enforcement or social service providers. Even when telling their stories in interviews, for example, victims might defend their actions as their own choice or autonomy. It is important to avoid making a snap judgment about who is or is not a trafficking victim based on a first encounter. No one can consent to being trafficked, a person can consent to a situation but not to having their rights violated. As described below, continued trust building and patient, trauma-informed interviewing practices are necessary to learn a person's full experience and ascertain what a victim has gone through.¹⁹

1. Where Does Human Trafficking Occur?

Human trafficking is a pervasive phenomenon that cuts across various industries throughout the United States and around the world. Unfortunately, there exists a dearth of accurate data measuring prevalence or other patterns of human trafficking. Often, purported statistics conflate various legal terms, and can simply reflect where law enforcement resources are deployed as opposed to the wide spectrum of labor sectors and geographic areas where trafficking occurs. Notwithstanding, human trafficking victims have been identified in cities, suburbs, and rural areas in all 50 states and Washington, D.C. and reports of specific incidents of trafficking span jurisdictions and settings.²⁰

- **Sex trafficking** occurs in a wide variety of venues within the broader commercial sex trade, including (but not limited to) *brothels, escort agencies, massage businesses, strip clubs, and street prostitution*, as well as in *tourism and hospitality industries*. Sex trafficking can be facilitated through *internet* sites that feature online ads for erotic and escort services.
- **Labor trafficking** occurs in diverse settings as well, including (but not limited to) *human smuggling, drug smuggling, sales industry, peddling and begging, domestic work, hospitality services, agricultural work, garment and textile industries, and industries dependent on manual labor*.

¹⁵ *The Victims*, NAT'L HUMAN TRAFFICKING RES. CTR., <https://traffickingresourcecenter.org/what-human-trafficking/human-trafficking/victims> (last visited July 28, 2016).

¹⁶ THE HUM. TRAFFICKING PRO BONO LEGAL CTR., TRAFFICKING OF PERSONS WITH DISABILITIES IN THE U.S. (April 2016), <http://www.htprobono.org/wp-content/uploads/2016/04/Trafficking-of-Persons-With-Disabilities-in-the-United-States-04.12.2016.pdf>.

¹⁷ *Id.*

¹⁸ *Sex Trafficking*, POLARIS PROJECT, <https://polarisproject.org/sex-trafficking> (last visited July 28, 2016).

¹⁹ *Myths & Misconceptions*, NAT'L TRAFFICKING RES. CTR., <https://traffickingresourcecenter.org/what-human-trafficking/myths-misconceptions> (last accessed July 28, 2016).

²⁰ *Id.*

2. Who Are the Traffickers, and How Do They Operate?

Traffickers range from sole operators, to loose-knit networks, to highly sophisticated criminal organizations that operate internationally.²¹ Traffickers can initiate romantic relationships with their victims before forcing or manipulating them into prostitution or work. Traffickers can lure victims with false promises of a job or a pathway to citizenship. Parents or other family members can also be traffickers who facilitate the victim's entry into commercial sex or other types of labor. A common trafficking tactic is to socially isolate victims and trap them into cycles of dependency.

Case Example: *Labor Trafficking*

In July 2015 the large marine service corporation Signal International was found, in a civil lawsuit, to have engaged in labor trafficking.²² Part of Signal's business was building large offshore drilling rigs, many of which were damaged during Hurricane Katrina. To repair these structures *Signal hired skilled laborers from India under the H-2b guest worker visa program with the false promise of a well-paying job and pathway to citizenship.* Beyond compensating these workers well *below the minimum wage*, Signal also housed them in *unconscionable conditions.* "The workers were forced to live in double-wide trailers with up to 24 other men. The trailers were guarded at all times and the workers were subject to inspection upon entry and exit."²³ Signal is now bankrupt after paying over \$30 million in restitution fees to these trafficking survivors following a class action lawsuit.

Case Example: *Sex Trafficking*

Human trafficking can also occur on a smaller (though no less nefarious) scale. For example, many victims of sex trafficking are exploited by their intimate partners through abusive patterns of power and control. "The modus operandi of intimate-partner traffickers is usually a mixture of rewards and punishments—gifts and protestations of love followed by verbal slurs and beatings."²⁴ In a 2011 New York vacatur case demonstrating *intimate partner trafficking*, a domestic violence victim's husband lured her from the Dominican Republic to the U.S. by falsely promising that the abuse would cease and that he would help her obtain immigration status. Feeling that immigrating to the United States would improve the lives of her children she agreed. When she arrived in the U.S., however, he physically abused her, raped her, imprisoned her against her will, and ultimately exerted control over her entire life. The victim's husband forced her to engage in illegal activities, including prostitution, and took all of her income to support his drug addiction.²⁵ The court found that the victim's experience qualified her for vacatur relief and vacated the criminal convictions on her record.²⁶ Traffickers instill fear and exploit vulnerability in their victims while convincing them that they are lawbreakers and thus, unable to go to the authorities for help or protection.

C. Why is Post-Conviction Relief for Survivors of Human Trafficking Necessary?

1. Arrests of Trafficking Victims

Different policing strategies, for example those that prioritize a high volume of arrests for low-level offenses, increase the likelihood that victims of trafficking will come into contact with the police by virtue of their own arrest. For sex trafficking victims these crimes are frequently prostitution charges, but may also include other charges such as weapons, drugs, financial crimes, and identity theft. Labor traffickers, like sex traffickers, can

²¹ *Who Are Human Traffickers?* HUMAN RIGHTS FIRST (June 10, 2014), <http://www.humanrightsfirst.org/resource/who-are-human-traffickers>.

²² See *David v. Signal Int'l LLC*, No. 08-CV-1220-SM-DEK (E.D. La. 2015).

²³ Radha Desai, *Landmark Human Trafficking Case Ends Bankruptcy for Signal International, Inc.*, HUMAN RIGHTS FIRST (July 24, 2015), <http://www.humanrightsfirst.org/blog/landmark-human-trafficking-case-ends-bankruptcy-signal-international-inc>.

²⁴ Dorchen A. Leidholdt, *Human Trafficking and Domestic Violence: A Primer for Judges*, 52 JUDGES' JOURNAL 16 (2013), http://www.americanbar.org/publications/judges_journal/2013/winter/human_trafficking_and_domestic_violence_a_primer_for_judges.html.

²⁵ See *People v. G.M.*, 922 N.Y.S.2d 761 (N.Y.C. Crim. Ct. 2011).

²⁶ *Id.* at 766.

also benefit from forcing a victim to commit illegal acts such as selling or cultivating drugs or, commonly at the U.S. border, forcing individuals to be drug mules or bring people into the country illegally. Additionally, other common offenses for labor trafficking can include possession of false identification documents, financial crimes, or other minor offenses such as trespassing. Minors who are trafficked are often charged with status offense such as truancy and running away.

2. The Criminal Legal System Does Not Identify Victims at Time of Arrest and Prosecution

Trafficking victims are routinely arrested, detained, prosecuted, convicted, and, in some cases, incarcerated or deported, without ever being identified as victims.

a. The Systems Are Overwhelmed, Overburdened, and Fail to Consider Individual Circumstances

Law enforcement, prosecutors, judges, and defense attorneys often lack sufficient knowledge about the dynamics of human trafficking. In addition, the criminal legal system itself is ill-equipped to identify victims or offer them resources or assistance if so identified. There is a premium placed on resolving cases quickly, usually by way of plea bargaining, in an attempt to address the constant stream of cases entering the criminal legal system. Foreign national victims face an additional risk since immigration status is severely impacted by criminal legal involvement.

b. Victims Often Do Not Disclose During the Arrest Process

Even where screening systems have been implemented, “a variety of factors—including trauma, language barriers, fear of authorities or fear of retribution—can impede victim identification upon arrest.”²⁷ Many victims harbor significant distrust of law enforcement, don’t view the police as being on their side or able to help, or believe that nothing will come out of reporting their situation. Victims, both foreign national and U.S. citizen, may also have had previous negative experiences with law enforcement and the criminal legal system.

c. Conflict Between Trafficking and Existing Criminal Laws

As states have passed human trafficking laws, conflicts arise with preexisting criminal laws. In sex trafficking cases the conflict usually involves laws criminalizing prostitution. States rarely address this by integrating the legal frameworks. As a result, victims of sex trafficking can be simultaneously considered criminals under the prostitution law and victims under the trafficking law. When confronted with this tension, law enforcement officials may be more likely to label victims as criminals, largely due to the longstanding history of criminalizing prostitution, as well as the newness of and unfamiliarity with human trafficking laws. This approach may also occur in situations where law enforcement identifies a victim, but believes that the use of the criminal legal system is the only way to provide victims access to services. In some instances, law enforcement utilizes the criminal system as a way to detain victims to keep them away from traffickers and/or ensure they remain accessible in an ongoing investigation.

A similar conflict occurs in labor trafficking cases where victims are compelled to commit crimes such as drug smuggling or human smuggling. States may have laws classifying these individuals as victims but they enter the criminal legal system as criminals.

²⁷ Suzannah Phillips et al., *Clearing the Slate: Seeking Effective Remedies for Criminalized Trafficking Victims*, CITY UNIV. N.Y. SCH. L. 3 (Fed. 24, 2014), <http://www.law.cuny.edu/academics/clinics/iwhr/publications/Clearing-the-Slate.pdf>.

3. The Weight of Criminal Charges

Survivors of human trafficking deal with the dual issues of criminalization and stigma long after they escape exploitation.²⁸ Many survivors have lengthy records because they have been arrested and cycled through the criminal legal system multiple times for crimes that were the direct result of their traffickers' force, fraud, or coercion.²⁹

Criminal charges create high barriers to employment, safe housing, education, financial assistance, and other key components of stability and independence. In 2016, the National Survivor Network published a survey of their members that showed that 90% of respondents had criminal convictions on their record and that, as a result, 80% had faced barriers with employment and 50% with housing.³⁰ Criminal records can even be used by the trafficker against the survivor; for example, in instances where they have children in common, traffickers have pointed to the survivor's record as evidence of unfit parenting in custody disputes.³¹

Prostitution-related convictions, drug offenses and crimes that meet the definition of a "crime of moral turpitude"³² also present specific dangers to foreign-born survivors who have previously adjusted or attempt to adjust their citizenship status. Non-citizens may be denied initial or return entry to the U.S. if immigration officials have reason to suspect they are entering for the purposes of prostitution, which can be based on arrest or conviction records. Convictions may also bar foreign national victims from a variety of forms of immigration relief.

Equally important, a criminal record serves as a constant reminder of past abuse and a source of tremendous shame. Survivors often face the tragic dilemma of explaining to a potential employer or housing manager the source of their arrest or conviction and therefore must choose between sharing their trafficking experience or simply walking away from an opportunity. Many survivors choose not to have to relive this experience. There is an urgent need for reliable post-conviction relief across the nation to alleviate the impact of the collateral consequences of criminal records for survivors of human trafficking.³³

“It’s almost like walking on eggshells. I have aspirations. I’m looking to get an advanced degree...I want to go as far as I can go. And it’s almost scary, because I’m thinking I’m going to hit [the convictions] and it’s going to just knock me back down...I really just want to put it behind me. People in my life today have no idea of where I’ve been. And I’d like to keep it that way. It’s none of their business.”

– A survivor speaking about her convictions

²⁸ See Melissa Broudo & Sienna Baskin, *Vacating Criminal Convictions for Trafficked Persons*, SEX WORKERS PROJECT (Urban Justice Center, New York, N.Y.), Aug. 2012, <http://sexworkersproject.org/downloads/2012/20120422-memo-vacating-convictions.pdf>.

²⁹ See, e.g., *People v. Gonzalez*, 927 N.Y.S.2d 567 (N.Y. Crim. Ct. 2011).

³⁰ See National Survivors Network Member Survey On the Impact of Criminal Arrest and Detention on Survivors of Human Trafficking (January 2016), available at: <http://nationalsurvivornetwork.org>.

³¹ Kate Mogulescu & Katherine Mullen, Testimony before the City of New York Comm. on Women's Issues and the Comm. on Public Safety 8: *Over-sight: Combatting Sex Trafficking in NYC: Examining Law Enforcement Efforts—Prevention and Prosecution* (October 19, 2011); see also Kate Mogulescu, *The Public Defender as Anti-Trafficking Advocate, An Unlikely Role: How Current New York City Arrest and Prosecution Policies Systematically Criminalize Victims of Sex Trafficking*, 15 CUNY L. REV. 471, 474 (2012).

³² Many offenses are deemed a crime of moral turpitude (CMT) for immigration law purposes. Such crimes may impact a victim's eligibility for immigration relief. Figuring out whether a crime is a CMT may require in-depth analysis. Such crimes generally require intent to cause great bodily harm, defraud, or permanently deprive an owner of property, or in some cases to act with lewd intent or recklessness.

³³ Broudo & Baskin, *supra* note 28, at 1.

D. Vacatur Statutes: A National View

In 2010, New York became the first state to pass a law specifically allowing survivors of sex trafficking to vacate prostitution convictions that were a direct result of being trafficked.³⁴ This groundbreaking legislation granted many sex trafficking victims an opportunity to rebuild their lives and move beyond their trafficking experience.³⁵ While advocates in New York still face hurdles in the implementation and expansion of the law, the vacatur remedy has proven “instrumental in empowering [sex] trafficking survivors to have greater autonomy over their lives and to successfully reintegrate into society, free from the stigma of a criminal record.”³⁶ This law became a model for legislation in other states including Connecticut, Florida, Hawaii, Illinois, Maryland, Mississippi, Montana, Nevada, New Jersey, North Carolina, Ohio, Oklahoma, Vermont, Washington, and Wyoming.³⁷

Notably, as vacatur laws have begun to proliferate, several states have taken a far more comprehensive approach and moved away from the narrow approach of New York’s law in restricting vacatur to prostitution offenses. States passing vacatur laws more recently have broadened the reach to include offenses other than prostitution.³⁸ This trend reflects the growing understanding of the ways in which victims of trafficking face arrest, and the need for more complete and robust post-conviction relief.

Why Is Vacatur Important? Stakeholder Perspectives

- ◆ “[Vacatur] is designed as a form of relief for an acknowledged group of victimized individuals”
– Judge
- ◆ “You are basically trying to right a historical wrong. The criminal justice system has identified these people as criminals when they should have been looking at them as victims. Your job as a prosecutor is to do justice and to correct the historical wrongs that were not as well understood as they are today.”
– Prosecutor
- ◆ “I had not considered the emotional impact of the client reading words of validation and justice. It was honestly more important to the client to know she had been recognized and her story believed by the court. As a lawyer for 18 years or so, this is absolutely the best thing I have ever done.”
– Post-conviction attorney

³⁴ See N.Y. CRIM. PROC. LAW § 440.10(1)(i) (McKinney 2016).

³⁵ *Id.* at 10.

³⁶ Suzannah Phillips et al., *Clearing the Slate: Seeking Effective Remedies for Criminalized Trafficking Victims*, CITY UNIV. N.Y. SCH. L. 3 (Fed. 24, 2014), <http://www.law.cuny.edu/academics/clinics/iwhr/publications/Clearing-the-Slate.pdf>.

³⁷ See CONN. GEN. STAT. ANN. § 54-95c (2013); FLA. STAT. ANN. § 943.0583 (2015); HAW. REV. STAT. ANN. § 712-1209.6 (2012); 725 ILL. COMP. STAT. ANN. 5/116-2.1 (2013); MD. CODE ANN., CRIM. PROC. § 8-302; MISS. CODE ANN. § 97-3-54.6 (2013); MONT. CODE ANN. § 46-18-608 (2015); NEV. REV. STAT. ANN. § 176.515 (2015); N.J. STAT. ANN. § 2C:44-1.1 (2013); N.C. GEN. STAT. ANN. § 15A-1416.1 (2013); OHIO REV. CODE ANN. § 2953.38 (2012); OKLA. STAT. ANN. tit. 22, § 19c (2013); VT. STAT. ANN. tit. 13, § 2658 (2012); WASH. REV. CODE ANN. § 9.96.070 (2014); WYO. STAT. ANN. § 6-2-708 (2013).

³⁸ See, e.g., N.D. CENT. CODE § 12.1-41-14 (2015).

E. Examples of Successful Advocacy

Since 2010 the New York law has helped numerous survivors, both foreign nationals and U.S. citizens, vacate their convictions. These vacated convictions have spanned from prostitution and drug charges, to weapons possession, to disorderly conduct and even convictions that the survivor incurred after escaping their trafficker.³⁹

Across the country, the practice is starting to take shape. Cases have brought documented success, and relief, to sex trafficking survivors in Maryland,⁴⁰ Illinois,⁴¹ New Jersey⁴² and Ohio.⁴³ In certain parts of Florida and Pennsylvania, advocates have also fought for and won post-conviction relief. The Survivor Reentry Project is committed to the growth of this area of advocacy and survivor empowerment.

“There really is hope. There’s people that care for you. You don’t have to live in that shame or guilt anymore.”⁴⁴

– A survivor in Ohio reflecting when leaving court after obtaining vacatur

³⁹ See, e.g., *People v. L.G.*, 972 N.Y.S.2d 418 (N.Y.C. Crim. Ct. 2013) (vacating convictions for disorderly conduct and criminal possession of a weapon in the fourth degree, along with prostitution charges).

⁴⁰ See Carrie Johnson and Evie Stone, *Little-Known Laws Help Sex Trafficking Victims Clear Criminal Records*, NAT’L PUB. RADIO (Feb. 24, 2015), <http://www.npr.org/2015/02/24/388716830/little-known-law-helps-sex-trafficking-victims-clear-criminal-records>.

⁴¹ Annie Sweeney, *Cook County court clears sex trafficking victim of prostitution record*, CHICAGO TRIBUNE (Aug. 23, 2013), http://articles.chicagotribune.com/2013-08-23/news/ct-met-prostitution-trafficking-adoption-20130823_1_dreamcatcher-foundation-brenda-myers-powell-abusive-pimps.

⁴² Tim Darragh, *New York woman first to clear her criminal past using N.J. trafficking law*, NJ.COM (Jun. 24, 2015), http://www.nj.com/news/index.ssf/2015/06/new_york_woman_first_to_clean_her_criminal_past_us.html.

⁴³ *Human Trafficking Victim Becomes First To Have Record Erased*, 10TV.com (Aug. 10, 2013), <http://www.10tv.com/content/stories/2013/08/09/columbus-human-trafficking-victim-record-erased.html>.

⁴⁴ *Id.*

II. Trafficking Vacatur Laws: Legal Elements and Burdens of Proof

More than half the states in the U.S. have enacted laws that allow victims to vacate, expunge, or seal prior convictions for prostitution-related offenses. Because these statutes differ in important ways, it is crucial that practitioners become familiar with the specific statutory requirements of their jurisdiction. In addition, practitioners must recognize cases in which clients have convictions in multiple jurisdictions and confer with local experts in the other jurisdictions when mapping out vacatur strategy. This section provides a general overview.

The majority of trafficking vacatur statutes address sex trafficking and share certain basic similarities. Each state imposes specific requirements that a trafficking survivor must meet in order to be eligible for vacatur, expunction, or sealing. This section introduces those elements and the applicable burdens of proof most commonly encountered in laws providing post-conviction relief for trafficking victims.

Vacatur, Expungement, and Sealing Defined

Vacatur is a form of relief that, in theory, effectively *undoes a conviction*: in most instances, it returns the movant to the position they were in when originally facing prosecution. Some states mandate dismissal of the accusatory instrument upon vacatur, and others require a separate proceeding to accomplish that final step. Once vacated and dismissed, all records of the conviction are deleted, because the conviction itself no longer exists as a matter of law. Arrest records may remain, and may need to be expunged or sealed separately.

An **expunged conviction** is removed from the movant's criminal record. However, the conviction itself is not undone, and the finding of guilt is not voided. Practically, expungement (or, in many jurisdictions, "expunction") relieves clients of many collateral consequences of the conviction—for example, an expunged conviction does not appear in a background check.

Although a **sealed conviction** remains on the movant's record, the conviction *cannot be seen or accessed without an order from the court*. Also called nondisclosure, the sealed conviction may be accessible to law enforcement or government agencies, but it does not appear in standard background checks or to members of the public.

For the sake of brevity, this guide uses the term "vacatur" to refer to all three of these forms of relief. However, since there is significant variance from state to state, please note that these general definitions are illustrative only. Additionally, many clients and other stakeholders use the terms interchangeably. Practitioners must ascertain the terminology and specific legal parameters of the relief available in their jurisdiction.

In most states, people convicted of offenses can also seek a pardon, which in limited instances is granted by the Executive Branch of government and can restore many of the rights impacted by the conviction. This is a separate executive and/or administrative proceeding that does not involve the court system.

A. Legal Elements

The statutes under which a trafficking victim may seek post-conviction relief tend to impose four main requirements.

1. **Eligible Offenses:** Are your client's convictions for arrests or offense charges covered by the statute?
2. **Status as a Trafficking Victim:** Does your client meet the statutory definition of a trafficking victim?
3. **Nexus to Trafficking:** Can you show a nexus between the trafficking and the convictions imposed?
4. **Timeliness:** Will you file the motion in the time the statute allows?

1. Convictions eligible for relief

First, most vacatur statutes enacted specifically for trafficking victims only allow for relief for certain convictions. Each state differs in the specific convictions to which its trafficking vacatur statute applies. However, these statutes tend to define eligible convictions in *one or more* of the following three ways.

a. All Offenses

A small number of states make relief available for any conviction, for any offense, that meets the other statutory requirements. In Wyoming, for example, vacatur may be granted for any conviction, so long as "the defendant's participation in the offense is found to have been the result of having been a victim."⁴⁵ Idaho also has adopted this approach, as its statute applies to convictions for prostitution and "any other offense determined by the court to be appropriate," so long as a coercion defense is available to the charge.⁴⁶

b. Specific Category of Offenses

Many trafficking vacatur statutes apply only to convictions within certain categories of offenses. These categories typically take one of several forms:

- **Prostitution-related offenses.** In addition to convictions for prostitution itself, many statutes also allow vacatur of prostitution-related offenses.⁴⁷ In some states, this phrase has a specific definition assigned either in the vacatur statute itself⁴⁸ or elsewhere in the criminal code.⁴⁹ But a state also might use such a phrase without a more specific definition. For example, New Jersey's statute applies to "related offenses" or convictions stemming from "similar local ordinance(s) in addition to the traditional prostitution and loitering charges."⁵⁰ This allows attorneys to more broadly argue that their client's convictions qualify as prostitution-related, and thus are eligible to be vacated.⁵¹

⁴⁵ WYO. STAT. ANN. § 6-2-708(c) (2013).

⁴⁶ IDAHO CODE ANN. § 67-3014(2) (2015).

⁴⁷ See, e.g., OKLA. STAT. ANN. tit. 22, § 19c (2013) (allowing expungement of convictions for any "prostitution-related offense").

⁴⁸ See, e.g., N.M. STAT. ANN. § 30-52-1.2(A) (2013) (allowing for sealing of convictions for "crimes arising out of the actions of someone charged with human trafficking").

⁴⁹ See, e.g., N.H. REV. STAT. ANN. § 645:2 (2014) (defining certain specific crimes under the heading, "Prostitution and Related Offenses").

⁵⁰ N.J. STAT. ANN. § 2C:44-1.1(a)(1) (2013).

⁵¹ For example, Oklahoma's statute offers relief for convictions of "prostitution-related" offenses but does not actually define this term. See OKLA. STAT. ANN. tit. 22, § 19c (2013).

- **Non-violent offenses.** Some states restrict relief to non-violent offenses only. Montana,⁵² Kentucky,⁵³ and most recently California,⁵⁴ are such states. In general, this still allows vacatur to be applied very broadly as, for example, in Kentucky, the only offenses ineligible for relief are capital offenses, felonies involving the death of the victim, and certain rape and sodomy charges.⁵⁵
- **All offenses except.** Some states offer relief for convictions of all crimes, with certain specific exceptions. For instance, Florida does not allow for vacatur of a conviction that would render the defendant a “[h]abitual violent felony offender.”⁵⁶ More simply, New Mexico allows vacatur of any conviction except homicide.⁵⁷

c. Specific Offenses

Many trafficking vacatur statutes are even more specific and expressly delineate the specific conviction charges to which they apply, and many apply only to prostitution. For example, Delaware’s statute explicitly applies to “a person convicted of prostitution, loitering or obscenity,”⁵⁸ and in Michigan, relief is available for convictions for soliciting to commit prostitution, or admitting to a place for purpose of prostitution.⁵⁹

d. Other Appropriate Action

Finally, it is extremely important to note that some post-conviction laws for trafficking survivors also allow the court to take additional action beyond what the statute specifically describes. Under this approach, laws authorize additional action if the court deems it appropriate. Currently, a handful of states allow for this approach. As of 2016, these states include California, Delaware, Illinois, Nevada, New York, and North Carolina.⁶⁰

These broad catchall provisions can, in certain instances, expand the scope of relief available to survivors of trafficking victims. For example, in some instances, convictions for *other* crimes committed as a result of being trafficked may be eligible for vacatur, even if the crime is not expressly listed in the statute.⁶¹

2. Status as a Trafficking Victim

Second, trafficking-specific post-conviction relief only applies to victims of human trafficking. This means an attorney has to show that their client meets the statutory definition of a trafficking victim in order for the client to merit post-conviction relief.

States tend to define victims of human trafficking using one, or a combination, of the following methods.

- **Victims of state trafficking crimes.** First, many states include within their definitions of human trafficking victims anyone who has been a victim of certain state human trafficking crimes, such

⁵² See MONT. CODE ANN. § 46-18-608 (1) (2014).

⁵³ See KY. REV. STAT. ANN. § 529.160(1) (West 2014) (citing KY. REV. STAT. ANN. § 17.165 (West 2007) (defining “violent crime”).

⁵⁴ See CA. PENAL CODE § 236.14 (enacted September 26, 2016).

⁵⁵ See KY. REV. STAT. ANN. § 529.160(1) (West 2014) (citing KY. REV. STAT. ANN. § 17.165 (West 2007) (defining “violent crime”).

⁵⁶ See FLA. STAT. § 943.0583 (c)(3) (2013) (citing FLA. STAT. § 775.084(1)(b) (2012) (defining “[h]abitual violent felony offender”).

⁵⁷ N.M. STAT. ANN. § 30-52-1.2(A)(2) (2013) (restricting relief to convictions “for a non-homicide crime”).

⁵⁸ DEL. CODE ANN. tit. 11, § 787(j)(1) (2015).

⁵⁹ MICH. COMP. LAWS ANN. § 780.621 (2015).

⁶⁰ See, e.g., CAL. PENAL CODE § 236.14; DEL. CODE ANN. tit. 11, § 787(j)(1) (2015); 725 ILL. COMP. STAT. ANN. 5/116-2.1 (2013); NEV. REV. STAT. § 176.515(7)(b) (2015); N.Y. CRIM. PROC. LAW § 440.10(6); N.C. GEN. STAT. § 15A-1416.1(c) (2013).

⁶¹ See, e.g., *People v. L.G.*, 972 N.Y.S.2d 418, 439–440 (N.Y. Crim. Ct. 2013) (holding that New York’s trafficking vacatur statute applies to non-prostitution offenses if the offense is the result of the defendant having been a victim of trafficking).

as crimes of “human trafficking,” “sexual servitude,” “sex trafficking,” and the like. Here, a statute may include one crime⁶² or several.⁶³

- **Victims as defined by the Trafficking Victims Protection Act (TVPA).** Second, the majority of state vacatur statutes also allow relief for victims of trafficking who meet the definition in the federal Trafficking Victims Protection Act (TVPA).⁶⁴

TVPA 22 U.S.C. § 7102(9)-(10)

“[S]evere forms of trafficking in persons” means—

(A) sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or

(B) the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

“[S]ex trafficking” means the recruitment, harboring, transportation, provision, obtaining, patronizing, or soliciting of a person for the purpose of a commercial sex act.

3. Nexus to Crimes Charged

Third, a trafficking victim also must show a nexus between the convictions for which they seek vacatur, and their status as a trafficking victim. Depending on the state, this requirement will most likely take one of the following forms:

- **Result of (or direct result of) human trafficking.** By far, the most common nexus requirement is showing that a client’s conviction arose as a “result of”⁶⁵ or “direct result of”⁶⁶ human trafficking. Generally, these phrases are not further defined.
- **Other nexus requirements.** A few states’ statutes use other phrases to describe their nexus requirements. In New Mexico, for example, a movant must show that their convictions “ar[ose] out of the actions of someone charged with human trafficking.”⁶⁷ Kansas’s statute makes relief available for offenses committed “under coercion caused by the act of another.”⁶⁸ Florida offers post-conviction relief for crimes “committed or reported to have been committed as a part of the human trafficking scheme of which the person was a victim or at the direction of an operator of the scheme.”⁶⁹

⁶² See, e.g., ARIZ. REV. STAT. ANN. § 13-907.01(A) (2015) (allowing vacatur only for victims of the specific crime of sex trafficking).

⁶³ See, e.g., N.C. GEN. STAT. § 15A-1416.1(b)(1) (2013) (listing having been a victim of the state-law crimes of human trafficking or sexual servitude as a permissible form of evidence showing victim status).

⁶⁴ See, e.g., N.Y. CRIM. PROC. LAW § 440.10(1)(i) (McKinney 2016).

⁶⁵ E.g., N.Y. CRIM. PROC. LAW § 440.10(1)(i) (McKinney 2016); MISS. CODE ANN. § 97-3-54.6(5) (2013); VT. STAT. ANN. tit. 13 § 2658(b) (2012).

⁶⁶ E.g., KY. REV. STAT. ANN. § 529.160(1) (West 2014); MICH. COMP. LAWS § 780.621(4) (2015).

⁶⁷ N.M. STAT. ANN. § 30-52-1.2(A) (2013).

⁶⁸ 2016 Kan. Sess. Laws 685.

⁶⁹ FLA. STAT. § 943.0583 (c)(3) (2013).

4. Timeliness

Fourth, many states require a trafficking victim to file a motion for post-conviction relief within a certain period of time. These statutory requirements tend to use very similar language. The vast majority of states have adopted the language of New York’s statute, which requires vacatur motions to be filed

*with due diligence, after the defendant has ceased to be a victim . . . or has sought services for [trafficking] victims . . . , subject to reasonable concerns for the safety of the defendant, family members of the defendant, or other victims . . . that may be jeopardized by the bringing of such motion, or for other reasons consistent with the purpose of this paragraph.*⁷⁰

A substantively similar alternative to the phrase “due diligence” is to require vacatur motions to be filed “within a reasonable time.”⁷¹ Some other states require that victims file vacatur motions *within a specific period of time, subject to safety concerns.*⁷² Finally, several states impose *no timing requirement at all.*⁷³

It is important to note that in practice, judges commonly interpret these timing requirements broadly: they recognize that trafficking victims often struggle for years before they are willing and able to escape their traffickers and work with an attorney to clear their criminal records. Additionally, they may recognize a gap in time where the victim is unaware of the possibility of relief or of the availability of services. In short, timing requirements should rarely prevent an otherwise eligible client from moving for post-conviction relief.

Although case-dependent, common arguments an attorney can make around timeliness of filing include: that a survivor was not aware of the relief available to them; that the trauma the survivor experienced has caused ongoing struggles which impact their ability to disclose their history and participate in a legal proceeding, that they could not find a lawyer to represent them in the vacatur process *pro bono* and could not afford to hire an attorney.

B. Burdens of Proof

As a general rule, in the trafficking vacatur context, the movant for post-conviction relief is assigned the burden of proof. Usually, the state rules of criminal procedure will dictate the specific burden that applies. The vast majority of states require proof by a preponderance of the evidence.⁷⁴ In a couple of states, proof by clear and convincing evidence is required.⁷⁵

1. Official Documentation: Creating a Presumption

In many states, submitting particular types of documentary evidence of a survivor’s status as a trafficking victim creates an *evidentiary presumption that shifts the burden of proof to the government*. States that follow this approach most often borrow the relevant language from New York’s trafficking vacatur statute:

[O]fficial documentation of the defendant’s status as a victim of trafficking, compelling prostitution or trafficking in persons at the time of the offense from a federal, state or local government agency shall create a presumption that the defendant’s participation in the offense

⁷⁰ N.Y. CRIM. PROC. LAW § 440.10(1)(i)(i) (McKinney 2016) (emphasis added).

⁷¹ *E.g.*, IDAHO CODE ANN. § 67-3014(4) (2015).

⁷² *See, e.g.*, HAW. REV. STAT. § 712-1209.6(2)(c) (2015) (imposing a time requirement of six years after a survivor ceases to be a victim of human trafficking, subject to reasonable safety concerns).

⁷³ *See, e.g.*, MICH. COMP. LAWS § 780.621(7) (2015) (permitting motions “at any time following the date of the conviction to be set aside”).

⁷⁴ *See, e.g.*, AR. CODE ANN. § 16-90-1412(C) (West 2015); ID. CODE ANN. § 67-3014(10) (West 2015); COLO. REV. STAT. § 24-72-706(c) (2014).

⁷⁵ *See, e.g.*, ARIZ. REV. STAT. ANN. § 13-907.01(A) (2015); FLA. STAT. ANN. § 943.0583 (c)(5) (2013) (imposing the clear and convincing standard for cases in which the movant does not produce official documentation of his or her victim status).

*was a result of having been a victim of sex trafficking . . . , but shall not be required for granting a motion under this paragraph.*⁷⁶

This clause shifts the burden of proof and thus makes it easier for survivors who have been officially confirmed or certified as victims of trafficking by a government agency to obtain post-conviction relief. However, it is important to note that regardless of whether a state's law creates a presumption, no state's statute *requires* official documentation in order to grant relief.

For further discussion of issues and best practices relating to official documentation and other documentary evidence, see *infra* Part IV.

⁷⁶ N.Y. CRIM. PROC. LAW § 440.10(1)(i)(ii) (McKinney 2016) (emphases added). *See also, e.g.*, N.D. CENT. CODE ANN. § 12.1-41-14(2) (2015) (same); 18 PA. CONS. STAT. § 3019(e) (2014) (same); VT. STAT. ANN. tit. 13 § 2658(e) (2011) (same).

III. Filing Considerations: When and How to File for Relief

This section explains, from an attorney's perspective, when, where, and how to move for post-conviction relief on behalf of a trafficking victim. After describing the general process by which these motions are filed, this section then introduces the components of a motion, explains the purposes and goals of each motion section, and offers practical advice about effective strategies for obtaining vacatur of a client's trafficking-related convictions.

A. When to File for Post-Conviction Relief

1. After Obtaining the Client's Full Criminal Record

Clients commonly do not remember each and every one of their prior arrests or convictions. Furthermore, they may not be clear as to the specific outcomes of the cases they do remember, as often being a defendant in a criminal proceeding is confusing, overwhelming, and quick. However, it is necessary to obtain a client's entire criminal/fingerprint record in order to accurately assess what is on their record, whether each conviction may qualify for relief under a trafficking vacatur statute, and also to anticipate and address any issues that the full criminal record may raise during the trafficking vacatur process.

For this reason, it is critical to obtain a client's *full criminal record* by means of a thorough *fingerprint check*. Avoid using a commercial background check service; they are often unreliable and furnish incomplete information. Instead, it is recommended that you submit an Identity History Summary Request to the FBI,⁷⁷ as well as an inquiry to the relevant state criminal legal agencies. The FBI background check is essential; a state level inquiry only may not provide you with the full picture.

It is also essential that any state-specific criminal history inquiries be based on fingerprints, not merely a name or birth date search. This is because clients may have utilized different names and/or other biographical information when arrested, either at the direction of the trafficker, or in an attempt to minimize the consequences of the arrest. Clients may not remember all of the names or other information they provided to the police upon arrest. *The safest, and most consistent, way to ascertain a complete criminal history is through a fingerprint record.*

Where a client's criminal history reveals arrests and/or convictions in more than one jurisdiction, it is best to plan the sequencing of vacatur efforts and also coordinate representation from the outset. This allows consideration of specific procedural requirements that may impact the ability to file in more than one place simultaneously, or may dictate the sequence of filing. See Multi-Jurisdictional Vacatur Practice box *infra*. Additionally, planning representation from the beginning avoids duplicating efforts and exposing clients to repetitive fact gathering that can be difficult enough one time through.

Interpreting the FBI Identification Record

Once you have obtained a complete fingerprint history, it is important to extract and organize the information contained in the results. An FBI identification record, often referred to as a "rap sheet," is a listing of certain information taken from fingerprint submissions retained by the FBI in connection with arrests and, in some instances, includes information taken from fingerprints submitted in connection with federal employment, naturalization, or military service.⁷⁸ Information that can be gleaned from the FBI report includes – arrest date, original arrest charge, the name of the agency or institution that submitted the fingerprints to the FBI,

⁷⁷ As of July 2016, this FBI request costs \$18. For more information, search online for "FBI Identity History Summary Checks" or visit the FBI's website. *Identity History Summary Checks*, FBI, <https://www.fbi.gov/services/cjis/identity-history-summary-checks> (last visited July 29, 2016).

⁷⁸ C.F.R. § 16.31.

and the disposition of the arrest (if known to the FBI).⁷⁹ Often, specific disposition information may not be ascertained from the FBI fingerprint record and may require follow up with the jurisdiction itself.

The amount of information states report to the FBI varies. Therefore, the FBI fingerprint record is a critical first step, but may not contain all necessary information. From the report, however, you will have enough information about the arrest to contact local courts or law enforcement agencies and ascertain final disposition information – which will dictate whether it is an arrest record that needs to be sealed, or whether the arrest resulted in a conviction which needs to be vacated. Not every arrest results in a conviction (a finding of guilt). However, arrests that do not result in convictions are not automatically sealed in every state. Convictions are never automatically sealed or expunged.

All FBI criminal records follow a similar format. Each arrest is assigned a number, or a cycle. Each cycle includes the **1. arrest date**; **2. reporting agency**; and **3. arrest charge**. Where available, the cycle will also provide the disposition or outcome of the arrest, and the name used by the person arrested. This will not always be included.

USFPID09Z
PART 2

- FBI IDENTIFICATION RECORD - FBI NO-7

1-ARRESTED OR RECEIVED 2002/11/16 SID- NY1.
AGENCY-POLICE DEPARTMENT NEW YORK (NY0303000)
3 NAME USED-L
CHARGE 1-PL 240.37 03 A M 0 LOIT PROST 4099 01

COURT-NYCPD-HOUSING NEW YORK (NY03030B3)
CHARGE-LOIT PROSTITUTION OFFENSE 2ND
SENTENCE-
CONVICTED UPON PLEA OF GUILTY SENT TIME SERVED

Finally, clients may have open warrants, either recent or from long ago. Clients may or may not be aware that these warrants exist and are active. If this situation arises, practitioners who do not normally practice criminal defense should consult with a local public defender or criminal attorney on best ways to handle clearing a warrant and the specific risks this might entail. There may be a way to vacate the warrant without the client having to appear. If the client has to appear, criminal defense attorneys can help plan around potential risks and local practice.

2. When your Client is Ready to Go Through the Process

As in most areas of the law, the more evidence an attorney can marshal in support of a post-conviction motion on behalf of a trafficking victim, the more likely that motion will succeed. In the trafficking context, this often requires attorneys to convey their clients' personal experiences as trafficking survivors—in other words, to work with their clients to present parts of their life stories to a prosecutor or judge. Like many trauma victims, survivors of trafficking commonly struggle to discuss past trauma. It is common for victims to take years or longer before they are willing, or able, to work with an attorney to seek relief from their trafficking-related convictions.

⁷⁹ *Id.*

Clients have experienced victimization by traffickers who wielded power and control over them and their lives. It is critical for attorneys to let their clients decide whether and when to challenge their convictions. Otherwise, even the best-intentioned attorney may subject a client to what can amount to a trying, draining, or even re-traumatizing legal process. Many clients have experienced multiple victimizations such as child abuse, sexual abuse, dating or domestic violence, and extensive violence. For those clients, the trafficking they have experienced may not have been their worst trauma. Furthermore, clients may not prioritize post-conviction relief for a variety of reasons.

An attorney working with a trafficking survivor should explain the potential benefits, and the possible challenges, of pursuing vacatur and the specific evidence and testimony the client would have to provide. The attorney should then work with the client to decide whether they are prepared to commit to the vacatur process. The attorney and client should discuss what forms of support the client has available and consider identifying additional forms of support. See Sections V and VIII below.

Finally, attorneys should also be mindful of the timeliness requirements contained in many states' trafficking vacatur statutes. For an introduction to these requirements, see *supra* Part II.A.4.

3. With Prosecutorial Consent, Where Possible

Once your client decides to proceed, the most powerful support that your motion can have is the consent of the prosecutor, or, at a minimum, the lack of strong prosecutorial objection. Judges most often will grant relief if you submit your client's motion with the prosecutor's consent. For this reason, it is important to gather as much evidence as possible before bringing a trafficking vacatur motion to the prosecutor.

Best practice involves approaching a prosecutor with a genuine interest in collaboration. Many prosecutors care deeply about victims of crime accessing justice and will be open to learning more about your client and their experience. However, most professionals, no matter what their role, become defensive if approached with blame or if they feel attacked. Instead, attempt to explain what you have learned about your client that their office would not, and could not, have known at the time of the initial prosecution. Identify what might be most helpful to them as they advocate for your client within their own office.

The most demanding and important stage in any trafficking vacatur litigation is gathering testimonial and documentary evidence strong enough to convince a prosecutor and judge—who typically disfavor vacating, expunging, or sealing convictions—that your client deserves post-conviction relief. Section IV below, discusses in detail specific kinds of evidence you may find useful.

Note: Confidentiality Clauses and Agreements

The primary purpose of vacating a client's trafficking-related convictions is to empower them to move beyond their criminal record. Therefore, it would be counterproductive if the vacatur process *itself* caused the client's information and status as a trafficking victim to be made public. In addition, there may be significant safety risks if the fact of a survivor's filing is publicly disclosed. In cases where confidentiality is important to the client, it is important to work with prosecutors, judges and court clerks to ensure that details like the client's name, criminal history, trafficker's information, and experiences with trafficking—all which may be included in a trafficking vacatur motion—do not enter the public record.

Attorneys will need to explore whether the documents can be filed under seal, so that they will not be part of any public record. In New York, for example, attorneys filing post-conviction motions utilize § 50-b of the state Civil Rights Law which prohibits public inspection of court files containing identifying information about victims of sex offenses.

If the filed motion or petition will be publicly discoverable, the client's personal information should be redacted in all public court documents. The attorney also should request that the judge shield the client's personal information from any published decisions in the case.

B. How to File a Trafficking Vacatur Motion

Generally, a trafficking vacatur motion will include affidavits, affirmations, or other documentary evidence, and a legal brief.⁸⁰ Trafficking vacatur motions typically will be filed in the court in which the client was convicted of the offense(s) for which vacatur is sought. As with other trial or post-conviction motions, vacatur pleadings are filed on notice to the prosecutor, followed by proof of service with the court.

1. Procedures and Logistics

More specifically, the precise procedural and formatting requirements for a trafficking vacatur motion will vary by state:

a. States with Applicable Procedural Rules

Some state vacatur statutes for trafficking victims have specific procedural rules for filing. For example, in New York, the trafficking specific relief is placed in the same section as other grounds for collateral attacks on convictions. In those states, the mechanics of a trafficking vacatur filing is the same as other post-conviction motions and may be set forth in the state's applicable rules of criminal procedure.

Consult those procedural rules for guidance about formatting and submitting motions, and service and notice requirements.

b. States Without Specific Procedural Rules

In some states, the laws offering vacatur relief for trafficking survivors are not found in the post-conviction sections and the laws themselves are silent as to filing procedure. Accordingly, an attorney bringing a motion or petition for trafficking vacatur might consider reaching out to the prosecutor, the court, or the clerk of court to work out acceptable filing practices; and/or following the formatting and filing procedures used in states with well-established trafficking vacatur practices—such as New York.

⁸⁰ For templates and sample language for these documents, see Appendices, available at www.ambar.org/srp.

Attorneys should contact the Survivor Reentry Project directly for guidance about best practices for filing trafficking vacatur motions in a jurisdiction that lacks applicable procedural rules.

Note: Multi-Jurisdictional Vacatur Practice

Many clients have trafficking-related arrests or convictions in multiple jurisdictions. Unfortunately, these clients will generally have to file a separate motion in each jurisdiction where they have been convicted of a vacatur-eligible crime.

There often is no formal procedural mechanism for one court or prosecutor to take notice of another's findings that a client is eligible for relief under a trafficking vacatur statute. However, judges and prosecutors tend to respect their colleagues' findings and judgment. A client who has already had relief granted in one jurisdiction under a trafficking vacatur statute therefore is more likely to earn relief in other jurisdictions (assuming their motions are based on similar facts).

It is important to determine if the order of filing will impact a client's eligibility in one of the respective places that a motion will be filed and then make a plan for addressing the convictions. A complex multi-jurisdictional approach can be difficult for the attorney to figure out and potentially even harder for the client to understand. Attorneys must explain in clear terms the strategy and appropriately manage client expectations. For example, Florida's vacatur law requires that the client have no other motions for similar relief pending at the time of filing. Other states may allow for general expungement or sealing of certain charges, even if a client initially is ineligible, once charges have been vacated elsewhere.

IV. Best Practices: Constructing Client Narratives and Gathering Corroborating Evidence

This section provides strategies for approaching and organizing a vacatur motion and, most importantly, how to work with the client so that they are both informed about the process and also an active collaborator in its formulation. The main goal of the motion itself is to capture the client's narrative through compelling evidence. You should aim for the most complete narrative possible, comprised of humanizing and educational details that will help depict the client's experience of victimization while also demonstrating their resilience. Each step of creating the motion requires conversation with the client to discuss how the information attained will be used and who will have access to it. Further, while the approaches described here demonstrate the way advocates who have successfully handled these cases have approached the motion process, the format and practice will develop differently across jurisdictions. It is imperative that practitioners consult state criminal procedure law and local filing rules to confirm basic requirements and tailor the practice accordingly.

A. Creating a Timeline

Because vacatur motions are necessarily backward looking, it is critical to understand the chronology of events in a client's experience. Often, starting work with a client by creating a timeline together helps organize the narrative, identify gaps and hone in on potential corroboration. Therefore, a good first exercise with a client is to make a timeline that features the arrests/convictions that will be the subject of the motion, placing them in the larger context of the client's life. The timeline is then a tool throughout the process, and helps orient both the client and attorney. In certain cases you may not need to start this process from scratch. Some clients will have previously worked with professionals to create all or part of such a timeline, for example if your client has completed an application for immigration relief based on the trafficking, submitted a victim impact statement and/or underwent a psychosocial evaluation. It is important to reference these documents both to minimize re-traumatizing clients and to ensure the consistency of facts in the public record.

Moments to ask the client about when constructing the timeline include: *important landmarks* (birth of children, world events); *arrest history* (including even sealed cases, unrelated arrests, and arrests of relevant individuals); *educational accomplishments*; or *sobriety*. These moments (if applicable) will help the client link together a sequence of important details in order to convey a fuller personal narrative for the affidavit. *Remember that the client controls the content of the ultimate affidavit.*

Client Affidavit Outline

1. Pre-trafficking (background, context, specific vulnerability)
2. Trafficking (victimization and nexus to convictions)
3. Post-trafficking (connection to services, educational/professional accomplishments or aspirations, obstacles caused by convictions)

In order to turn the timeline of the client’s narrative into a compelling affidavit, it may be helpful to further separate the timeline into three periods: *pre-trafficking*, *trafficking*, and *post-trafficking*. These periods may be repeated as victims sometimes move between being trafficked to not being trafficked, and then being exploited again. Attorneys should seek corroboration of facts included in any of the three periods. It is important to note that in most states, the only *required* evidence/pleading will pertain to the period of trafficking itself. However, to the extent the client is comfortable, it can be useful to include facts about the periods before and after trafficking to complete the narrative and present a fuller picture. Particularly when filing one of the first motions for relief in a specific jurisdiction, a thorough affidavit may be valuable and/or necessary to educate prosecutors and judges about the complicated dynamics of trafficking.

In this way, it is worth exploring with the client whether to include facts that explain or contextualize what rendered them vulnerable to trafficking and/or what has happened in their lives since escaping the trafficking situation. These periods may include sensitive information and their content must be controlled by the client’s comfort.

Additionally, when representing non-citizens, it is critical to consult with an immigration attorney to ensure that the additional facts included will not cause any adverse consequences in subsequent immigration proceedings. For clients who have not previously had immigration representation, it is essential to contact an immigration attorney to see if there are any forms of immigration relief for which they may be eligible.

1. Gathering Corroborating Evidence

Most critical is corroboration of your claim that your client’s participation in the offense that led to a conviction is a result of human trafficking. This evidence can include first-hand accounts, official documentation, and other corroborating evidence. If possible, these categories should not be seen as mutually exclusive; the most successful motions will likely utilize all three forms of corroboration to the extent that they are available. However, it is important to remember, and remind other stakeholders, that vacatur can also be granted on a client’s sworn statement or testimony alone.⁸¹

a. Firsthand Accounts

One key way to demonstrate that your client has experienced trafficking is to communicate the client’s story in her or his own words. You may communicate a first-hand account of your client’s trafficking experience by preparing a *client affidavit* in support of your motion. Some states require a sworn statement from the client.

As described in detail in Section VI, however, constructing a written narrative with your client requires a *trauma-informed, survivor-centered* approach. Attorneys and counselors have stressed that it is often difficult for survivors to overcome the *anxiety, fear, and even shame* associated with sharing their experience, especially when speaking to lawyers or other professionals they barely know. You should therefore refer to Section VI with respect to maintaining a *safe and transparent space, empowering and respecting* your client so that they feel as comfortable as possible while jointly creating the affidavit.

B. Official Documentation

Aside from your client’s first-hand account, most state laws place great weight on official documentation indicating that they were a victim of human trafficking. Depending upon the state in which you file the motion, official documentation is either:

⁸¹ *People v. Gonzalez*, 927 N.Y.S.2d 567 (N.Y. Crim. Ct. 2011).

- Not required, but **creates a presumption that** the underlying crime was committed as a result of victimization⁸²
- Not required, but **persuasive** and considered favorably;⁸³ or
- Not required, but imposes a less stringent **burden of proof**.⁸⁴

Although official documentation is helpful in this way, many human trafficking victims will simply not have it. This should not, on its own, prevent the filing of a vacatur motion.

1. What Constitutes Official Documentation?

The term “official documentation” is typically defined as “documentation from a state, local or tribal government agency indicating that the defendant was a victim at the time of the offense.”⁸⁵ At this point, the types of governmental documentation that fall within this definition are not clear, and may vary between states.

At the very least, the term includes documents from **immigration officials or other law enforcement that have certified your client as a victim of human trafficking for the purposes of immigration status or public benefits**. Because these documents embody an agency’s prior determination that your client was trafficked, they are valuable even if they do not create a presumption in your state.

The following types of documents have/ likely will meet the statutory requirement for “official documentation” that creates the presumption of victimization:

Law enforcement certification related to federal immigration proceedings available to trafficking victims:

- A **T-Visa**,⁸⁶ or T-1 non-immigrant visa, provides four-year legal immigration status, work authorization, and the opportunity to apply for lawful permanent residence for applicants who have proven that they are:
 - ◆ a victim of a severe form of trafficking;
 - ◆ physically present in the U.S. on account of trafficking;
 - ◆ cooperating or have cooperated with law enforcement in the investigation of the trafficking; **and**
 - ◆ likely to suffer extreme hardship if removed (deported).

In the vacatur context, a T-1 Visa approval notice from USCIS, a sample of which is included in Appendix 1, would be considered official documentation.

- A **U-Visa**,⁸⁷ specifically a U-1 visa, similarly provides 4-year legal immigrant status for applicants who have been the victims of certain specified crimes and have cooperated in the investigation and prosecution of those crimes. Unlike the T-Visa, the U-1 visa **requires a certification** from a law enforcement agency that the petitioner cooperated with law enforcement in investigating the crime. U-1 visas are awarded to individuals who are victims of a variety of crimes, only trafficking related crimes qualify as official documentation for vacatur requests.

⁸² See, e.g., N.Y. CRIM. PROC. LAW § 440.10(1)(i)(ii) (McKinney 2016); N.D. CENT. CODE ANN. § 12.1-41-14(2) (2015); 18 PA. CONS. STAT. § 3019(e) (2014); VT. STAT. ANN. tit. 13 § 2658(e) (2011). See also *supra* Section II.

⁸³ See, e.g., CAL. PENAL CODE § 236.14 (2016); 725 ILL. COMP. STAT. ANN. 5/116-2.1 (2013); MD. CODE ANN., CRIM. PROC. § 8-302 (2011); NEV. REV. STAT. ANN. § 176.515 (West 2015).

⁸⁴ See FLA. STAT. § 943.0583 (c)(5) (2013).

⁸⁵ KY. REV. STAT. ANN. § 529.160(c) (West 2014).

⁸⁶ See TVPA, 22 U.S.C. § 7105 (2015); 8 U.S.C. § 1101(T) (2014); BRUGGEMAN & KEYES, *supra* note 7, at 24

⁸⁷ See 8 U.S.C. § 1101(U) (2014); BRUGGEMAN & KEYES, *supra* note 7, at 25.

- ◆ In the vacatur context, the law enforcement certification, Form I-918 Supplement B, together with the U Visa approval notice from USCIS, showing a connection to a trafficking related crime, would be considered official documentation. Samples of these documents are included in Appendix 1.
- **Form I-914, Supplement B (Declaration of Law Enforcement Officer for Victim of Trafficking in Persons)** provides *certification* that the victim has *complied* with reasonable requests from law enforcement for assistance in their trafficker’s investigation and prosecution.
- **Form I-918, Supplement B (U Nonimmigrant Status Certification)** provides certification that the individual has been a victim of a specified criminal activity and has been helpful in the investigation or prosecution of the crime. If the specified crime is a trafficking related crime this would qualify as official documentation.
- **Continued Presence**⁸⁸ (CP) is a temporary immigration status granted to an individual who has been identified as a victim of a severe form of human trafficking and who is a potential witness in a trafficking investigation or prosecution. Only federal law enforcement officials or federal prosecutors may submit CP applications. CP allows otherwise undocumented victims to remain in the U.S. as long as they continue to cooperate with law enforcement, and provides access to some benefits and employment authorization.
- **Certification Letters** from the *Department of Health and Human Services or analogous state agencies* that certify a survivor as a victim of human trafficking eligible to receive *public benefits* as provided by federal and state anti-trafficking laws, samples of which are included in Appendix 1.
- **Records of federal or state court proceedings** which demonstrate that the defendant was a victim of human trafficking:
 - ◆ State and federal court orders for damages to survivors, pursuant to both federal⁸⁹ and state⁹⁰ anti-trafficking laws that create civil causes of action for victims of human trafficking;
 - ◆ Orders vacating/sealing/expunging arrests or convictions in other states or jurisdictions pursuant to trafficking specific post-conviction statutes;
 - ◆ Traffickers’ criminal court records;
 - ◆ Subpoenas issued to the client as a witness for the prosecution of the trafficker;
 - ◆ Notifications from a victim notification system.

Be Creative

If it is not clear whether documentation is “official documentation” that creates the presumption, you should *first make the argument that it does. Argue for a broad interpretation of the text and cite the remedial purposes of the statute, supported by legislative history when available.* Even if that fails, you should still include the documentation in support of your case as an alternative means of corroboration.

For example, one attorney has attempted to certify the lead detective on the case of his client’s trafficker as an expert in order to establish official documentation. Another attorney has successfully established a thank-you letter from an Assistant United States Attorney for cooperating in the investigation of a trafficker as official documentation.

⁸⁸ See Trafficking Victims Protection Act of 2000 (TVPA), 22 U.S.C. § 7105(E) (2015); *Continued Presence: Temporary Immigration Status for Victims of Human Trafficking*, U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT (Aug. 2010), available at <https://www.ice.gov/doclib/human-trafficking/pdf/continued-presence.pdf>.

⁸⁹ Trafficking Victims Protection Reauthorization Act of 2003 (TVPRA), Pub. L. No. 108-193, 117 Stat. 2875 (codified in scattered sections of 8, 18, and 22 U.S.C.).

⁹⁰ See *Fact Sheet on State Anti-Trafficking Laws from US PACT [Policy Advocacy to Combat Trafficking]*, CENTER FOR WOMEN POLICY STUDIES (Jan. 2010), available at <http://www.centerwomenpolicy.org/programs/trafficking/facts/documents/FactSheetonStateAntiTraffickingLawsJanuary2010.pdf>.

Convictions When Your Client Was a Minor

If your client was considered a minor in your state at the time of their arrests and/or convictions, it may ease the evidentiary burden. Therefore, it is important to consider their age early in the vacatur process. There are several different scenarios in which your client's age can have great import:

Your client may have been too young to be prosecuted as an adult, but misrepresented their age at the time of arrest. If you can prove that your client was under the age of criminal responsibility at the time of their arrest and conviction, you may be able to bring a jurisdictional challenge to the conviction.

- ◆ The TVPA provides that where a minor less than 18 years of age is induced to perform a commercial sex act it constitutes a severe form of trafficking in persons. Therefore, minors are *per se* victims of a severe form of sex trafficking under federal law, even without force, fraud or coercion. The TVPA may be explicitly referenced in your state's vacatur law.
- ◆ For example, New York's law allows for vacatur for trafficking victims as defined by either New York's or federal trafficking law. Thus, even though New York's state trafficking law requires proof of force, fraud, or coercion, even when minors are involved, someone with a conviction from when they were a minor in New York would be eligible for vacatur by relying on the federal definition based on the fact of their age at the time of arrest/conviction alone. In that instance, they would not need to make a showing of force, fraud, or coercion for the conviction to be vacated.

For more detailed consideration of these additional legal issues, see *infra*, Section VII.

C. Other Corroborating Evidence

For a number of reasons, not every survivor will have official documentation to create a presumption that they committed the offense as a result of being a victim of human trafficking. Survivors who are U.S. citizens do not qualify for the certifications that the immigration process confers, and many survivors of any type never report their victimization. Two types of survivors, in particular, often lack official documentation: older survivors and survivors whose traffickers have not yet been investigated.

- **Survivors whose trafficking occurred several years ago.** Many of the avenues through which survivors currently prove that they were victims of human trafficking – law enforcement certifications under federal and state-anti-trafficking laws – were not available to survivors who were trafficked years before these laws were enacted.
- **Survivors whose traffickers have not yet been identified, arrested, or prosecuted.** Many “official” documents that would support a vacatur motion rely upon the criminal legal system's investigation, arrest, or conviction of a trafficker. In many cases, unfortunately, law enforcement agents do not investigate the crime, let alone arrest or prosecute the traffickers.

In filing any motion to vacate on the basis of human trafficking, but especially with respect to circumstances without official documentation, best practice is to include any sort of documentation from your client's life that establishes common features of human trafficking such as medical records that establish injuries sustained, photographs of your client with the trafficker, letters the trafficker sent your client from jail, credit reports that show accounts a trafficker opened in your client's name.

You should approach the *totality of your client's story* as a potential record of information that can support your claim. Every basic question – *who, what, where, why* – will yield *places, people, and interactions* from which you can attempt to collect corroboration.

Examples of Potential Corroboration

Background/Vulnerability	Trafficking	Post-Trafficking
Child Welfare Records	Official Documentation (T-Visa, HHS Certification, Continued Presence, State Certification)	Diplomas/Degrees/Certifications
School Records	Arrest records of trafficker or of other involved individuals (Irrespective of charge/client involvement)	Letters from Service Providers, Community or Religious Leaders, Colleagues, or Record of Volunteerism
Mental Health History	Medical Records, Tattoos, Scars	Employment, Financial, or Educational Hardship (rejection letters)
Family Arrest/Violence History	Newspaper Articles	Licensing Regulations – specific bars to employment
Articles about country/state/ area of origin	Photographs	

The following list is adapted from the Chicago Alliance Against Sexual Exploitation’s (CAASE) Illinois-specific Litigation Guide,⁹¹ and offers examples of potential corroboration in cases involving the commercial sex industry:

- **Email, text, or voice mail records** between the petitioner, the trafficker, and/or customers that reveal aspects of the sex trade such as *behavior patterns, meeting times, amounts*, or examples of the trafficker exerting *force, fraud, or coercion* over the petitioner
- **Internet listings, print advertisements, or business cards** used to promote the petitioner for commercial sex
- **Police reports or hospital records** of injuries suffered by the petitioner
- **Financial records** showing profits from the commercial sex trade, *hotel stays*, or employment in indoor venues such as *massage parlors strip clubs, or escort services*
- **Testimony or affidavits** from those with *firsthand knowledge* of the petitioner’s involvement in the commercial sex trade such as *johns, family members, hotel workers, and other women trafficked by the same person* or group who trafficked the petitioner
- **Branding** or other **tattoos** on the petitioner that identified him or her as having a pimp
- Court records of **convictions, arrests, or prior investigations** against the identified trafficker, whether or not relating to trafficking activity
- **Sworn statements** from medical or legal providers, law enforcement, clergy or victim services providers from whom your client has sought assistance with respect to their trafficking. These victim

⁹¹ See LYNNE JOHNSON, CHI. ALLIANCE AGAINST SEXUAL EXPLOITATION, LITIGATION GUIDE: JUSTICE FOR VICTIMS OF SEX TRAFFICKING CRIMES ACT 12 (Dec. 2011).

service organizations may include *private clinicians, community mental health centers, domestic violence agencies, rape crisis centers, court diversion programs, transitional supportive housing programs, or substance abuse treatment centers.*

D. Eliciting Client Narratives

As explained in more detail in Section IV, survivors may still struggle to provide specific information about what has happened to them. Some may simply not know or remember, which is perfectly understandable and foreseeable. Others may fear that disclosing information about their trafficker will threaten their safety, or may simply cope with their past abuse by withdrawing, or may feel culpable for their actions even if they were compelled. Interviewing survivors also always presents the risk of causing additional trauma – which both *harms the client* and hampers the goal of *eliciting useful information*.

In order to address these concerns, you should incorporate the trauma-informed strategies outlined in Section V, including:

- *Empowering your client during your meetings*
 - ◆ Allowing time for client to ask questions
 - ◆ Engaging in collaborative decision-making
- *Creating a safe space*
 - ◆ Maintaining a comfortable environment
 - ◆ Making stress-reducing techniques available
 - ◆ Being sensitive to the number/gender of people in a room
- *Prioritizing transparency*
 - ◆ Explain the *purpose and goals* behind your questions (“*I’m asking this because . . .*”)
 - ◆ Explain *where* information is going or to with *whom* it will be shared
- *Normalizing the circumstances for your client*
 - ◆ “*Many other people we have worked with have also experienced . . .*”
 - ◆ “*A lot of people who have been through similar circumstances often . . .*”
 - ◆ “*I can imagine many reasons why someone would . . . what were yours?*”

“Getting over that which you cannot personally understand is a hard concept and that’s what you have to start with.”

– *Prosecutor*

“Traumatic memories are scattered.”

– *Counselor/Advocate*

Survivors **may not process and store memories** in the same, linear manner as individuals who have not experienced such trauma in their lives. Attorneys should therefore utilize the strategies in Section V that **facilitate memory reconstruction** and help clients create their **timelines**.

- Be mindful and sensitive to the time this may require. Survivors might not tell their story in a linear way. Time provides the attorney an opportunity to develop a more nuanced understanding of the client's situation. Attorneys who have handled trafficking-related vacatur cases report that it usually takes several interviews before even the broad parameters of the story are known and settled.
- To put the best case forward, lawyers may be inclined to include in the motion particularly brutal or violent incidents. However, this cannot come at a client's expense. Once you reach these events with the client, discuss why it might be helpful to include in the motion. Transparency and explanation are key. Best practices empower the client as a collaborator, and give the client the *right to say no*.

Tip 1: Start with the arrest(s), and work your way back.

- ◆ Your client's arrest(s) is/are the most *concrete, tangible*, and relevant orienting fact that you can easily pin down.

Tip 2: Identify other **orienting dates** in your client's life to build a chronology around.

- ◆ For example, if your client has children, you might ask if an incident occurred before or after their kids were born.
- ◆ Major world events can also help a client sort and position their own memories and experience.

Tip 3: If your client provides conflicting information, point out the conflicts in a non-accusatory way, as this can stem from trauma. Ensure that your client feels as if you are assisting them to sort out the facts and don't feel as though they are lying.

V. Best Practices: Building a Survivor-Centered and Trauma-Informed Approach

In addition to the legal background needed to represent survivors in vacatur cases, it is equally important to know and understand that survivors of human trafficking have experienced unique trauma. This can impact your interaction and relationship with your client. It is important to always consider the level of detail needed to complete the legal task. In some cases, practitioners can attempt to elicit too much information and cause harm to the client. Also it is important to remember that what you as the attorney think is the most traumatizing piece of information may not, in fact, be the thing that is most traumatizing to the client. The following sections describe best practices for navigating the attorney-client relationship.

A. Trauma-Informed Approach

Social workers and service providers working with trafficking survivors endorse a “trauma-informed” approach to advocacy in this field. This method is crucial to framing all client interaction and setting the general tone and direction of their cases.

“Traumatic events are extraordinary, not because they occur rarely, but rather because they overwhelm the ordinary human adaptations to life. Unlike commonplace misfortunes, traumatic events generally involve threats to life or bodily integrity, or a close personal encounter with violence and death. They confront human beings with the extremities of helplessness and terror, and evoke the responses of catastrophe.”

– Judith Herman⁹²

Checklist: Meeting the Client

- Meet face-to-face** early in the process to build trust.
- Explain** your role and the legal proceedings carefully, clearly, and often. Manage expectations by clearly stating what the law can and cannot do for your client, the timeframe, and likelihood/outcome. If you are unsure of any of these things let the client know.
- Plan** what you want to accomplish in each client meeting. Be clear about what you will be asking of your client ahead of time.
- Consider** what level of detail is actually necessary for the case. Then stop.
- Create a non-threatening environment** by using neutral and inclusive language, allowing silence and being tolerant of non-responsiveness.
- Assess** your client’s abilities to make sure your representation takes into account your client’s strengths and limitations.
- Anticipate and respond to** your client’s questions. When you don’t know the answer, be clear about that as well and make clear you will attempt to learn the answer.

⁹² JUDITH HERMAN, TRAUMA AND RECOVERY 33 (1992).

1. What is Trauma-Informed Representation?

It is a “human centered” approach that is focused on empowering the client. The aim is to place and sustain power and control in the hands of the client and mitigate any feelings of shame and secrecy that can result from the client’s experience. The trauma-informed approach values the multidisciplinary needs of the client and utilizes the expertise and experience of other trauma-informed service providers. Fundamentally, this approach recognizes survivors of trafficking as survivors of acute trauma and provides clients with resources to manage and treat that trauma as they go through the vacatur process.

“It’s important to remind yourself at all times that your client is in charge of the case. It’s not okay to coerce the client into doing something different than what they want to do. I should not be taking the power, even if they want to give it to me.”

– *Post-conviction Attorney*

B. Meeting with the Client

When meeting with clients who have experienced trauma, it is important to keep in mind several aspects of your interactions.

1. Who You Bring to the Table

- Where possible, collaborate with mental health providers or other service providers to support your client after difficult experiences and/or recounting difficult experiences.
- Seek assistance and guidance from legal practitioners who have experience working with victims of various crimes and trafficking survivors specifically.
- Many trafficking survivors have not had access to legal assistance. In helping your client with the vacatur process, you may discover other unmet legal needs. Consider conducting a comprehensive legal assessment of the client at the beginning of the case and referring the client to other legal service providers to meet any other unmet needs if you cannot handle issues other than vacatur yourself. CAST (Coalition to Abolish Slavery & Trafficking) offers technical assistance on the comprehensive legal needs of trafficking victims. Practitioners can reach CAST at info@castla.org.

2. What You Ask Your Client

- Ask yourself: is this detail necessary? At times, detail will be required, but might not need to be repeated, which can be difficult for some clients.
- Ask your client about preferred forms of communication (text, phone, email etc.).
- Let your client know they can take breaks whenever needed.
- Be flexible with respect to the order in which you raise subjects with your client and the linear or non-linear nature of their response.
- Pay attention to the phrasing of questions and what you are actually asking. As an exercise, think of a difficult experience in your life. What question(s) would you have trouble answering? What questions might make you feel more comfortable?
- Avoid overly visible reactions to information your client shares. What a client discloses something painful, or traumatic, avoid grimaces, wincing or sighs. Convey that you are hearing and listening through non-alienating body language.

Question to Avoid

What is the worst thing that happened to you while trafficked?

Attorneys report prosecutors or law enforcement officers asking this, or a similar question, in an interview context. Not only is the abruptness of a question like this striking, it does not allow for the natural development of the narrative or the attorney-client relationship.

3. Physical Spaces

- Create safe spaces for your client, physically, emotionally, and mentally. This includes both the waiting room and meeting room.
- Pay close attention to the interview or meeting place itself. Does it convey a sense of privacy? Of focus?
- Have water and tissues available.
- Consider sitting next to the client or around a table, rather than across a desk, to help lessen the power differential.
- Think through potential court appearances, if they will be required, or other meetings.
- Realize that you may be asking your client to return to a jurisdiction/territory, area, or even building where they haven't been since they were trafficked. Many survivors have a severe emotional reaction when they return to, for example, a court where they were prosecuted. If your client reports that it's difficult for them to go back to the courthouse, put this information in your client's statement so the court is aware of the trauma an appearance may trigger; the information might be helpful in explaining behavior in the courtroom or convincing a court to excuse a client's appearance.

4. Travel and Transportation Needs

- Consider that travel may be difficult for your client. Work with them to create a plan for travel and transportation, and, where possible, cover the costs of your client's transportation (metro/subway, bus, parking, etc.) for meetings and other case related events.
- Try to limit the amount of times clients need to appear in court. Request that your client's appearance be excused unless absolutely necessary (if it is a hardship for the client to travel to court).
- Many clients will have convictions in multiple jurisdictions. Attempt to coordinate scheduling and encourage communication among jurisdictions to make the process less burdensome on your client.

Note: Language Access and Working with Interpreters

- ◆ For clients who are more comfortable communicating in a language other than that spoken by the attorney, use an interpreter for every communication.
- ◆ Prioritize the use of an independently certified interpreter, preferably one who has been trained in working with survivors of trauma.
- ◆ Do not have a family member, friend, or any other unqualified individual serve as interpreter.
- ◆ Ask your interpreter to be a cultural interpreter for you. Empower the interpreter to let you know if you are doing anything culturally inappropriate for the client.
- ◆ Have a pre-session with the interpreter (10-15 minutes) before the client is scheduled to arrive to review confidentiality, ensure there is no conflict of interest, ensure the interpreter is prepared for the subject matter of the meeting and ensure that the interpreter is available to join you in greeting the client.
- ◆ Sometimes conflict or tension arises between the client and the interpreter **or** an interpreter may seem to be interpreting only part of what is said **or** inserting their own facts.
 - Address this promptly!
 - Avoid idiomatic speech and over-simplification.
- ◆ Maintain eye contact with the client, not the interpreter. Use and have the interpreter repeat in the first-person (i.e. *“Where were you when...” not “Ask her where she was when...”*)
- ◆ Make sure everything is interpreted – **refrain from** side discussions that your client cannot understand or participate in.
- ◆ Have a post-session with the interpreter to debrief and identify challenges with the interpretation, thus avoiding having any side conversation during the client session.

C. Do’s and Don’ts of Working with Trafficking Survivors

1. Do:

- Understand that there are different levels of trauma.
- Understand that there are many other ways that people experience oppression (such as, poverty, racism, sexism, transphobia, etc.) and that these ways can significantly contribute to a client’s trauma.
- Empathize with what the client has gone through and how their experiences impact the way they think, act, and behave.
- Acknowledge that people are complicated. Avoid judgments, and give the client ample time to describe the facts of their life before you make a legal determination.
- Seek to understand your own trauma and the ways in which it might affect you, the attorney. Be as authentic as possible with your client.
- Maintain healthy boundaries. Remember that you are the legal provider; you are not the client’s mental health provider, caseworker, or personal friend.

“Trust, grace, space, control” is a useful mantra to keep in mind and help make the client comfortable and in control.”

-
- Discuss your client's *rights* as a crime victim. Explain what it means to have rights within our legal system.

2. Don't:

- Expect your client's experience to fall neatly and quickly into categories.
- Pathologize or label your client. Use the language your client uses and be guided by your client's experience, perception and explanation. Explain the distinction between identifying as a victim and having access to certain legal remedies based on victim status.
- Assume your client sees their trafficker as a villain. Relationships are complicated. Clients may interpret and understand behavior you identify as trafficking and criminal with a different lens. The trafficker may be the parent, spouse, sibling, trusted friend, or relative of the client and may have met needs that no one else did. For many reasons, clients may not be comfortable with labeling traffickers as such. Take cues from your client in this way, and discuss/explore rather than label/assume. Ask you client how to refer to the trafficker.
- Act in any way that would reinforce shame in your client or secrecy in your interaction. Just as power and control are hallmarks of human trafficking, shame and secrecy are hallmarks of trauma.
- Call authorities or discuss a client's case with a prosecutor or judge without a client's knowledge and clear consent. Make sure that clients know exactly what is being submitted to the court and have had an opportunity to review and approve every part of the filing.
- Have a meeting without first explaining to the client who will be present, and what you hope to accomplish.

Best Practices: Client Relationships

- ◆ Pay attention to *signs of how your client is feeling* (escalating anxiety, anger, fatigue, confusion, etc.).
- ◆ Give the client an opportunity to *take a break*.
- ◆ Ensure that *supportive service providers* (such as a social worker or therapist) are aware of the meeting and available so that the client can have the opportunity to work with them directly and immediately after.
- ◆ Recognize and accept that it can be difficult to maintain consistent contact with clients struggling with instability, substance abuse, health problems, or poverty in their lives. When they reappear, it is important *not to shame or chastise* but rather, *to express that you are glad to reconnect and come up with a plan* for maintaining future contact.
 - Similarly, if you become busy on other cases or emergencies, communicate that to your client and indicate when you will be able to return to and focus on their case.

The Difficulty of Identifying as a Victim

Many clients may not identify as victims of human trafficking.

- ◆ They may see their own agency in events, even where you see victimization. It can be hard to align that view with the “victim” narrative necessary to meet the legal standard.
- ◆ The client’s reasons for engaging in prostitution, or other labor, may not seem to the client as “forced,” even if the circumstances indicate force and coercion.
- ◆ They may have been told that they are not victims, especially if they have had negative help-seeking experiences in the past.

Although you may view your client’s trafficker as the perpetrator of a crime, they may not. Often times, complicated emotional relationships underlie trafficking. Clients may still have loyalty to, or even sympathy for, traffickers, notwithstanding the passage of time or the victimization they experienced. Some may resist casting another person as a villain in their history for a variety of reasons, including personal philosophy and/or religion. In addition, the trafficker may not be the person who has treated your client the worst in his or her life. The trafficker may have provided things that others have never given them. The trafficker may be a family member, friend, loved one, or a person to whom the client owes a debt of gratitude.

It is vital to discuss this with your client and work together to find the right tone and balance for their narrative. It is possible to utilize your client’s voice authentically while still matching their experience to the elements required to be proven by law.

The best practice is to explain to, and explore with, the client why and how they qualify as a victim. Review the applicable law together.

“I know you may not identify as a trafficking victim, and that’s okay, but we have discussed why you qualify as a victim under the law. Are you okay if I use this language?”

Take time to explain. Give the client the opportunity to react. Provide information and then allow the client to decide what to do with it.

“Here is the experience the law says qualifies for vacatur. Do you think any of your experiences should qualify for vacatur?”

Explain legal terms like “trafficker” or “coercion.” Don’t assume this legal vocabulary has meaning or context. After working through together, you may be able to include in the narrative/affidavit your client’s reflection on what this means and how this makes them feel now, in the present.

“At that time, I didn’t know that I was the victim of a crime. It is hard for me to understand that even now. However, looking back, I see the way I was manipulated and controlled.”

What Do Attorneys Frequently Miss?

- ◆ Acknowledging why a client *doesn't want to talk* or is uncomfortable.
- ◆ Realizing that the client *is not lying*. Traumatic events are not remembered in the same way as other memories. Let the client know that it's okay not to be able to remember everything. Normalize the situation by explaining that it happens to a lot of people.
- ◆ *Recognizing the impact of trauma* and what it can do to someone and remembering the individual context of your client's life to understand behavior, choice and emotion.
- ◆ *Explaining* at every instance and each stage, what is going to happen and what information you hope to get from the client. The simple act of outlining what to expect can help alleviate an immense amount of the client's anxiety.
- ◆ Listening to and addressing the client's *concerns* about the process.
 - Survivor advocate and therapist

D. Frequently Asked Questions

Many clients will have questions about the process from the outset. Even if clients don't specifically ask, it is easy to understand that many of them will be wondering:

- Q: What goes into a motion?
- Q: Will my trafficker know if I provide their name?
- Q: Will I have to appear in court?
- Q: How long will this whole process take?

Unfortunately, there are no definite answers and no guarantees, but practitioners can best combat these unknowns by:

- maintaining close communication with the client; and
- being as transparent as possible.

E. Overlap with Domestic and Intimate Partner Violence

1. The Reality

An identical power and control dynamic can be at the heart of both human trafficking and domestic violence.⁹³ Both abusers and traffickers use tactics that include isolation of the victim, physical and emotional abuse and threats, lack of access to resources, and threats to expose or not assist with the victim's immigration status. The experience of domestic violence itself can make an individual vulnerable to traffickers. Alternatively, the experience of being trafficked can make an individual vulnerable to domestic violence. Also, in some cases, domestic violence and human trafficking can occur simultaneously. For example, a sex trafficking victim may be in an intimate partner relationship with their trafficker. You may, in fact, recognize some of your current or former clients who exist at this intersection.

2. What You Can Do

- Understand that some clients, who may be experiencing or have experienced domestic violence at home, are willing to accept riskier working conditions or participate in other dangerous economies.
- Remember that trafficking victims can be especially vulnerable to repeat victimization by falling into domestic violence relationships *after* they've escaped their trafficking situation, especially if they lack emotional support and other resources.
- Use this information and insight to try to identify clients who fall at this intersection during the intake and screening of clients.
- Don't overlook the fact that the domestic abuser may, in fact, also be a trafficker.
- Consider referring clients to organizations with expertise in working with victims of domestic violence where appropriate. Organizations assisting domestic violence victims and resources for attorneys working with domestic violence victims can be found on the ABA's Commission on Domestic & Sexual Violence's website, www.americanbar.org/groups/domestic_violence.html.

F. Working with Indigent Clients: Practical Considerations

A client's lack of resources may impact their participation in the case.

If a client seems unresponsive, try to create solutions with them:

- Call the client again if they have not called you back. Do not assume it means the client is not taking the case seriously, and do not become angry or take the client's non-response personally.
- Give a client multiple ways to reach you—for example, by phone, text, or email.
- Ensure that you also have multiple methods of contacting the client, as some clients may change phone numbers or struggle to maintain consistent phone service but many still have access to the internet and email.
- Whenever possible, respond when the client asks for help (but remember to stay within the scope of engagement).
- Make sure that it is safe for you to leave a message or voicemail on the client's telephone number (it may be shared with family members or intimate partners who do not know they are pursuing vacatur).
- Be mindful of mail and disclosing any confidential information if you need to mail a client to contact them.

⁹³ Bruggeman & Keyes, *supra* note 7, at 9.

A client's lack of resources also may impact *client appointments*. For example, a client may regularly be late to appointments or miss appointments altogether. Again, try to figure out *why* and offer solutions:

- Help clients to plan transportation and, where possible, cover costs of transportation both ways.
- Consider meeting your client somewhere more convenient for them than your office (but remember the setting must enable confidentiality).
- Explain how to get into your office building or meeting place. Talk through the directions to your office, including the security process and address solutions if a lack of identification is an issue for your client.
- It can be intimidating to come to a lawyer's office—at least the first time, welcome your client at the entrance and help her/him enter the building.
- Make sure any security personnel or other staff will address the client with appropriate pronouns. Anticipate any issues regarding required identification where government issued identification might not reflect your client's preferred name.
- Meet your client early for court appearances. Consider meeting at a designated location and traveling to the court together.
- Consider other accommodations that may be needed to make it easier for clients with disabilities to participate in meetings and attend court.
- Consider childcare needs, explain any available resources for meeting times and at the court.
- Understand work commitments; clients may be at the mercy of on-call scheduling and hourly employment and may be unable to afford missing work.
- Consider meeting outside of the traditional office hours if necessary.

VI. Resolution of Trafficking Vacatur Motions

A trafficking-related vacatur motion will likely be resolved in one of three ways. First, the court may resolve the motion on the papers and without appearances required, either with or without prosecutorial consent. Second, the court may issue its decision at or after a hearing during which the client does not testify, either verbally or by written order. Third, the court may issue its decision at or after an evidentiary hearing at which the client offers sworn testimony—especially if the prosecution contests a material fact.

A. Meeting with the Prosecutor

How a specific motion will be resolved most likely will depend to a large extent on whether the motion earns *prosecutorial consent*. Note that while securing a prosecutor’s consent to a trafficking vacatur motion is mandatory in only a small number of states,⁹⁴ doing so will always greatly benefit your efforts to obtain post-conviction relief.

In some instances, your client’s affidavit, even when supported by documentation, may not be enough to convince a prosecutor that they were a victim of human trafficking, or that your client’s conviction was a direct result of that trafficking. In such cases, it is foreseeable that a prosecutor will request an in-person meeting with your client. If such a meeting happens, it is with the attorney present and involved. In **no** instance should a prosecutor meet or speak with your client without your knowledge or outside of your presence.

In deciding with a client whether to agree to this meeting, you should consider the risk of causing your client anxiety and even re-traumatization; the prosecutor is one of the most visible parts of a criminal legal system that has failed them. Moreover, prosecutors might ask questions that a client does not want to answer and may go beyond the scope of what you have presented in the affidavit. Prosecutors also can prioritize different objectives, such as pursuing active leads and investigations. A survivor might therefore be reluctant to meet with a prosecutor, or might be distrustful. For these reasons, you should consider carefully with your client how to respond to a meeting request.

If you decide that meeting with a prosecutor is helpful or necessary, you should do the following in order to minimize the risk of harmful consequences for your client:

1. **Fully explain** to your client the purpose and details of the meeting (who, what, where, why), as well as the risks (trauma, anxiety, etc.) of meeting with a prosecutor, in order to ensure that the client is as prepared as possible.
2. **Ensure** that the prosecutor is informed of the trauma that commonly afflicts trafficking survivors; the risk of re-traumatization attached to meeting with your client; and how this trauma may impact the client’s memory and responsiveness to questions.
3. **Agree** to a set of “ground rules” for the meeting.
 - a. **Date, time, place, duration.** Consider requesting to meet at a mutually convenient, comforting environment away from the prosecutor’s office.
 - b. **Types of questions and terms to use.** Consider asking the prosecutor to agree to confine questions to the issues most relevant to the motion, rather than questions about the trafficker or peripheral surrounding circumstances, which may not be necessary.
4. **Intervene** if questions seem inappropriate, either in tone or substance.

⁹⁴ See, e.g., 18 PA. CONS. STAT. § 3019(d)(2)(ii) (2014); MD. CODE ANN., CRIM. PROC. § 8-302(b)(2) (LexisNexis 2011).

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5. **Monitor** the client's anxiety levels and *assess* whether the client needs to take a break or stop the interview altogether.
 6. **Suggest** that the client meet with a counselor or therapist after the meeting to process the experience.

B. Prosecutorial Consent

When the prosecutor consents to a trafficking vacatur motion, the court may choose to resolve the motion on the papers—in other words, without conducting an evidentiary or motion hearing. However, because vacatur is an extraordinary remedy, the judge may still want to hear directly from a trafficking survivor before ruling on the motion, even if the motion is submitted on prosecutorial consent.

As with motions of other types, barring extraordinary or unusual circumstances, courts rarely will deny a trafficking vacatur motion where a prosecutor consents to the relief.

C. Prosecutorial Opposition

Motions submitted without prosecutorial consent likely will require full briefing, a motion hearing, and/or an evidentiary hearing. However, in many jurisdictions, the motion can also be decided on the written submissions if there are no material facts in controversy. It also may take the court longer to resolve a contested than an uncontested motion.

D. Testifying in Court

In especially difficult cases, when the prosecutor opposes a motion or a motion has little or no corroborating evidence, the judge might *hold an evidentiary hearing*.⁹⁵ Again, preparing your client for such a hearing is critical.

You should be *fully transparent*, explaining to your client the *purpose of the hearing* and the parts of their story that they should or will be expected to present. It is important to go over the questions you will ask your client as part of a direct examination as well as what questions to anticipate on cross-examination. Practice the direct testimony and conduct moot cross. Describe to the client the courtroom in which the hearing will be held and, where possible, allow them to view the courtroom in advance. Make sure they are familiar with all court rules and procedures.

You should *warn and prepare your client* that testifying in open court can cause a wide range of reactions and feelings, and you should *reassure your client* that it is common and acceptable to become emotional or experience some difficulty remembering precise details. You should explain that it is okay to say that they don't remember or that they need a break. You should also suggest to your client that they *meet with a therapist or counselor* at some point after the hearing for emotional support.

Many states have procedures that allow for the closing of a courtroom in certain instances.⁹⁶ If an evidentiary hearing is unavoidable in your case, explore with the court and prosecutor whether courtroom closure is possible. This will alleviate some of the anxiety for your client and will also protect against any safety issues that may arise from sworn testimony offered in an open or public courtroom.

⁹⁵ See *People v. Gonzalez*, 927 N.Y.S.2d 567 (N.Y. Crim. Ct. 2011) (vacating more than eighty prostitution convictions of a movant who presented no corroborating evidence aside from her own testimony).

⁹⁶ Because of the individual and broader rights implicated in open and public court proceedings, the U.S. Supreme Court has explained that a courtroom closure must satisfy a four-part standard to comport with the requirements of the Sixth Amendment: “[1] the party seeking to close the hearing must advance an overriding interest that is likely to be prejudiced; 2] the closure must be no broader than necessary to protect that interest; 3] the trial court must consider reasonable alternatives to closing the proceeding, and [4] it must make findings adequate to support the closure.” *Waller v. Georgia*, 467 US 39, 48 (1984).

VII. Additional Legal Issues

A. Vacatur of Non-Statutory Offenses

In the words of one New York City court, “human trafficking victims are frequently arrested and charged for a variety of offenses based on actions which the victims were unwillingly coerced into committing by their traffickers.”⁹⁷ For example, sex trafficking victims are often arrested and charged with crimes **other than prostitution** committed as a direct result of human trafficking.

Some state vacatur laws explicitly authorize relief for non-prostitution offenses. Unfortunately, many state vacatur laws are limited to prostitution or prostitution-related offenses. However, courts have vacated such “non-prostitution” convictions even under statutes that restrict vacatur to specific offenses, utilizing clauses described above in Section II.A.iv. that authorize the court to take additional action.

If your state’s trafficking vacatur statute incorporates this type of clause, it is important to argue that as many of your client’s convictions as possible are eligible for relief. This requires evaluating the circumstances surrounding each of your client’s convictions and considering how it may have occurred as a result of your client’s trafficking.

The connection between trafficking and non-prostitution offenses may be less obvious at first. However, such situations are quite common⁹⁸ and there are many instances in which non-prostitution convictions should qualify for post-conviction relief.

1. Examples of Charges That May Occur as a Result of Human Trafficking:

a. Theft Offenses (Larceny, Robbery, Burglary, etc.)

Trafficking victims often face physical violence if they do not earn enough money for their traffickers. In addition, traffickers commonly take for themselves all or almost all of the money earned by trafficking victims under their control. Finally, traffickers often coerce their victims into committing theft and other crimes on their behalf in order to avoid suspicion or arrest for the crime.

As a result, trafficking victims may steal either (1) at the specific direction of their trafficker; (2) in order to avoid punishment by traffickers, or (3) to obtain basic items necessities denied them by their trafficker.

b. Possession of Narcotics or Weapons

Narcotics. Some traffickers provide drugs to victims as a way to continue to coerce them to engage in specific conduct for their profit. Others exploit an already existing drug addiction as means of control. Traffickers also mandate that victims carry drugs for them when traffickers are involved in narcotics sales or use, or provide drugs to purchasers of sex while engaging in prostitution. In each of these instances, it is foreseeable that a victim may face arrest for drug related offenses.

Further, many trafficking victims endure an extensive amount of trauma in the form of interpersonal violence and abuse. Many turn to narcotics in order to cope with the trauma and other emotional difficulties caused by their victimization. Here too victims face arrest for possessing or using drugs, but their conduct is a direct result of having been trafficked.

Weapons. Victims of trafficking often carry weapons in order to protect themselves from physical and sexual assault. This is common among victims engaging in prostitution, who face an inordinate level of

⁹⁷ *People v. L.G.*, 972 N.Y.S.2d 418, 438 (N.Y. Crim. Ct. 2013).

⁹⁸ See NAT’L SURVIVOR NETWORK, NATIONAL SURVIVOR NETWORK MEMBERS SURVEY IMPACT OF CRIMINAL ARREST AND DETENTION ON SURVIVORS OF HUMAN TRAFFICKING (2016).

violence from purchasers of sex. This can range from small knives⁹⁹ to mace to other prohibited items that can be utilized in self-defense if a victim is attacked. Some traffickers even provide the weapons to their victims for use in these instances.

Finally, traffickers who are involved with the trade or possession of illegal weapons can utilize their victims to transport weapons so traffickers themselves can avoid detection and risk of criminal liability.

c. Loitering, Trespass, and Other Minor Offenses

Sex trafficking victims often are arrested for crimes like loitering and trespass when they are engaging in commercial sex. Many states have distinct crimes of, for example, loitering with intent to commit prostitution. Attorneys should scrutinize every conviction of this type in search of a potential connection to the client's trafficking.

d. Assault and Related Crimes

Like the crimes of theft or possession discussed above, violent crimes such as assault commonly arise as a result of sex trafficking. A client may have assaulted their trafficker, or a purchaser of sex, in self-defense but was too fearful to explain the circumstances when arrested and prosecuted.

This is particularly so given the stigma that surrounds involvement in the commercial sex industry. Many victims of violence know that if they report the crimes to the police, they will be disbelieved merely because they are involved in prostitution, or worse, subjected to additional violence. Traffickers often reiterate this notion, even if false, to prevent victims from reporting any crimes against them to law enforcement. Some trafficking victims, therefore, will have assault crimes on their record that are directly related to their trafficking victimization.

e. Trafficking Offenses Against Others

Traffickers can coerce victims into helping run and operate their trafficking schemes. For example, a sex trafficker might coerce a victim to collect money from other trafficking victims, recruit other victims, post photos online of other victims, or enforce specific rules.

In labor trafficking cases the trafficker may force victims to recruit other victims or, in cases involving foreign national victims, force victims to assist in smuggling victims into the United States. Some clients, therefore, may have been prosecuted for trafficking others, even though the convictions occurred while the client was being trafficked themselves, and as a result of their own victimization. In these cases, clients may qualify for relief depending on the scope of offenses covered by the vacatur statute in the state of conviction and the nexus of their conviction to their own victimization. Unfortunately, at the time of this writing, no remedy is available for convictions imposed as a result of federal prosecution.

B. Convictions That Occurred After Escaping Trafficking

Each of the offenses described above may have occurred while the client was still under the control of a trafficker. However, even after clients have escaped trafficking, many continue to face arrest for conduct directly related to their trafficking. Attorneys should make every attempt to include these convictions in a vacatur motion, as a failure to do so leaves clients with an incomplete remedy and fails to take into account the difficulties faced by trafficking victims after escape.

For survivors who were trafficked into prostitution, it is common to continue engaging in prostitution, even after escaping a trafficker. This occurs for a variety of reasons. First, survivors of trafficking into prostitution

⁹⁹ See John Caher, *Judge Vacates Trafficking Victim's Non-Prostitution Crimes*, N.Y. L. J., Aug. 20, 2013.

experience an acute sense of alienation and stigma as a result of their involvement in commercial sex. Many feel unable to consider work in other economic sectors because of this stigma. Many have interrupted education histories, limited job experience and criminal records, all of which similarly hinder employment opportunities. Many survivors simply feel best able to take care of themselves in the immediate aftermath of trauma by continuing to do what they have been trained to do. Survivors report that their experience being trafficked into prostitution reinforced that commercial sex was all they were able to do - and all that they were good for.

There are fairly straightforward economic reasons why survivors may continue to face arrest even after leaving a trafficker. Many struggle with extreme poverty, lack of support, and scarcity of resources. Crimes committed at this point in a survivor's life – whether prostitution, theft, or other similar crimes – are still directly related to their victimization and should qualify for vacatur as well.

As described above, where survivors have developed or battled ongoing substance addiction, this too can lead to additional arrests after trafficking. Additional arrests for possession and use of controlled substances can be contextualized and, where a nexus to the trafficking experience is established, such convictions should also qualify for vacatur.

C. Convictions as a Minor

It is common for victims of trafficking to have criminal histories that date back to when they were a minor, under the age of 18. Many victims misrepresent their age to the police and the courts when arrested, and report as older than they are, in order to avoid being identified as a missing child, returned to family or juvenile court, or bringing potential criminal liability to a trafficker that is profiting off their exploitation. Some victims may not even know their age or birthplace. Depending on the circumstance, the fact of your client's age at the time of arrest can create a more straightforward path to vacatur.

In particular, it is important to keep in mind that any minor engaging in prostitution is considered a victim of a severe form of sex trafficking under the TVPA.¹⁰⁰ It is also important to note that the age of criminal responsibility varies from state to state and can impact a client's legal recourse for arrests and convictions that occurred when they were a minor.

Thus, if a client was younger than the age of criminal responsibility, but misrepresented their age to the police/courts when arrested, resulting convictions can be challenged based on lack of jurisdiction.¹⁰¹ Here, you may not need to argue that the client is a trafficking victim, but instead simply that the original trial court lacked jurisdiction over the client at the time of their prosecution, so the conviction must be nullified. Some states impose time limits as to when one can bring such a challenge.¹⁰² In those instances, you may need to argue both that the client is a trafficking victim *and* that the court lacked jurisdiction to overcome procedural bars and explain a delay in bringing the motion.

Where a client is 16 or 17 years old and convicted in a state that treats 16 or 17 year olds as adults, the challenge to the conviction might come by virtue of the trafficking-related vacatur statute. However, in states that exempt minors from the force, fraud or coercion requirements or specifically incorporate the TVPA in their vacatur statute, the process is significantly less involved. In those jurisdictions, the client is a victim based on their involvement in commercial sex at an age younger than 18. There is no additional requirement that youth involved in commercial sex demonstrate force, fraud or coercion to be identified as victims of trafficking. Therefore, in those states, the burden of proof is significantly easier to meet, and a client need not be required to provide specific information about force, fraud or coercion to qualify for relief.

¹⁰⁰ TVPA, 22 U.S.C. §7102(9)(a) (2015).

¹⁰¹ See, e.g., N.Y. Crim. P. 440.10(1)(a).

¹⁰² See, e.g., Fla. R. Crim. P. 3.850(b).

D. Relying on Facts Not Previously Disclosed to the Court

Some state trafficking vacatur statutes explicitly address the use in a vacatur motion of facts not disclosed to the trial court at the time of the original prosecution. Some states require that attorneys state in their motions why the facts the motions contain were not raised to the trial court before the client originally was convicted.¹⁰³

These requirements most often are easily satisfied in practice, as there are many reasons why someone facing prostitution charges would not reveal that they were being trafficked. Victims often are hesitant to divulge the circumstances surrounding criminal charges due to the consequences of doing so—whether real or perceived.

For example, trafficked people may not have been aware that trafficking is a crime or that they are trafficking victims in the eyes of the law. Many people exploited in the commercial sex trade understand *themselves* to be the criminal offender; they may not believe that being trafficked enables them to present a legal defense. In addition, trafficking victims are threatened with harm if they implicate the trafficker in illegal activity. The trafficker may have even attended and observed court proceedings. As a final example, victims may have been promised release from jail if they pleaded guilty, or reasonably believed a guilty plea was their best option at the time. Trafficking victims often are met with skepticism by police officers, prosecutors, and the courts; they might simply not have seen any other option.

In short, the best explanation for a client's silence in trial court most likely will come from the client themselves. If a judge expresses skepticism about the reasons for a client's previous silence, consider calling an expert witness to testify about the wide-ranging impacts on victims of trauma in general, and human trafficking in particular. You may also access, and provide, transcripts of expert testimony from other trafficking proceedings around the country to avoid the cost of hiring an expert in a specific proceeding. These transcripts can provide helpful background information for a judge or prosecutor, and can help to persuade either as to why a victim may not have revealed facts regarding their victimization when initially prosecuted.

E. Vacatur and Immigration

It is critical that attorneys take special care when representing non-citizens and naturalized citizens in vacatur proceedings. Best practice involves consulting with an immigration attorney who has specific expertise in representing survivors of trafficking in order to think through any potential immigration consequences as you work with your client to develop a narrative and filing.

While too specific and nuanced to fully explore here, significant questions exist as to how vacatur will be interpreted in the immigration context. For that reason, attorneys representing non-citizens in vacatur cases should work with immigration attorneys to make sure the content of all filed pleadings is reviewed with that specific lens. Furthermore, immigration attorneys can advise about the content of vacatur orders issued by the courts when successful, and can make sure attorneys representing trafficking survivors in the vacatur context are aware of any potential risks or issues.

F. Utilizing General Vacatur, Expungement, and Sealing Laws

Separate and apart from human trafficking, several states provide a mechanism for individuals to expunge/seal previous arrests and/or convictions upon certain conditions. While these laws vary drastically from state-to-state, attorneys should explore any opportunities that these general vacatur laws may present for

¹⁰³ See, e.g., 725 ILL. COMP. STAT. § 5/116-2.1(a)(1) (2013).

clients.¹⁰⁴ Depending on the state-specific statute, these broader laws may cover arrests or convictions that occurred for a trafficking survivor before, during or after their trafficking experience. Occasionally, general expungement laws may apply to convictions or arrests that are not covered under a more narrow, human-trafficking specific statutes. Further, there may be instances where a survivor is eligible for expungement under both the general statute and a trafficking-specific law. Here, it is worth exploring what may offer the best remedy for your client as general expungement petitions usually require far less specific factual showing. Be sure to note the specifics of your state's general law, especially the timeliness requirements for filing motions.

G. Arrests Not Resulting in Conviction

Attorneys should be aware that there may be additional steps that must be completed to seal arrests that did not result in convictions. In some states, arrests that aren't prosecuted are sealed by operation of law.¹⁰⁵ In others, this is not the case.¹⁰⁶ Furthermore, in certain jurisdictions, even once convictions themselves have been successfully vacated, a separate process must be followed to separately seal the arrest records.¹⁰⁷ Practitioners must ascertain, at the beginning of the vacatur process, what the specific rules are in the relevant jurisdictions and be sure to account for any additional steps required to seal all potential arrest and conviction records.

¹⁰⁴ The National Association for Criminal Defense Lawyers maintains a comprehensive database of state expungement and sealing laws. See <https://www.nacdl.org/rightsrestoration/>.

¹⁰⁵ See, e.g., N.Y. Crim. P. § 160.50.

¹⁰⁶ See, e.g., Fla. Stat. § 943.059 (2015).

¹⁰⁷ See, e.g., 20 ILL. COMP. STAT. § 2630/5.2.(d) (2016).

VIII. Creating Collaborative Practice

Collaboration is essential to maintaining a successful practice of vacating convictions for survivors of human trafficking in your area. Each part of the vacatur process described above depends upon the combined efforts of multiple stakeholders. In particular, it is critical to create the broadest network of involved individuals, agencies, and organizations to assist survivors both before, during, and after vacatur. This helps to increase awareness of survivors' needs, and also fosters creative solutions to meeting those needs.

In doing so, you may discover opportunities for cross-training for different stakeholder groups. For example, many of those who work in the criminal legal system are unfamiliar with the phenomenon and dynamics of human trafficking. There may also be community-based organizations providing direct services locally who may be serving survivors of trafficking without even knowing. Similarly, there may be organizations that specifically serve survivors and victims, but aren't connecting with the particular group of clients you represent. Connecting different entities and working together is one of the keys to a robust vacatur practice.

A. Working with Prosecutors

As discussed in several sections above, working with the prosecutor to gain consent to your motion before it even reaches the judge is, in most states, extremely helpful and persuasive, or, in a minority of states, required. Prosecutorial consent sends a message to the judge that even the party that sought your client's convictions in the first place no longer believes that those convictions are warranted.

In order to facilitate prosecutorial cooperation, you should:

- **Contact and work with the prosecutor's office's anti-trafficking bureau.** The prosecutor's office's anti-trafficking bureau, or a designated person that handles human trafficking cases at the office, will likely be the most responsive to your client's needs as a survivor of human trafficking, and more willing to join you in a motion for vacatur. If such anti-trafficking units do not exist in your local prosecutor's office, consider contacting the office's special victims unit or a prosecutor with a special victims background.
- **Ensure that the prosecutors are educated and informed.** Although many prosecutor offices have dedicated resources exclusively to anti-trafficking efforts, and some even have their own social workers that assist in their cases, you should speak to prosecutors about the nexus between criminal activity and human trafficking and how trauma impacts your specific client. You want to work with an office that is sensitive to both the story and the needs of your client as a survivor of human trafficking.
- **Give the prosecutors advance notice.** Regardless of whether your state requires prosecutorial consent, it can be helpful to notify the prosecutor's office in advance of filing your petition. You should give the prosecutor an idea of your client, the types of convictions for which you seek vacatur, and your client's history of trafficking. Relatedly, you can more generally approach the prosecutors before filing to assess the types of convictions the office is more likely to accept and/or oppose. Opening up the lines of communication is key.

B. Behavioral Health Support: Social Workers, Therapists, and Counselors

For a successful vacatur practice, it is imperative to collaborate with social workers, therapists, counselors or other behavioral health specialists where possible. These clinicians best understand trauma-informed care on a case-by-case basis. As explained in Section V, lawyers should adopt a trauma-informed approach that recognizes a survivor's needs as a "whole person" with a broader history of trauma.

In order to best integrate non-lawyer mental health specialists into client representation, consider the following:

- **Bring together an interdisciplinary support team from the inception of the case.** Where resources permit, work closely with a social worker or other behavioral health specialist to build a team for your client. Building trust takes time, but a team approach increases the likelihood that your client's experience will be positive. Therapists, counselors, or social workers can play an important role from the beginning of the representation. However, make sure to communicate this approach to the client and make sure they are comfortable proceeding in this way.
- **Be mindful of your limits.** Despite the best intentions and training, recognize that your role as a lawyer is limited and can be counterproductive. Your primary goal is to gather the information necessary to satisfy the necessary elements for vacatur outlined in Section II; this inevitably creates stress and anxiety for the survivor that sometimes makes it harder for them to cooperate.
- **Respect boundaries and roles.** Be aware that, at least in most instances, attorneys are not therapists, and it can harm both you and your client's best interests if you try to fill that role. Make clear to your client the distinct roles that every member of the team will play in addressing their needs. You want to avoid raising any expectations as to what you or the social worker can offer.

C. Building a Larger Network

A comprehensive approach to working with survivors of trafficking means building the capacity to address the other conditions in their lives that caused by trauma or impacted by their past experience. For example, some survivors may be struggling with ongoing issues of domestic violence, homelessness, substance abuse, immigration, unemployment, and even basic safety.

You should therefore identify, contact, and try to work closely with local social service organizations that provide services in these areas. For example, there might be anti-human trafficking organizations and advocacy groups in your area that already provide holistic services. These networks provide invaluable resources to assist your client's needs before, during, and after the vacatur process. Even if such organizations do not exist in your area, tap into networks that address the needs of vulnerable populations more generally.

In addition to the behavioral health needs described above, many survivors will need to be connected to organizations specializing in the following areas:

1. Crisis Assistance

- Identify local shelter options for emergency situations. In particular, look for shelters designated for particular groups like victims of domestic violence, youth, or LGBT individuals.
- Refer U.S. citizen clients to public benefits intake offices for assistance with food stamps, cash assistance or other subsidies. For foreign national clients consult with an immigration attorney about eligibility for benefits.
- Domestic Violence organizations in your area have expertise in helping survivors of abuse and violence seek restraining orders/orders of protection, where appropriate.

2. Medical Care

- Identify organizations working to provide health insurance enrollment.
- Create a list of trauma-informed medical providers. Although these providers may not have specific experience working with trafficking survivors, they likely will have developed protocols and best practices for working with victims of violence and abuse.

-
- Research organizations providing free assistance in areas not usually covered by insurance, such as dental work, tattoo removal, or other cosmetic procedures that address scarring or other physical manifestations of past abuse.

3. Employment Services

- Many survivors will have faced tremendous difficulty securing employment. Most often, this is because of their criminal record, which is the subject of the vacatur motion. However, other factors also can impact job readiness, including gaps in or incomplete education and employment history. Identify organizations or agencies that offer job training, interview preparation and other employment resources.

Building these relationships and collaborative practice is key for the survivors you represent. It also opens up opportunities for referrals and enhanced case identification. Many survivors, anti-trafficking organizations, and other community partners, are unaware that vacatur laws exist. Working closely with a variety of stakeholders who might come into contact with survivors on a regular basis puts your efforts on their radar. These organizations then can refer additional survivors for vacatur representation, which means more survivors will become aware of, and seek, this critical relief.

More information on the ABA's Survivor Reentry Project (SRP) can be found at: www.ambar.org/srp.

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Model Collateral Consequences of Conviction Act Overview

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Background on the Uniform Law Commission

- Non-profit, non-partisan organization founded in 1892 to draft uniform and model legislation
- Comprised of 350+ commissioners from each state, including three from Maine (Paul Chaiken, Donald Alexander, and Ann Robinson)
- Commissioners draft uniform/model acts in their areas of expertise
 - Observers from relevant industries, advisors, and liaisons from other organizations also provide input during drafting
- Uniform/model acts are studied and drafted for at least 3 years before promulgation



Background on the Uniform Law Commission

- Finalized uniform/model acts are available for enactment in any US state or territory
- ULC staff and commissioners will work with enacting states to:
 - Adapt uniform/model acts to state's laws and procedures
 - Build a coalition of legislators and interest groups
 - Provide testimony in support of ULC bills
- Model acts, like the MCCA, allow more flexibility for state-level modifications



Benefits of Uniform and Model Laws

- Provide well-drafted and thorough legislation on a variety of legal and procedural topics
- Promote predictability for constituents who may move from state to state or who live and work near state lines
- Allow courts to reference precedent from other enacting states when considering how to apply a uniform/model act

Model Collateral Consequences of Conviction Act

- Promulgated as a uniform act in 2009 after five years of drafting
- Revision in 2010 incorporated Supreme Court's decision in *Padilla v. Kentucky* (finding that defendants needed to be informed of a conviction's impact on their immigration status)
 - Adds requirement that defendant has received and understood the notice of collateral consequences and had opportunity to discuss with counsel
 - Incorporated new comments discussing implications of *Padilla*
- Enacted in New Mexico (2021) and Vermont (2014); introduced in Minnesota in 2024 and Massachusetts in 2021
- Redesignated from uniform to model in 2022 to provide additional flexibility to enacting states; no changes to text when re-designated

Model Collateral Consequences of Conviction Act

- Three key pillars: **collection, notification, and relief from collateral consequences**
- Collection and notification cover both automatic bars and discretionary penalties; relief covers only automatic bars
- National Inventory of Collateral Consequences of Conviction lists 491 consequences for misdemeanors and/or felonies in Maine
- Possible examples of collateral consequences in Maine, for any felony *or* misdemeanor, from the NICCC:
 - Denial of unemployment benefit eligibility (automatic bar)
 - Ineligibility for support in state mental hospital (automatic bar)
 - Ineligibility for employment at a school (discretionary penalty)
 - Possible ineligibility for child custody (discretionary penalty)
 - Possible denial of real estate sales agent license (discretionary penalty)

Collection Requirements

- The Act requires enacting states to compile and publish online all collateral consequences associated with a guilty plea, *nolo contendere*, or conviction
- Each state can choose appropriate agency to compile
 - Vermont: Attorney General
 - New Mexico: Sentencing Commission
 - Other possible agencies: Revisor of Statutes, judiciary
- National Inventory of Collateral Consequences of Conviction: Criminal Justice Section of ABA and National Institute of Justice compiled inventory of collateral consequences in each state, using Court Security Improvement Act of '07 funds
 - Effort began in 2012, but database seems to be updated periodically
 - Maine would be responsible for ensuring the database is accurate, and should post information on consequences on its own website
 - Act leaves flexibility for timeline to post initial collection; at least 180 days
- Unclear whether states have been able to access additional federal funds under Court Security Improvement Act



Notification Requirements

- The Act requires defense attorneys to notify defendant that there are collateral consequences at four key points during the case:
 1. Formal notification of charges (sample notice contained within act)
 2. Before the court accepts a guilty plea or *nolo contendere*
 3. At sentencing
 4. If defendant is incarcerated, around the time of their release
- When accepting a guilty plea or *nolo contendere*, the court must also confirm that the defendant received notice of and understands the collateral consequences of their plea
- Defense counsel is responsible for explaining specific consequences that apply to the defendant's case before plea

Relief from Collateral Consequences: Order of Limited Relief

Two pathways for relief by petition, which **functionally convert automatic bars into discretionary penalties**

(1) Order of Limited Relief: during or after sentencing to provide defendant with relief from automatic bar

Must prove that:

- a. Granting petition will materially assist in obtaining employment, education, housing, public benefits, or occupational licensing
- b. Individual has substantial need for relief in order to live a law-abiding life
- c. Granting petition would *not* pose unreasonable risk to the safety or welfare of the public or any individual



Relief from Collateral Consequences: Certificate of Restoration of Rights

(2) Certificate of Restoration of Rights:

- Defendant can petition for certificate after [five] years or following incarceration, whichever is later
- Provides relief from *all* collateral sanctions except those specifically excluded and those from which relief cannot be granted
- Functionally allows certificate holder to have the same civil rights and opportunities as an individual without a record, *but decision-makers can still consider facts of conviction*

Relief from Collateral Consequences: Certificate of Restoration of Rights

Must prove that the individual:

- a. Is engaged in, or seeking to engage in, lawful occupation or activity, including education
- b. Is not in violation of terms of any criminal sentence, or that failure to comply is justified, excused, involuntary, or insubstantial
- c. Has no criminal charges pending
- d. Would not pose an unreasonable risk to the safety or welfare of the public or any individual if petition is granted

Relief from Collateral Consequences

- Decision-maker (public body, employer, licensing board, etc.) retains ability to determine a convicted individual's eligibility for benefits even when an Order or Certificate has been issued, but *can only consider the specific facts and circumstances of the offense and its essential elements*
 - E.g., individual convicted of retail theft could reasonably be rejected from a retail job, but if the Plumber's Board does not generally deny licenses to people who speed while driving or were suspended from school for marijuana possession, then they should not use a conviction on these facts to bar license
- **Certificate or Order can be revoked by designated board/agency** if the individual receives relief from a collateral consequence and is later convicted of a felony or there is other just cause

Collateral Consequences Ineligible for Relief

- The Act recognizes valid policy reasons for the imposition of certain collateral consequences; these are accordingly ineligible for relief:
 1. Requirements imposed by sex offender registration and notification statutes
 2. Motor vehicle license suspension, revocation, limitation, or ineligibility pursuant to state DWI laws or certain traffic offenses
 3. Ineligibility for employment in law enforcement agencies, including the attorney general, prosecutor's office, police department, sheriff's department, state police, or department of corrections
 4. Any collateral consequence imposed by the state constitution which the legislature lacks the power to remove

Additional Considerations

- Act allows states to authorize or impose collateral sanctions based on convictions from other states
 - A conviction of an offense in another state is equivalent to same offense in Maine with same elements
 - If there is no offense with the same elements, Maine will consider it a conviction of the most serious offense with the same elements
 - Special rules for juvenile adjudications
- Reversed, overturned, or vacated convictions from another state, other than those on grounds of rehabilitation or good behavior, *cannot* serve as basis of collateral consequence in Maine
- Pardons would have the same effect on Maine's collateral consequences as they do in the issuing jx

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current and previously issued FIRs are available on the NM Legislative Website (www.nmlegis.gov).

FISCAL IMPACT REPORT

ORIGINAL DATE 02/11/21

SPONSOR Cervantes LAST UPDATED _____ HB _____

SHORT TITLE Uniform Collateral Consequences of Conviction SB 183

ANALYST Eckberg

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY21	FY22	FY23	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		See Fiscal Implications				

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Administrative Office of the Courts (AOC)
 Administrative Office of the District Attorneys (AODA)
 New Mexico Attorney General (NMAG)
 New Mexico Sentencing Commission (NMSC)
 Public Defender Department (PDD)

SUMMARY

Synopsis of Bill

Senate Bill 183 enacts the Uniform Collateral Consequences of Conviction Act (Act). Collateral consequences are broadly defined to include both collateral sanctions and disqualifications. Collateral sanctions is defined as a disability or penalty imposed on a person as a result of conviction that applies by operation of law. A disqualification is defined as a penalty that may be imposed by an administrative agency or court in a civil proceeding on grounds relating to the individual's conviction. The bill requires the New Mexico Sentencing Commission (in conjunction with the district attorneys and NMAG) to identify and compile all New Mexico legal provisions that impose collateral consequences or disqualifications, and any provision that may afford relief from a collateral consequence. The compilation (and required updates) must be posted on NMSC's website.

Counsel representing individuals charged with an offense are required to give written notice to the accused individual of the additional legal consequences beyond just a conviction (using the same or a similar informational form provided in the bill). Before accepting a plea of guilty or no contest

a court must confirm that the individual received and understands this notice. A sentencing court must provide additional notice as part of sentencing, or, if the individual has been sentenced to imprisonment or other incarceration, the officer or agency releasing the individual shall provide that notice at least five days before release.

A collateral sanction must be imposed only by statute or ordinance, and any ambiguity in the statute must be construed as only a disqualification and not as a collateral sanction. Disqualifications may be imposed by relevant decision makers (a state department, agency or officer, or other public entities that may become subject to the Act by other law or ordinance) only after individually assessing whether the relevant benefit or opportunity should be denied to the individual, and after reviewing other relevant information (including any effect on third parties).

Convicted individuals may petition the sentencing court for limited relief from one or more collateral sanctions related to employment, education, housing, public benefits or occupational licensing. Numerous factors must be considered by the court, including whether granting the requested relief would pose an unreasonable risk to the safety or welfare of the public or any individual. The prosecutor shall be notified of the petition and may submit evidence and be heard on relevant issues. Victims are allowed to participate in hearings regarding petitions for limited relief in the same manner as existing law allows at a sentencing proceeding.

Judges or courts cannot grant petitions for limited relief as to the requirements of the Sex Offender Registration and Notification Act, motor vehicle license suspensions or revocations arising out of the Motor Vehicle Code when restoration or relief is available under other law, ineligibility for certification as a law enforcement officer or employment as a correctional officer, or legal prohibitions making it illegal for convicted felons to carry or possess firearms or destructive devices.

In civil lawsuits alleging negligent hiring or other forms of negligence, orders of limited relief are evidence of due care in hiring, retaining, licensing, leasing to, and otherwise transacting business with the convicted individual if the person being sued knew of the order or certificate at the time of the alleged negligence or fault.

Finally, the Act does not provide a basis for invalidating a plea or conviction, a basis for a cause of action for monetary damages, or a basis for a claim for relief from or defense to the application of a collateral consequence based on a failure to comply with the Act.

The effective date of SB183 is January 1, 2022.

FISCAL IMPLICATIONS

Administrative Office of the Courts (AOC) explains there will be a minimal administrative cost for statewide update, distribution, and documentation of statutory changes. Any additional fiscal impact on the judiciary would be proportional to the enforcement of this law and any processes the court is required to undertake under the Uniform Collateral Consequences of Conviction Act, including entertaining a petition for and issuing an order of limited relief. New laws, amendments to existing laws, and new hearings have the potential to increase caseloads in the courts, thus requiring additional resources to handle the increase.

Administrative Office of the District Attorneys (AODA) notes depending on how many petitions are filed, it could affect the workload of district attorneys, public defenders, and courts. Prosecutor's offices may also incur additional expenses should the need arise to have expert witnesses at the hearings on the petitions.

New Mexico Sentencing Commission (NMSC) advises that though they may rely on compilation work done in this area by the National Institute of Justice (NIJ), there still would be a significant amount of work to collate all of the initial data, publish the data on collateral consequences on its website, and keep the information updated as required under SB183. At present, Commission staff is already operating at capacity given its staffing levels. Additionally, were the federal law requiring NIJ to collect information on collateral consequences to change, the burden on NMSC would be considerable.

Public Defender Department (PDD) indicates any increase in workload necessary to comply with SB183 would likely be absorbed in the ordinary course of business.

The bill does not include an appropriation.

SIGNIFICANT ISSUES

SB183 implements a uniform act, meaning it is a product of the National Conference of Commissioners on Uniform Statutory Laws (NCCUSL), intended to be passed in all 50 states so that it is uniformly applied. Vermont is the only state to have enacted the act and the Massachusetts Legislature introduced it in 2021.

New Mexico Office of the Attorney General (NMAG) notes SB183 appears to duplicate already existing requirements in court rules requiring both counsel and the court to advise a defendant of collateral consequences, as well as procedures for obtaining relief from collateral consequences, when such relief is allowed. Neither the Supreme Court nor the federal circuits have held that the trial court must inform defendants of all possible consequences flowing from a guilty plea.

AODA raises the concern that it is not clear what the role of district attorneys will be in working with the sentencing commission other than helping to provide information of collateral consequences.

NMSC notes that criminal justice reform efforts in the nation have started to focus on collateral consequences of a conviction and the barriers they pose to re-integration of those convicted of a crime into society. It provides this explanation of the concern:

The consequences of a criminal conviction don't end with the prison sentence served or fines paid. Collateral consequences — separate from and in addition to direct consequences, such as imprisonment, fines and community supervision — continue to affect millions of Americans who have been convicted of a crime as they attempt to develop productive lives after their release and rehabilitation. . . .

Collateral consequences have long been hidden, buried in the language of state and federal statutes and codes, without a straightforward way for individuals, their attorneys or their sentencing judges to know which ones might be pertinent and applicable to a specific situation. However, having this information is critical for making informed decisions

during the course of a criminal case and for understanding the legal and regulatory barriers to reentry.

“Criminal Conviction: Impact on Corrections and Reentry”, Catherine E. Forrest (NIJ Update, Corrections Today, January/February 2016).

According to the National Inventory of Collateral Consequences of Conviction (<https://niccc.nationalreentryresourcecenter.org/>, searched February 3, 2021), there are currently 617 collateral consequences in New Mexico.

PERFORMANCE IMPLICATIONS

AOC notes the courts are participating in performance-based budgeting. This bill may have an impact on the measures of the district courts in the following areas:

- Cases disposed of as a percent of cases filed.
- Percent change in case filings by case type.

NE/al

Second Chance Probation in Illinois

Whenever any person who has not previously been convicted of any felony offense pleads or is found guilty of:

- possession of less than 15 grams of a controlled substance;
- possession of less than 15 grams of methamphetamine;

or a probation-able felony offense of:

- possession of cannabis,
- theft,
- retail theft,
- forgery,
- deceptive practices,
- possession of a stolen motor vehicle,
- burglary,
- possession of burglary tools,
- disorderly conduct,
- criminal damage or trespass to property under Article 21 of the Criminal Code of 2012,
- criminal trespass to a residence,
- an offense involving fraudulent identification, or obstructing justice; or
- possession of cannabis

the court, with the consent of the defendant and the State's Attorney, may, without entering a judgment, sentence the defendant to probation under this Section.

A defendant is not eligible for this probation if the offense he or she pleads guilty to, or is found guilty of, is a violent offense, or he or she has previously been convicted of a violent offense.

When a defendant is placed on probation, the court shall enter an order specifying a period of probation of not less than 24 months and shall defer further proceedings in the case until the conclusion of the period or until the filing of a petition alleging violation of a term or condition of probation.

A disposition of probation is considered to be a conviction for the purposes of imposing the conditions of probation and for appeal; however, a discharge and dismissal under this Section is not a conviction for purposes of this Code or for purposes of disqualifications or disabilities imposed by law upon conviction of a crime.

Sec. 5-6-3.4. Second Chance Probation.

(a) Whenever any person who has not previously been convicted of any felony offense under the laws of this State, the laws of any other state, or the laws of the United States, and pleads guilty to, or is found guilty of, possession of less than 15 grams of a controlled substance; possession of less than 15 grams of methamphetamine; or a probationable felony offense of possession of cannabis, theft, retail theft, forgery, deceptive practices, possession of a stolen motor vehicle, burglary, possession of burglary tools, disorderly conduct, criminal damage or trespass to property under Article 21 of the Criminal Code of 2012, criminal trespass to a residence, an offense involving fraudulent identification, or obstructing justice; or possession of cannabis, the court, with the consent of the defendant and the State's Attorney, may, without entering a judgment, sentence the defendant to probation under this Section.

(a-1) **Exemptions.** A defendant is not eligible for this probation if the offense he or she pleads guilty to, or is found guilty of, is a violent offense, or he or she has previously been convicted of a violent offense. For purposes of this probation, a "violent offense" is any offense where bodily harm was inflicted or where force was used against any person or threatened against any person, any offense involving sexual conduct, sexual penetration, or sexual exploitation, any offense of domestic violence, domestic battery, violation of an order of protection, stalking, hate crime, and any offense involving the possession of a firearm or dangerous weapon. A defendant shall not be eligible for this probation if he or she has previously been adjudicated a delinquent minor for the commission of a violent offense as defined in this subsection.

(b) When a defendant is placed on probation, the court shall enter an order specifying a period of probation of not less than 24 months and shall defer further proceedings in the case until the conclusion of the period or until the filing of a petition alleging violation of a term or condition of probation.

(c) The conditions of probation shall be that the defendant:

- (1) not violate any criminal statute of this State or any other jurisdiction;
- (2) refrain from possessing a firearm or other dangerous weapon;
- (3) make full restitution to the victim or property owner under Section 5-5-6 of this Code;
- (4) obtain or attempt to obtain employment;
- (5) pay fines and costs;
- (6) attend educational courses designed to prepare the defendant for obtaining a high school diploma or to work toward passing high school equivalency testing or to work toward completing a vocational training program;
- (7) submit to periodic drug testing at a time and in a manner as ordered by the court, but no less than 3 times during the period of probation, with the cost of the testing to be paid by the defendant; and
- (8) perform a minimum of 30 hours of community service. The court may give credit toward the fulfillment of community service hours for participation in activities and treatment as determined by court services.

(d) The court may, in addition to other conditions, require that the defendant:

(1) make a report to and appear in person before or participate with the court or such courts, person, or social service agency as directed by the court in the order of probation;

(2) undergo medical or psychiatric treatment, or treatment or rehabilitation approved by the Illinois Department of Human Services;

(3) attend or reside in a facility established for the instruction or residence of defendants on probation;

(4) support his or her dependents; or

(5) refrain from having in his or her body the presence of any illicit drug prohibited by the Methamphetamine Control and Community Protection Act, the Cannabis Control Act, or the Illinois Controlled Substances Act, unless prescribed by a physician, and submit samples of his or her blood or urine or both for tests to determine the presence of any illicit drug.

(e) Upon violation of a term or condition of probation, the court may enter a judgment on its original finding of guilt and proceed as otherwise provided by law.

(f) Upon fulfillment of the terms and conditions of probation, the court shall discharge the person and dismiss the proceedings against the person.

(g) A disposition of probation is considered to be a conviction for the purposes of imposing the conditions of probation and for appeal; however, a discharge and dismissal under this Section is not a conviction for purposes of this Code or for purposes of disqualifications or disabilities imposed by law upon conviction of a crime.

(h) A person may only have one discharge and dismissal under this Section within a 4-year period.

(i) If a person is convicted of any offense which occurred within 5 years subsequent to a discharge and dismissal under this Section, the discharge and dismissal under this Section shall be admissible in the sentencing proceeding for that conviction as evidence in aggravation.

(j) Notwithstanding subsection (a), if the court finds that the defendant suffers from a substance abuse problem, then before the person is placed on probation under this Section, the court may refer the person to the drug court established in that judicial circuit pursuant to Section 15 of the Drug Court Treatment Act. The drug court team shall evaluate the person's likelihood of successfully fulfilling the terms and conditions of probation under this Section and shall report the results of its evaluation to the court. If the drug court team finds that the person suffers from a substance abuse problem that makes him or her substantially unlikely to successfully fulfill the terms and conditions of probation under this Section, then the drug court shall set forth its findings in the form of a written order, and the person shall be ineligible to be placed on probation under this Section, but shall be considered for the drug court program.

(Source: P.A. 99-480, eff. 9-9-15; 100-3, eff. 1-1-18; 100-575, eff. 1-8-18.)



Testimony to the Criminal Records Review Committee

October 8th, 2024

Dear Members of the Criminal Records Review Committee,

My name is Courtney Gary-Allen, and I am the Executive Director of ME-RAP, a grassroots network of Mainers focused on creating community-driven and policy-based solutions to address substance use. Central to our work is a "listening first" approach, which prioritizes hearing directly from those impacted by the policies we advocate for. Each summer, we hold listening sessions with individuals who have lived experience, allowing us to understand the most pressing challenges facing our communities. This past summer, we conducted 33 sessions, engaging over 650 people across every county in Maine.

I am writing today to bring your attention to the "Matrix" and its significant impact on individuals with criminal records who are seeking employment in direct care or access roles in Maine. This issue was first raised during our initial listening sessions in 2020 and has since been repeatedly mentioned in conversations with individuals who have experience with substance use and incarceration. These sessions revealed that Mainers in recovery and those who have been incarcerated are eager for meaningful employment opportunities. However, a recurring barrier, noted by both potential employees and employers, is the "Matrix."

The "Matrix" lists disqualifying offenses that prevent individuals from working in direct care roles, such as drug counselors or behavioral health professionals. These offenses include criminal convictions, substantiated complaints of abuse or neglect, theft by unauthorized taking or transfer, among others. While I understand the importance of protecting vulnerable individuals in care, the current disqualification standards are overly restrictive and do not consider factors like rehabilitation, recovery, or the unique value of lived experience in these fields. For example, despite being nearly nine years into my own recovery, I would still be disqualified from working as a drug counselor due to a misdemeanor theft conviction just before I began my recovery. The disqualification period for theft is 10 years, which seems excessive, particularly given the severe shortage of qualified workers in the substance use field.

Although there is an appeals process, it is complex and often inaccessible, further limiting employment opportunities. These disqualification periods disproportionately affect individuals who are uniquely suited to provide meaningful care—especially those who have successfully navigated recovery and are ready to make a positive impact in their communities. It's important to recognize that individuals with lived experience in substance use or incarceration bring invaluable insight and support to those facing similar challenges.

I welcome the opportunity to discuss how we can work together to address these concerns and ensure that the "Matrix" supports, rather than hinders, pathways to employment for people with prior criminal convictions. I am happy to contribute to the committee's ongoing work and provide any additional information or support needed to advance these discussions. I have attached the full "Matrix," as well as the relevant statute and departmental rules related to this issue. Thank you for your time and consideration.

Sincerely,
Courtney Gary-Allen

Title 22: HEALTH AND WELFARE
Subtitle 6: FACILITIES FOR CHILDREN AND ADULTS
Chapter 1691: MAINE BACKGROUND CHECK CENTER ACT

§9054. Background Check Center; procedures

1. Bureau responsibilities. The bureau is responsible for working with the Background Check Center and federal and state agencies to facilitate background checks.

[PL 2015, c. 299, §25 (NEW).]

2. Employer obligations. An employer subject to this chapter shall use the Background Check Center to conduct a comprehensive background check that includes a criminal history records check for all direct access workers. The employer shall comply with the requirements of this chapter, including, but not limited to, a biometric identifier-based background check, when making employment-related decisions for direct access workers.

[PL 2023, c. 241, §59 (AMD).]

3. Direct access worker information. An employer seeking to hire, place or continue to employ an individual as a direct access worker shall:

A. Obtain personally identifiable information for the individual that is sufficient to secure the required components of the background check using the Background Check Center; [PL 2015, c. 299, §25 (NEW).]

B. Obtain the individual's executed consent to release information to all entities as needed to conduct the background check investigation, analysis and monitoring process; [PL 2015, c. 299, §25 (NEW).]

C. Secure a release executed by an individual seeking placement through a temporary nurse agency, personal care agency, placement agency or other agency to obtain the results of existing background checks conducted at the direction and expense of the temporary nurse agency, personal care agency, placement agency or other agency; and [PL 2015, c. 299, §25 (NEW).]

D. Use and distribute department-approved forms as required for all pre-hire and post-employment background checks.

[PL 2015, c. 299, §25 (NEW).]

[PL 2015, c. 299, §25 (NEW).]

4. Placed or temporary direct access workers. A temporary nurse agency, personal care agency or placement agency engaged in the business of securing or attempting to secure direct access employment for individuals or of securing or attempting to secure a direct access worker for placement with another provider shall:

A. Conduct and pay for the background check process required by this chapter; [PL 2015, c. 299, §25 (NEW).]

B. Upon request, provide the background check record to the provider seeking to fill a position where the direct access employment will take place; and [PL 2015, c. 299, §25 (NEW).]

C. Repeat the background check process for placed direct access workers after placement as mandated by rules adopted pursuant to this chapter, until the employment status shifts away from the placing entity to another entity, in which case the other entity then acquires the burden of paying for and conducting periodic background checks for the direct access workers who remain employed. [PL 2015, c. 299, §25 (NEW).]

[PL 2015, c. 299, §25 (NEW).]

5. Subsequent background check; 5 years. An employer shall conduct a periodic subsequent background check in accordance with rules adopted pursuant to this chapter. Criminal history record checks for all direct access workers using a biometric identifier must be completed every 5 years subsequent to the anniversary date of a previous background check completed through use of the Background Check Center.

[PL 2023, c. 241, §60 (AMD).]

6. Notice. An employer shall provide a department-approved notice to each individual who is required to participate in a background check.

[PL 2015, c. 299, §25 (NEW).]

7. Providers; mandatory use. Use of the Background Check Center is mandatory for the following providers:

A. [PL 2019, c. 660, §7 (RP).]

B. [PL 2019, c. 660, §8 (RP).]

C. [PL 2019, c. 660, §9 (RP).]

D. [PL 2019, c. 660, §10 (RP).]

E. [PL 2019, c. 660, §11 (RP).]

F. Hospice providers; [PL 2015, c. 299, §25 (NEW).]

G. Home health care providers; [PL 2015, c. 299, §25 (NEW).]

H. Nursing facilities; [PL 2015, c. 299, §25 (NEW).]

I. Personal care agencies and placement agencies; [PL 2015, c. 299, §25 (NEW).]

J. Temporary nurse agencies; [PL 2015, c. 299, §25 (NEW).]

K. Adult day care programs; [PL 2015, c. 299, §25 (NEW).]

L. Assisted housing facilities; [PL 2023, c. 176, §38 (AMD).]

M. Residential care facilities; [PL 2015, c. 299, §25 (NEW).]

N. Intermediate care facilities for individuals with intellectual disabilities; [PL 2015, c. 299, §25 (NEW).]

O. Mental health services facilities or providers; [PL 2023, c. 241, §61 (AMD).]

P. Drug treatment centers; [PL 2023, c. 241, §62 (AMD).]

Q. Substance use disorder treatment agencies; and [PL 2023, c. 241, §63 (NEW).]

R. Hospitals. [PL 2023, c. 241, §64 (NEW).]

[PL 2023, c. 176, §38 (AMD); PL 2023, c. 241, §§61-64 (AMD).]

8. Background Check Center responsibilities. The Background Check Center's responsibilities include, but are not limited to, the following:

A. Operating an online portal used by employers to secure background checks for individuals employed as direct access workers; [PL 2015, c. 299, §25 (NEW).]

B. [PL 2023, c. 241, §65 (RP).]

B-1. Collecting fingerprints to determine eligibility of individuals to work in direct access positions in accordance with standards adopted by department rule, and in accordance with applicable policies and rules of the Department of Public Safety, Bureau of State Police. The Bureau of State Police shall take, or cause to be taken, an individual's fingerprints, along with any other information necessary for a statewide and nationwide criminal history record check. All fingerprints must be maintained by the State Bureau of Identification and the Federal Bureau of Investigation in accordance with their policies and

procedures, and the Background Check Center shall obtain the results of the fingerprinting queries from the State Bureau of Identification; [PL 2023, c. 241, §66 (NEW).]

C. Generating background check reports for employers regarding the presence of disqualifying offenses, including criminal charges without disposition, in a direct access worker's background; [PL 2015, c. 299, §25 (NEW).]

D. Monitoring and enforcing compliance with the requirements of this chapter; [PL 2015, c. 299, §25 (NEW).]

E. Providing for a process by which an individual subject to actions taken by the Background Check Center may challenge the accuracy of information in a background check report and correct the information in accordance with rules adopted pursuant to this chapter; [PL 2015, c. 299, §25 (NEW).]

F. Specifying offenses, including offenses that may appear in publicly available criminal record information, that disqualify an individual from employment as a direct access worker for a term of 5, 10 or 30 years or, for disqualifying offenses that occur in health care settings, the lifetime of the individual, including, but not limited to, convictions and other events or notations; [PL 2023, c. 241, §67 (AMD).]

G. Coordinating with federal and state criminal justice agencies as required to facilitate a criminal record rap back monitoring program; and [PL 2015, c. 299, §25 (NEW).]

H. Providing for an independent process for a waiver based on a criminal conviction that gives an individual with a disqualifying offense who has been banned from employment pursuant to this chapter the opportunity to demonstrate that the ban should be waived because the individual does not pose a risk to patients, facilities, property or others. [PL 2015, c. 299, §25 (NEW).]

[PL 2023, c. 241, §§65-67 (AMD).]

9. Background check reports. A background check report under this chapter is considered preliminary until the individual subject to the background check has had the opportunity to challenge or decline to challenge the accuracy of the records obtained, after which the report is considered final.

[PL 2015, c. 299, §25 (NEW).]

10. Background check report content. The background check report must inform employers whether the individual submitted for a background check has offenses that disqualify the individual for employment as a direct access worker. The background check report must include information specific to the individual along with information about the source and type of offense sufficient to allow the individual named in the report to challenge the information. The content of the background check report must include, but is not limited to, notice that the individual submitted for a background check is:

A. [PL 2023, c. 241, §68 (RP).]

A-1. Eligible for hire; or [PL 2023, c. 241, §68 (NEW).]

B. [PL 2023, c. 241, §68 (RP).]

B-1. Ineligible for hire and the length of any ban on employment as a result. [PL 2023, c. 241, §68 (NEW).]

C. [PL 2023, c. 241, §68 (RP).]

[PL 2023, c. 241, §68 (AMD).]

11. List of disqualifying offenses. The department shall adopt rules under [section 9065 \(./22/title22sec9065.html\)](#) in accordance with the requirements of this chapter and other federal and state laws to create and maintain a list of disqualifying offenses that adversely affect an individual's eligibility for employment as a direct access worker. Disqualifying offenses that prohibit employment as a direct access worker include, but are not limited to:

A. Convictions or notations involving crimes or abuse related to a federally funded health care program or a state-funded health care program that mandate a disqualification from participation or employment with the program; [PL 2015, c. 299, §25 (NEW).]

B. Substantiated findings that the individual has committed an act of patient or resident abuse or neglect, exploitation or a misappropriation of patient or resident property or other types of acts that the department may specify for purposes of protecting vulnerable individuals receiving care or services; [PL 2015, c. 299, §25 (NEW).]

C. Convictions under federal or state law of a criminal offense relating to neglect or abuse of patients in connection with the delivery of a health care item or service; [PL 2015, c. 299, §25 (NEW).]

D. Convictions under federal or state law of a criminal offense relating to the health and safety of vulnerable individuals receiving care or services; [PL 2015, c. 299, §25 (NEW).]

E. Convictions relating to health care fraud in connection with the delivery of a health care item or service or with respect to any act or omission in a health care program operated by or financed in whole or in part by any federal, state or local government agency or convictions of a criminal offense consisting of a felony relating to fraud, theft, embezzlement, breach of fiduciary responsibility or other financial misconduct; [PL 2015, c. 299, §25 (NEW).]

F. Convictions for a Class A, B or C crime in this State or similar crime in another jurisdiction for an offense relating to the unlawful manufacture, distribution, prescription or dispensing of a controlled substance; and [PL 2015, c. 299, §25 (NEW).]

G. Convictions relating to other federal or state laws, provisions of this chapter or rules adopted under this chapter that otherwise mandate an employment prohibition. [PL 2015, c. 299, §25 (NEW).]

[PL 2015, c. 299, §25 (NEW).]

12. Appeal by individual. The department shall establish procedures in accordance with the provisions of the Maine Administrative Procedure Act to ensure that each individual submitted for a background check in compliance with this chapter has the opportunity to challenge and correct errors in records created and generated by the Background Check Center.

[PL 2015, c. 299, §25 (NEW).]

13. Waiver; disqualifying offense. In the event that no other federal or state law mandates an employment prohibition by an employer subject to this chapter, an individual who is banned from employment because of a disqualifying criminal offense may initiate a request for a waiver under subsection 8, paragraph H in accordance with a process established by rules adopted pursuant to this chapter under the following circumstances:

A. The individual is seeking to be employed or is currently employed by an employer subject to the requirements of this chapter; [PL 2015, c. 299, §25 (NEW).]

B. The employer has chosen to sponsor the individual's request for the removal of the ban in order to create or maintain an employment relationship; and [PL 2015, c. 299, §25 (NEW).]

C. The employer must attest to the department that the decision to sponsor the waiver request occurred after the employer considered the objectively reasonable factors under subsection 15 (./22/title22sec9054.html) and the following factors:

(1) The nature and gravity of the disqualifying offense or offenses;

(2) The time that has passed since the disqualifying offense or offenses;

(3) The nature of the employment held or sought;

(4) Whether the criminal conduct was employment-related; and

(5) A reasonable conclusion that the individual does not pose a threat of harm to a protected individual or others in the care and support of the individual. [PL 2015, c. 299, §25 (NEW).]

The waiver must be sought with respect to the prospective or continued employment by a specific employer that is willing to sponsor the individual's request. An employee seeking a waiver may be conditionally employed in accordance with section 9057, subsection 4 and section 9058-A, subsection 3 until the waiver is denied.

[PL 2023, c. 241, §69 (AMD).]

14. Approval of waiver. The department shall specify in rule the criteria for issuing a waiver for a disqualifying offense. The waiver determination is based on a consideration of the facts and circumstances of the specific individual's conviction that include the passage of time, extenuating circumstances, a demonstration of rehabilitation and the relevancy of the particular disqualifying offense with respect to the current or prospective employment with a sponsoring employer. All waivers are contingent on a final determination by the department that the employer has reasonably determined that the health and safety of a protected individual is not in jeopardy and a denial of a waiver request is not otherwise warranted in accordance with federal or state law.

[PL 2015, c. 299, §25 (NEW).]

15. Waivers; factors. The department shall specify in rule the minimum factors that an employer must consider when sponsoring a waiver under [subsection 13 \(./22/title22sec9054.html\)](#). Any factors that an employer chooses to consider must be objectively reasonable in supporting the attestation that the individual to whom the waiver would apply is unlikely to cause harm to a protected individual or others in the employer's care. Objectively reasonable factors include:

- A. The age of the individual applying for a waiver at the time of the disqualifying offense; [PL 2015, c. 299, §25 (NEW).]
- B. The amount of time that has passed since the disqualifying offense occurred; [PL 2015, c. 299, §25 (NEW).]
- C. The total number and type of disqualifying offenses; [PL 2015, c. 299, §25 (NEW).]
- D. Any proven mitigating circumstances surrounding the disqualifying offense; [PL 2015, c. 299, §25 (NEW).]
- E. Objective evidence that the individual has successfully completed a criminal rehabilitation program; [PL 2015, c. 299, §25 (NEW).]
- F. The relevance of the circumstances pertaining to the disqualifying offense with respect to the nature of the proposed employment; [PL 2015, c. 299, §25 (NEW).]
- G. The length and consistency of similar employment post-conviction if applicable; [PL 2015, c. 299, §25 (NEW).]
- H. Whether the individual is bonded under federal or state law; and [PL 2015, c. 299, §25 (NEW).]
- I. Personal references or recommendations from employers on behalf of the individual. [PL 2015, c. 299, §25 (NEW).]

[PL 2015, c. 299, §25 (NEW).]

16. Denial or revocation of waiver. The department shall establish by rule informal and formal review procedures for denial or revocation of a waiver. Denial or revocation of waiver procedures must comply with the Maine Administrative Procedures Act and final determinations may be appealed pursuant to the Maine Administrative Procedures Act in [Title 5, Part 18, Chapter 375, subchapter \(./5/title5ch375sec0.html\)](#)r 4. Rules concerning the denial or revocation of waiver procedures include, but are not limited to, the following:

- A. The process of filing a waiver request; [PL 2015, c. 299, §25 (NEW).]
- B. The time frame for filing a waiver request; [PL 2015, c. 299, §25 (NEW).]
- C. The time frame for issuing a waiver request decision; [PL 2015, c. 299, §25 (NEW).]
- D. The rules for employment during the waiver request process; and [PL 2015, c. 299, §25 (NEW).]
- E. A written determination stating the objectively reasonable factors under [subsection 15 \(./22/title22sec9054.html\)](#) explaining the department's determination to grant, deny or revoke a waiver. [PL 2015, c. 299, §25 (NEW).]

Rules adopted pursuant to this subsection are routine technical rules as defined in [Title 5, chapter 375, subchapter 2-A \(./5/title5ch375sec0.html\)](#).

[PL 2015, c. 299, §25 (NEW).]

17. Immunity. A provider that denies employment for an individual selected for hire or continued employment as a direct access worker, including during any period of conditional employment, and that reasonably relies upon information obtained

through a final background check report regarding the individual is not liable in an action brought by the individual based on an employment determination resulting from the information.

[PL 2015, c. 299, §25 (NEW).]

18. Presumption of good faith. In a proceeding regarding immunity from liability, there is a rebuttable presumption of good faith.

[PL 2015, c. 299, §25 (NEW).]

SECTION HISTORY

PL 2015, c. 299, §25 (NEW). PL 2019, c. 660, §§7-11 (AMD). PL 2023, c. 176, §38 (AMD). PL 2023, c. 241, §§59-69 (AMD).

The Revisor's Office cannot provide legal advice or interpretation of Maine law to the public.
If you need legal advice, please consult a qualified attorney.

[Office of the Revisor of Statutes \(mailto:webmaster_ros@legislature.maine.gov\)](mailto:webmaster_ros@legislature.maine.gov) · 7 State House Station · State House Room 108 · Augusta, Maine 04333-0007

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CNA and Direct Care Worker (DCW) Matrix
Any employer checking an applicant for a CNA/ DCW job must use this matrix.

Disqualifying Crimes for Maine Background Check Center			
Matrix for Disqualifying Crimes as required by 22 MRS §1812G (6-C).			
All employee categories listed in 22 MRS §1812G (2-A)(CNAs and DCWs) will be held to the standard of this matrix.			
The crimes listed in this document may bar an individual for a period of time from being employed in any manner as a Direct Care Worker as described in the above listed statute. Registered sex offenders (SO) may not work as a CNA or DCW when listed on a sex offender registry.			
Disqualifying crimes- Must be a class A, B, or C conviction unless otherwise specified on this matrix. If a listed crime occurred in a Health Care Setting (HCS) then the individual is permanently barred from employment as a CNA or DCW.			Disqualification Periods
	Life	30 Years	10 Years
OFFENSES OF GENERAL APPLICABILITY (Attempt, Solicitation, and Conspiracy)			
17-A §151. Criminal conspiracy	HCS		X
17-A §152. Criminal attempt	HCS		X
17-A §152-A. Aggravated attempted murder	HCS	X	
17-A §153. Criminal solicitation	HCS		X
OFFENSES AGAINST THE PERSON			
17-A §201. Murder	HCS	X	
17-A §202. Felony murder	HCS	X	
17-A §203. Manslaughter	HCS		X
17-A §204. Aiding or soliciting suicide	HCS		D
17-A §207. Assault	HCS		X
17-A §207-A. Domestic violence assault	HCS		X
17-A §208, 208-B. Aggravated assault, including elevated aggravated	HCS	A	B
17-A §208-C. Elevated aggravated assault on pregnant person	HCS	X	
17-A §209-A. Domestic violence criminal threatening	HCS		X
17-A §210. Terrorizing	HCS		X
17-A §210-A. Stalking	HCS		X
17-A §211-A. Domestic violence reckless conduct	HCS		X
17-A §213. Aggravated reckless conduct	HCS		X
19-A §4011. Violation of a protection order	HCS		X
22 §1593. Illegal sale and use of fetuses	HCS		X
34-B §3805. Causing denial of rights	HCS		X
34-B §5606. Violating rights of a person with an intellectual disability	HCS		E
SEX ASSAULTS (includes misdemeanors)			
17-A §253. Gross sexual assault	HCS		X
17-A §254. Sexual abuse of minors	HCS		X
17-A §255-A. Unlawful sexual contact	HCS		X

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			10 Years
SEX ASSAULTS (CONT.) (includes misdemeanors)			
17-A §256. Visual sexual aggression against child	HCS		X
17-A §258. Sexual misconduct with a child under 14 years of age	HCS		X
17-A §259-A. Solicitation of a child to commit a prohibited act	HCS		X
17-A §260. Unlawful sexual touching	HCS		X
34-A §Multiple. Failing to register as a Sex Offender			X
SEXUAL EXPLOITATION OF MINORS (includes misdemeanors)			
17-A §282. Sexual exploitation of minor	HCS		X
17-A §283. Dissemination of sexually explicit material	HCS		X
17-A §284. Possession of sexually explicit material	HCS		X
KIDNAPPING AND CRIMINAL RESTRAINT			
17-A §301. Kidnapping	HCS	X	
17-A §302. Criminal restraint	HCS		X
17-A §303. Criminal restraint by parent	HCS		X
34-B §3805 Causing Unwarranted Hospitalizations.	HCS		X
THEFT			
17-A §353. Theft by unauthorized taking or transfer	HCS		X
17-A §354. Theft by deception	HCS		X
17-A §354-A. Insurance deception	HCS		X
17-A §355. Theft by extortion	HCS		X
17-A §356-A. Theft of lost, mislaid or mistakenly delivered property	HCS		X
17-A §357. Theft of services	HCS		X
17-A §358. Theft by misapplication of property	HCS		X
17-A §359. Receiving stolen property	HCS		X
17-A §360. Unauthorized use of property	HCS		X
17-A §363. Organized retail theft	HCS		X

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			10 Years
BURGLARY			
17-A §401. Burglary	HCS		X
17-A §405. Burglary of motor vehicle	HCS		X
FALSIFICATION IN OFFICIAL MATTERS			
17-A §454. Tampering with a witness, informant, juror or victim	HCS		X
17-A §455. Falsifying physical evidence	HCS		D
17-A §456. Tampering with public records or information	HCS		D
OFFENSES AGAINST THE FAMILY			
17-A §553. Abandonment of child	HCS		X
17-A §554. Endangering the welfare of a child	HCS		X
17-A §555. Endangering welfare of dependent person	HCS		X
17-A §556. Incest	HCS		X
ROBBERY			
17-A §651. Robbery	HCS		X
FORGERY AND RELATED OFFENSES			
17-A §702. Aggravated forgery	HCS		X
17-A §703. Forgery	HCS		X
OFFENSES AGAINST PUBLIC ADMINISTRATION			
17-A §751-B. Refusing to submit to arrest or detention	HCS		D
17-A §752-A. Assault on an officer	HCS		X
17-A §752-B. Unlawful interference with law enforcement dogs	HCS		X
17-A §752-C. Assault on an emergency medical care provider	HCS		X
17-A §752-D. Unlawful interference with law enforcement horses	HCS		X
17-A §753. Hindering apprehension or prosecution	HCS		X
17-A §754. Obstructing criminal prosecution	HCS		X

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Matrix for Disqualifying Crimes as required by 22 MRS §1812G (6-C).			
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The crimes listed in this document may bar an individual for a period of time from being employed in any manner as a Direct Care Worker as described in the above listed statute. Registered sex offenders (SO) may not work as a CNA or DCW when listed on a sex offender registry.			
Disqualifying crimes- Must be a class A, B, or C conviction unless otherwise specified on this matrix.			Disqualification Periods
If a listed crime occurred in a Health Care Setting (HCS) then the individual is permanently barred from employment as a CNA or DCW.			Life 30 Years 10 Years
OFFENSES AGAINST PUBLIC ADMINISTRATION (CONT.)			
17-A §755. Escape	HCS		X
ARSON AND OTHER PROPERTY DESTRUCTION			
17-A §802. Arson	HCS	X	
17-A §803-A. Causing a catastrophe	HCS	X	
17-A §805. Aggravated criminal mischief	HCS		X
SEX TRAFFICKING, PROSTITUTION AND PUBLIC INDECENCY			
17-A §852. Aggravated sex trafficking	HCS		X
17-A §853. Sex Trafficking	HCS		X
17-A §855. Patronizing prostitution of minor or person with mental disability	HCS		X
FRAUD			
9-B §466. Act or omission with the intent to defraud	HCS		X
17-A §903. Misuse of entrusted property	HCS		X
17-A §905-A. Misuse of identification	HCS		D
32 §16508. Maine securities act violation			X
39-A §210. Health facility submitting false records	HCS		D
CRIMINAL USE OF EXPLOSIVES AND RELATED CRIMES			
17-A §1001. Criminal use of explosives	HCS		X
DRUGS			
17-A §1103. Unlawful trafficking in scheduled drugs	HCS		X
17-A §1104. Trafficking in or furnishing counterfeit drugs	HCS		X
17-A §1105-A. Aggravated trafficking of scheduled drugs	HCS	A	B, C
17-A §1105-B. Aggravated trafficking or furnishing of counterfeit drugs	HCS		X

CNA and Direct Care Worker (DCW) Matrix
Any employer checking an applicant for a CNA/ DCW job must use this matrix.

Disqualifying Crimes for Maine Background Check Center			
Matrix for Disqualifying Crimes as required by 22 MRS §1812G (6-C).			
All employee categories listed in 22 MRS §1812G (2-A)(CNAs and DCWs) will be held to the standard of this matrix.			
The crimes listed in this document may bar an individual for a period of time from being employed in any manner as a Direct Care Worker as described in the above listed statute. Registered sex offenders (SO) may not work as a CNA or DCW when listed on a sex offender registry.			
Disqualifying crimes- Must be a class A, B, or C conviction unless otherwise specified on this matrix.			Disqualification Periods
If a listed crime occurred in a Health Care Setting (HCS) then the individual is permanently barred from employment as a CNA or DCW.			Life 30 Years 10 Years
DRUGS (CONT.)			
17-A §1105-C. Aggravated furnishing of scheduled drugs	HCS		X
17-A §1105-D. Aggravated cultivating of marijuana			X
17-A §1105-E. Aggravated unlawful operation of a meth laboratory		X	
17-A §1106. Unlawfully furnishing scheduled drugs	HCS		X
17-A §1118. Illegal importation of scheduled drugs			X
17-A §1124. Unlawful operation of a methamphetamine laboratory	HCS		X
MOTOR VEHICLES			
29-A §2414. Eluding/ Passing a roadblock			X
29-A §2411. Operating under the influence- Injury/Death			X
29-A § 2252. Leaving the scene of accident with Injury/ Death			X
29-A §2464. Operating after suspension- accident with death			X

11/18/2018

STATE OF MAINE

MAINE BACKGROUND CHECK CENTER RULE

**10-144 CODE OF MAINE RULES
CHAPTER 60**



**Department of Health and Human Services
Division of Licensing and Certification
11 State House Station
Augusta, Maine 04333-0011**

**Effective Date:
October 17, 2018**

Division of Licensing and Certification

Department of Health and Human Services

MAINE BACKGROUND CHECK CENTER RULE

10-144 C.M.R. Chapter 60

SUMMARY STATEMENT

This rule is established to govern the Maine Background Check Center (MBCC), which operates an Internet-based system that employers use to access criminal records and other background information to determine the eligibility of individuals to work in direct access positions serving vulnerable children, elderly persons, dependent adults and persons with disabilities in Maine. The online system is maintained by the MBCC in coordination with the Department of Public Safety, the State Bureau of Identification and with other state and federal agencies, including the Federal Bureau of Investigation (FBI).

AUTHORITY

22 M.R.S. Chapter 1691

EFFECTIVE DATE

This rule is effective October 17, 2018.

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SECTION 1: DEFINITIONS

Comprehensive background check report means a comprehensive report generated by the Maine Background Check Center or an alternate vendor based on a search and analysis of the State Bureau of Identification (SBI) Criminal History Record Information and may include other databases as applicable to the employer and the direct access worker's position, such as:

- The Federal Bureau of Investigation;
- The National Sex Offender Public Website;
- The Maine Sex Offender Registry;
- Maine Child Protective Services records;
- The Maine Registry of Certified Nursing Assistants and Direct Care Workers;
- The Federal Office of the Inspector General's exclusion list;
- The MaineCare exclusion list; and
- Other applicable registries and professional licensing records.

The comprehensive background check report informs an employer when an offense appears in an individual's record that may disqualify the individual from employment as a direct access worker.

Conditional employment means a period of employment, not to exceed 60 contiguous calendar days, during which a direct access worker or grandfathered employee may seek to correct an error on a comprehensive background check report generated by the MBCC, or an employer may request a waiver of a disqualifying offense. Interruptions in employment for legally required leave such as Family Medical Leave or a layoff in workforce are not included in the 60 calendar day period.

Department means the Department of Health and Human Services.

Direct Access means access to the property, personally identifiable information, financial information and resources of an individual or physical access to an individual who is a Medicare or Medicaid beneficiary or other protected individual served by a provider subject to this rule.

Direct access employment means any activity involving direct access services including employment for wages, contracting for temporary staff or use of unsupervised volunteers or students who perform functions similar to those performed by direct access workers.

Direct access worker means an individual who by virtue of employment has direct access to a Medicare or Medicaid beneficiary or other protected individual served by a provider subject to this rule. "Direct access worker" does not include an individual performing repairs, deliveries, installations or similar services who does not have direct access without supervision. "Direct access worker" includes but is not limited to the following individuals:

- A. An individual seeking employment as a direct access worker;

- B. An employee who is employed upon the effective date of this rule and who is required to have a background check in accordance with this rule;
- C. A former employee who consents, prior to leaving employment, to periodic review of that employee's criminal background for a fixed time;
- D. An independent contractor pursuant to Title 26, section 1043, subsection 11, paragraph E or Title 39-A, section 102, subsection 13-A or a worker who is placed with a provider by a temporary nurse agency or a personal care agency or a placement agency registered pursuant to section 1717; and
- E. A volunteer, student, or other person with direct access who routinely performs unsupervised functions similar to those performed by a direct access worker for a provider.

Direct personal supervision means that the supervisor has immediate access to the conditionally employed individual with ability to promptly respond to an emergency situation, for the purpose of conditional employment.

Employer means a person or other legal entity that employs or places a direct access worker or otherwise provides direct access services. "Employer" includes a provider, a temporary nurse agency, a personal care agency and a placement agency.

Maine Background Check Center (MBCC) means the Internet-based system established and maintained by the Department in accordance with 22 M.R.S. §9054, used by employers to request background checks on potential or current direct access workers to determine the eligibility of individuals to work in direct access positions with vulnerable Mainers including children, elderly persons, dependent adults and persons with disabilities.

Person means any individual, partnership, association, organization, corporation, trust, or other entity.

Personally identifiable information means information that permits the identity of an individual to whom the information applies to be able to be reasonably inferred or known by either direct or indirect means.

Protected individual means a person who is in need of support, who is vulnerable to abuse, neglect and exploitation and who receives services offered by providers subject to this rule. A protected individual requires special protective measures by criminal justice, social services and health care agencies; may be a patient, consumer, beneficiary or resident; and is typically elderly, a child or an individual with disabilities in need of assistance.

Provider means a licensed, certified or registered entity that employs direct care workers to provide long-term care, child care and in-home and community-based services under this rule.

Rap Back Monitoring means automatically and constantly monitoring an individual's Record of Arrest and Prosecution (RAP) and reporting new results to the MBCC.

Substantial non-compliance means failure to comply with the administrative and record-keeping requirements outlined in this rule.

Quick Check means a no-cost check of publically accessible registries performed by a prospective employer using the direct access worker's first and last names only.

User fee means the fee charged to an employer for each background check.

SECTION 2: SCOPE, EMPLOYER OBLIGATIONS, ENROLLMENT, AND FEES

- A. Scope.** The provisions of this rule apply to all employers and direct access workers required to use the MBCC in accordance with 22 M.R.S. §9054.
- B. Employer obligations.** An employer subject to this rule shall use the MBCC to conduct a comprehensive background check that includes a criminal history records check for all direct access workers. The employer shall comply with the requirements of this chapter when making employment-related decisions for direct access workers.
- C. Mandatory use of the MBCC by providers:** Use of the MBCC is mandatory for the following providers (as defined in 22 M.R.S. §9053):
1. Child Care facilities;
 2. Child placing agencies;
 3. Children’s residential care facilities;
 4. Family child care providers;
 5. Nursery schools;
 6. Hospice providers;
 7. Home health care providers;
 8. Nursing facilities;
 9. Personal care agencies and placement agencies;
 10. Temporary nurse agencies;
 11. Adult day care programs;
 12. Assisted housing programs;
 13. Residential care facilities;
 14. Intermediate care facilities for individuals with intellectual disabilities;
 15. Mental health services facilities or providers; and
 16. Drug treatment centers.
- D. Constitutionality clause.** Should any section, paragraph, sentence, clause, or phrase of this rule be declared unconstitutional or invalid for any reason, the remainder of this rule will not be affected thereby.
- E. Employer enrollment, administrator, and user requirements.** Employers must comply with the following enrollment, administrator, and user requirements.
1. Employers must identify at least one individual to serve as its background check administrator.
 2. The administrator must:
 - a. Create and maintain an account in the Department’s MBCC website ;
 - b. Complete all enrollment procedures required to use the website; and

- c. Comply with all system requirements to maintain the employer’s access to the website.
3. Employers may allow users other than the administrator to access the website. The administrator and each user must complete the user registration process.
 4. Background check records and other personally identifiable information provided by a direct access worker are confidential and must be stored in a safe and secure manner. All users must comply with the confidentiality requirements of this rule and the applicable statutes.
 5. Employers must update their user list on the website to reflect all current users.
- F. User fees.** User fees are assessed for each comprehensive background check performed on behalf of an employer. User fees are based on an analysis of the Department’s costs for operating the MBCC and performing comprehensive background checks.
1. **User Fee.** The user fee will be \$56 for each comprehensive background check.
 2. Any changes to the User Fee will be by rulemaking, however, the user fee may not be less than \$25 and no more than \$150, pursuant to 22 M.R.S. §9055(1).
 3. **Invalid request.** A request for a background check that does not include accurate information, in accordance with Section 3(C)(1) of this rule, is invalid.
 - a. If the Department is unable to obtain results for the direct access worker, as a result of a clerical error on the part of an employer, the employer is required to submit a new request with the missing accurate information.
 - b. The employer must pay the same fee for this additional request to the Department as was required by the initial background request.
 - c. Failure to provide accurate information does not extend any period of conditional employment.
 4. **Non-refundable.** User fees are non-refundable if any portion of the MBCC check is performed.

SECTION 3: CONDUCTING BACKGROUND CHECKS AND REPORTS

- A. Notice.** Employers must provide notice regarding the background check process and disqualifying offenses to direct access workers using forms provided by the Department.
- B. Authorization and releases.** Employers must obtain authorization and releases from direct access workers using forms provided by the Department prior to requesting a background check.
- 1. Same document.** The notice, authorization and release may be in the same document.
 - 2. Maintain records.** Employers must maintain copies of all signed notice, authorization and release forms.
 - a.** Employers must retain signed notice, authorization, and release forms:
 - i.** For one year if the direct access worker is not hired; or
 - ii.** Until new notices, authorizations, and releases are obtained for the direct access worker's next background check; or
 - iii.** For a minimum of one year after the direct access worker's status as a direct access worker ends.
 - b.** Employers must make the signed forms available immediately upon request from the Department.
- C. Obtaining information required to conduct checks.** Employers must obtain and direct access workers must provide the information and documentation identified in this sub-section.
- 1. Identifying information.** Employers must obtain the following information from direct access workers in order to complete a background check:
 - a.** Full name, including maiden name, and all previously used names;
 - b.** Date of birth;
 - c.** Current address; and
 - d.** The identification number from a:
 - i.** State-issued identification card or driver's license;
 - ii.** Military identification card;

-
- iii. Passport; or
 - iv. Other form of photographic or government certified identification approved by the Department.
 - 2. **Failure to provide current address.** The MBCC or the approved alternate vendor will use the employer’s address provided to issue all notices regarding the direct access worker. Failure to provide a correct current address may delay the receipt of notices. Delay caused by failure to provide a correct current address will not extend the period for conditional employment.
 - 3. **Retain Form I-9.** Employers must complete and retain the United States Citizenship and Immigration Services (USCIS) Employment Eligibility Verification Form I-9 and documentation relied upon to establish the identity of every direct access worker.
 - 4. **Notice of legal name change.** Employers must notify the MBCC of the legal name change of a direct access worker in writing within ten business days of learning of the change. The notification must include proof of the name change, such as a court document, marriage certificate or divorce decree.
- D. Use of the MBCC or alternate vendors.** Employers must use the MBCC to complete a direct access worker’s comprehensive background check, unless the employer has received written approval to use an alternate vendor, as set forth in this rule. Employers must comply with the instructions and requirements of the system.
- 1. **Phased implementation.** The MBCC or approved alternate vendors will become operational for employers in a staged and orderly process based on the type of employer and the number of direct access workers employed. Employers have 14 business days from the date of notification by the Department to begin use of the MBCC.
 - 2. **Grandfathered employees.** Individuals serving as direct access workers who were employed as direct access workers prior to the date the MBCC becomes operational for that employer are considered grandfathered employees. Employers have 365 calendar days from the date the MBCC becomes operational for the employer to obtain a comprehensive background check report on grandfathered employees.
 - 3. **Master list.** Employers must create and maintain a master list of all their direct access workers that reflects the date and result of background checks completed.
 - a. Employers must keep the direct access workers’ employment status current.

- b. Employers must update their master list in the system within 30 calendar days of terminating or separating from a direct access worker employee.
- 4. **Placed and temporary workers.** Employers must complete comprehensive background checks for individuals hired as direct access workers in accordance with 22 M.R.S. §9054(4).
- 5. **Alternate vendors.** Employers may seek approval from the Department to continue use of an alternate vendor to conduct all comprehensive background checks.
 - a. A vendor must comply with the following conditions to be approved by the Department:
 - i. The employer was using an alternate vendor to conduct comprehensive background checks for his or her direct access workers on, or before, February 6, 2017;
 - ii. The employer applies to the Department for the use of a vendor within the 14 business day period following the notification described in Section 3(D)(1) of this rule;
 - iii. The vendor produces a background check report for each direct access worker that complies with the standards set forth in 22 M.R.S. §9054, including continuous monitoring of convictions (rap back);
 - iv. The employer provides an attestation of continued use of the approved background check vendor to the Department every 365 calendar days following the initial approval;
 - v. The employer maintains a master list of all direct access workers and the status of their comprehensive background checks and provides access of this list to the Department, upon request, during regular business hours;
 - vi. The employer complies with all other standards put forth in this rule and remains liable to sanctions for violations of this rule; and
 - vii. The direct access worker may not be employed in a direct access position, if the employer receives a disqualifying report from their approved alternative vendor, and the Department will not accept waiver requests from employers using an alternate vendor.
 - b. Any report, underlying data and analysis made by the alternate vendor pursuant to these rules must be made available to the Department upon the

Department's written request. If an employer or the alternate vendor refuse to give reports, underlying data, and analysis to the Department, the Department may send written notice to the employer that its approval of the alternate vendor is withdrawn.

- c. After receiving a complete application, the Department will make a decision to approve or deny the use of an alternate vendor and provide a formal written decision to the employer within ten business days. The Department will only approve if the use of an alternate vendor meets the requirements of this rule and 22 M.R.S. §9054.
- d. Use of the vendor shall cease immediately upon the vendor's inability to conduct a comprehensive background check in compliance with this rule.
- e. If the employer ceases to use the alternate vendor, then the employer must immediately begin use of the MBCC.

- E. **Quick check.** Employers may opt to screen potential direct access workers by conducting a quick check prior to paying for a comprehensive background check. Search results indicating disqualifying offenses that preclude employment may be used to make employment decisions. If no disqualifying offenses result from this search, the employer shall initiate a comprehensive background check prior to making an employment decision.
- F. **Rap back monitoring.** All direct access workers hired by employers as direct access workers are automatically enrolled in criminal record rap back monitoring, as a function of the MBCC search.
 - 1. **Automatic monitoring.** Rap back monitoring automatically monitors direct access workers' criminal records for five years following a request for a comprehensive background check.
 - 2. **Update master list to cease monitoring.** To cease rap back monitoring of a direct access worker, employers must update their master lists of direct access workers in the MBCC to indicate that worker is no longer employed by that employer.
- G. **Periodic subsequent comprehensive background checks.** Employers must follow the same process used to obtain an initial comprehensive background check to obtain a periodic comprehensive background check. Subsequent comprehensive background checks must be obtained at least every five years following the date of hire or the anniversary date of a previous comprehensive background check.
- H. **Transfers and promotions.** A background check must be completed on an individual who is currently employed in a position other than as a direct access worker when they are transferred or promoted into a position as a direct access worker, unless a

comprehensive background check has already been conducted through the MBCC or an approved alternate vendor.

- I. Disqualifying offenses.** An individual with a disqualifying offense, including a disqualifying criminal conviction; substantiated complaint of abuse, neglect, or misappropriation of funds; or listing on a fraud or Sex Offender Registry as described below may not work as a direct access worker during the disqualification period.

- 1. Reports received from the Maine State Bureau of Identification (SBI).** Unless specified otherwise in the licensing rule specific to the employer's work, pursuant to 22 M.R.S. §9054(11), the Table of Disqualifying Crimes below lists disqualifying criminal offenses by the class of crime (A-E) and the length of time following the conviction that a direct access worker may not be employed as a direct access worker:

Table of Disqualifying Crimes			
Criminal Offense	Disqualification Periods		
	30 Years	10 Years	5 Years
OFFENSES OF GENERAL APPLICABILITY (Attempt, Solicitation, and Conspiracy)			
Criminal conspiracy		A, B, C	
Criminal attempt	A	B, C	
Aggravated attempted murder	A		
Criminal solicitation		A, B, C	
OFFENSES AGAINST THE PERSON			
Murder	A		
Felony murder	A		
Manslaughter		A, C	
Aiding or soliciting suicide			D
Assault		C	
Domestic violence assault		C	
Aggravated assault	A, B		
Elevated aggravated assault	A		
Elevated aggravated assault on a pregnant person	A		
Domestic violence criminal threatening		C	
Terrorizing		C	
Stalking		B, C	
Reckless conduct domestic violence		C	
Aggravated reckless conduct		B	
Violation of a protection order			C
Illegal sale and use of fetuses			C
Causing denial of rights of a mentally ill person			C
Causing unwarranted hospitalization of a person			E
SEX ASSAULTS			
Gross sexual assault	A	B, C	

Criminal Offense	Disqualification Periods		
	30 Years	10 Years	5 Years
Sexual abuse of a minor		C	D, E
Unlawful sexual contact	A	B, C	D, E
Visual sexual aggression against child		C	D
Contact with a child under 14 in a restricted zone		C	D
Sexual misconduct with a child under 14 years of age		C	D
Solicitation of a child to commit a prohibited act		C	D
Unlawful sexual touching			D
Failing to register as a sex offender		B, C	D
SEXUAL EXPLOITATION OF MINORS			
Sexual exploitation of minor	A	B	
Dissemination of sexually explicit material	A	B, C	
Possession of sexually explicit material		B, C	D
KIDNAPPING AND CRIMINAL RESTRAINT			
Kidnapping	A, B		
Criminal restraint		C	
Criminal restraint by parent		C	
Causing unwarranted hospitalizations.		C	
THEFT			
Theft by unauthorized taking or transfer		B	C
Theft by deception		B	C
Insurance deception		B	C
Theft by extortion			C
Theft of lost, mislaid or mistakenly delivered property		B	C
Theft of services		B	C
Theft by misapplication of property		B	C
Receiving stolen property		B	C
Unauthorized use of property		B	C
Organized retail theft			C
BURGLARY			
Burglary			A, B, C
Burglary of motor vehicle			C
FALSIFICATION IN OFFICIAL MATTERS			
Tampering with a witness, informant, juror or victim		B, C	
Falsifying physical evidence			D
Tampering with public records or information			D
OFFENSES AGAINST THE FAMILY			
Abandonment of child		C	
Endangering the welfare of a child		C	
Endangering welfare of dependent person		C	
Incest		C	D

Criminal Offense	Disqualification Periods		
	30 Years	10 Years	5 Years
ROBBERY			
Robbery		A, B	
FORGERY AND RELATED OFFENSES			
Aggravated forgery		B	
Forgery		B, C	
Negotiating a worthless instrument		B, C	
OFFENSES AGAINST PUBLIC ADMINISTRATION			
Refusing to submit to arrest or detention			D
Assault on an officer/firefighter			C
Unlawful interference with law enforcement dogs			C, D
Assault on an emergency medical care provider		C	
Unlawful interference with law enforcement horses			C, D
Hindering apprehension or prosecution			B, C
Obstructing criminal prosecution			C
Escape			B, C
ARSON AND OTHER PROPERTY DESTRUCTION			
Arson	A		
Causing a catastrophe	A		
Aggravated criminal mischief		C	
SEX TRAFFICKING, PROSTITUTION AND PUBLIC INDECENCY			
Aggravated sex trafficking	B		
Sex trafficking		C	
Patronizing prostitution of minor/person with mental disability		C	D
FRAUD			
Act or omission with the intent to defraud		C	
Misuse of entrusted property	B, C		
Misuse of identification			D
CRIMINAL USE OF EXPLOSIVES AND RELATED CRIMES			
Criminal use of explosives		C	
Criminal use of disabling chemicals			D
Criminal use of electronic weapon			D
DRUGS			
Unlawful trafficking in scheduled drugs		B	C, D
Trafficking in or furnishing counterfeit drugs			C
Aggravated trafficking of scheduled drugs		A, B	C
Aggravated trafficking or furnishing of counterfeit drugs		B	
Aggravated furnishing of scheduled drugs		B	C
Aggravated cultivating of marijuana		A, B	C
Aggravated unlawful operation of a meth laboratory		A	

Criminal Offense	Disqualification Periods		
	30 Years	10 Years	5 Years
Unlawfully furnishing scheduled drugs			C
Unlawful operation of a methamphetamine laboratory		B	
MOTOR VEHICLES			
Eluding/passing a roadblock		B	C
Operating under the influence resulting in injury/death	B	C	
Leaving the scene of accident with injury/death		C	
Operating after suspension-accident with death		B	

2. Comparable convictions for similar crimes in this and other jurisdictions result in disqualification as in the Table above.
3. A disqualifying offense includes any act that results in the direct access worker being listed on any of the following lists or registries at the time of application or thereafter. If there is a difference in length between the disqualification periods in the table above and a list or registry or between registries, and one of them results in a current disqualification, then whichever results in the current disqualification will control. Lists prohibiting employment include the following:
 - a. National Sex Offender Public Website;
 - b. Maine Sex Offender Registry;
 - c. Maine Registry of Certified Nursing Assistants and Direct Care Workers annotated list;
 - d. Federal Office of the Inspector General exclusion list;
 - e. MaineCare exclusion list; or
 - f. The exclusion list of any other applicable registries.

J. Reports

1. The MBCC or the approved alternate vendor shall issue background check reports in accordance with 22 M.R.S. §§ 9054 (9) and (10).
2. Content of the Background Check Report: The content of the Background Check Report must include notice that the individual submitted for a background check has: (a) no disqualifying offenses; or (b) has a disqualifying offense(s); or (c) a criminal charge without disposition that upon final disposition may result in a disqualifying offense. The background check report must include information specific to the individual along with information about the source and type of offense sufficient to allow the individual named in the report to challenge the information.

- 3.** The background check report is considered preliminary until the individual subject to the background check has had the opportunity to challenge or decline to challenge the accuracy of the records obtained, after which the report shall be final, unless:

 - a.** A direct access worker corrects an error pursuant to this rule, and the correction results in a new background check report that does not disqualify the direct access worker; or
 - b.** An employer sponsors a waiver and that waiver is granted by the Department.
- 4.** The MBCC or the approved alternate vendor may issue a new background check report regarding any direct access worker, when the MBCC or the approved alternate vendor:

 - a.** Receives new information based on rap back monitoring that would result in a disqualification; or
 - b.** The MBCC or the alternate vendor receives information which would result in the disqualification of a direct access worker who has a current report that does not disqualify him or her.
- 5.** Any background check report issued by the MBCC or the approved alternate vendor supersedes a prior report and/or waiver granted to an employer and becomes final, except as above.

SECTION 4: ERROR CORRECTIONS AND WAIVERS

- A. Conditional employment.** The employer shall notify each direct access worker of the results of the MBCC or approved alternate vendor comprehensive background check report.
1. The employer shall record the date when the results of the report regarding eligibility for hire are provided to the direct access worker.
 2. An employer may hire a direct access worker or retain a grandfathered direct access worker on a conditional basis by meeting the requirements of 22 M.R.S. §§ 9057(4) and 9058(3) and this rule.
 3. An employer may continue conditional employment when that direct access worker pursues an error correction, or when the employer sponsors a waiver request. A direct access worker retained on a conditional basis must be under direct personal supervision during conditional employment.
- B. Error corrections.** If a direct access worker believes the comprehensive background check report contains an error, the direct access worker may challenge the accuracy of the information believed to be in error as follows.
1. **Records created or generated outside the MBCC.** The error correction process described in this paragraph applies to records created or generated by entities other than the MBCC.
 - a. Direct access workers must follow any instructions provided by the employer or the entity responsible for creating or generating the records containing the error, such as the SBI, other applicable databases and registries or a professional licensing entity.
 - b. If the entity responsible for creating or generating the records corrects an error, the employer may access the Department's background check system to verify any updated information.
 - c. If the SBI notifies the MBCC of the correction of an error, the MBCC shall notify the employer of the error correction and provide a corrected comprehensive background check report to the employer and notify the direct access worker.
 - d. If errors are not corrected by the end of the 60 days of conditional employment, employers are prohibited from employing the direct access worker unless they obtain a waiver or until the error is corrected and a non-disqualifying report is issued.

-
- 2. Records created or generated by the MBCC or an approved alternate vendor.** The error correction and challenge process described in this paragraph applies to records created or generated by the MBCC or approved alternate vendor.
- a.** Direct access workers must submit a request to correct information in records created or generated by the MBCC or approved alternate vendor within ten days after the MBCC or approved alternate vendor issues the notice of disqualification to their employer.
 - b.** Requests must be made in writing and directed to the Department, and must specify what information is in error.
 - c.** The Department will issue its decision in writing within ten days of the request. The decision may be appealed, in accordance with Section 6(D)(1) of this rule.
 - d.** If errors are not corrected by the end of the 60 days of conditional employment, employers are prohibited from employing the direct access worker unless they obtain a waiver or until the error is corrected and a non-disqualifying report is issued.
- C. Waivers.** If a direct access worker has a disqualifying criminal conviction listed in the table in Section 3(I)(1) or in Section 3(I)(2) of this rule on his or her comprehensive background check report, employers may only employ the direct access worker if they obtain a waiver from the Department. Direct access workers and employers must comply with the provisions in this sub-section to obtain a waiver from the Department.
- 1.** An employer may not request a waiver of a direct access worker's disqualification for employment due to the direct access worker's appearance on any disqualification list cited in Section 3(I)(3) of this rule. A direct access worker shall appeal directly to the listing entity to correct any perceived error.
 - 2.** Employers must consider all of the below factors in determining whether to sponsor a waiver:
 - a.** Age of the direct access worker applying for a waiver;
 - b.** The amount of time passed since the disqualifying offense occurred;
 - c.** The total number and type of disqualifying offenses;
 - d.** Any proven mitigating circumstances surrounding the disqualifying offense;

- e. Objective evidence that the direct access worker has successfully completed a criminal rehabilitation program;
 - f. The relevance of the circumstances pertaining to the disqualifying offense with respect to the nature of the proposed employment;
 - g. The length and consistency of similar employment post-conviction (if applicable);
 - h. Whether the direct access worker is bonded under federal or State law; and
 - i. Personal references or recommendations from employers on behalf of the direct access worker.
3. If the employer has considered all the required factors above and, following this consideration, has determined that sponsoring a waiver is appropriate, then the employer must request the waiver through the MBCC by meeting the following criteria:
 - a. The direct access worker must complete the waiver request form provided on the MBCC website.
 - b. The employer must attest that it considered the above factors required to employ the direct access worker conditionally and sponsor a waiver, including:
 - i. The nature and gravity of the disqualifying offense or offenses;
 - ii. The time that has passed since the disqualifying offense or offenses;
 - iii. The nature of the employment held or sought; and
 - iv. Whether the criminal conduct was employment-related.
 - c. The employer must submit the waiver request form to the Department and attest that it is objectively reasonable to conclude that the direct access worker is unlikely to cause harm to a protected individual or others in the employer's care, and that a denial of the waiver is not otherwise warranted in accordance with State or federal law. The employer must submit the waiver request in accordance with instructions provided on the MBCC website within 30 days of the date of the disqualifying letter.
4. The MBCC will only approve waivers where the employer has attested that they reasonably determined that the health and safety of a protected individual is not in jeopardy and a denial of a waiver request is not otherwise warranted in

accordance with State or federal law. (See 22 M.R.S. §9054 (14)). The Department shall consider the following:

- a.** The passage of time;
 - b.** The demonstration of the direct access worker 's rehabilitation;
 - c.** The facts and circumstances of the conviction; and
 - d.** The relevancy of the particular disqualifying offense to the current or prospective employment.
- 5.** Within ten business days of receiving the waiver request, the MBCC will issue a written determination letter including the reason for the decision to the employer and direct access worker by email or, if no email address is on record, by mail.
 - a.** A waiver shall only allow the employment of the direct access worker by the sponsoring employer in the position identified in the background check system. Waivers are not transferrable to a new employer.
 - b.** If the waiver request is denied, the direct access worker may appeal the decision, in accordance with Section 6(D)(1) of this rule.
 - c.** The Department may revoke a waiver when the waiver was based on false or substantially incorrect information.

SECTION 5: CONFIDENTIALITY

A criminal background check record and other personally identifiable information provided to an employer in compliance with this rule are confidential. An employer may use this information only to determine the eligibility of an individual for new or continued employment, and the personally identifiable information or background check record may not be disseminated in any way that does not comply with this rule or applicable laws.

SECTION 6: ENFORCEMENT AND APPEALS

- A. Referral for licensing actions.** The MBCC may refer substantial noncompliance with this rule or violations of the applicable statutes, including but not limited to providing false or substantially incorrect information to the Department, to the appropriate State government program, unit, or office for further licensing action.
- B. Penalties.** The Department may impose a penalty on employers for:
1. Failing to secure a background check in accordance with this rule;
 2. Knowingly employing a disqualified direct access worker for direct access employment, except for conditional employment in accordance with this rule;
 3. Failure or refusal to terminate, or remove from direct access employment, a direct access worker who is disqualified from employment based on this rule;
 4. Conditionally employing a direct access worker before receiving verification that the direct access worker has met the requirements of conditional employment; or
 5. Failing to comply with the confidentiality requirements and conditional employment requirements of 22 M.R.S. Chapter 1691.
- C. Fines.** An employer who fails to comply with the provisions of this rule is subject to the penalties set out under this subsection.
1. An employer who fails to secure a background check in accordance with this rule may be fined not less than \$500 but not more than \$10,000 per day, beginning on the first day the violation occurs and for each day of continued violation. Each day constitutes a separate offense.
 2. An employer who knowingly employs a disqualified direct access worker for direct access employment may be fined not less than \$500 but not more than \$10,000 per day, beginning on the first day the violation occurs and for each day of continued violation. Each day constitutes a separate offense.
 3. An employer who conditionally employs an individual before receiving verification that the individual has met the requirements of conditional employment may be fined not less than \$500 but not more than \$10,000 per day.
 4. An employer who fails to comply with the confidentiality requirements and conditional employment requirements of this rule may be fined not less than \$500 but not more than \$5,000 for each violation.
- D. Appeal procedure.** Direct access workers and employers may request appeals in accordance with this sub-section.

1. **Direct access worker appeals.** A direct access worker may request an administrative hearing to appeal the denial of a request to challenge and correct information in records created or generated by the MBCC or alternate vendors, or denial of a request for a waiver, or a revocation of a waiver.
 - a. **Administrative hearing.** A request for a hearing must be made in writing to the Department and must specify the reason for the appeal. A request for a hearing must be mailed within 30 days from receipt of the Department's decision to deny the request to correct information in records and/or reports created or generated by the MBCC or approved alternate vendor.
 - b. **Hearing process.** The hearing will be conducted pursuant to the Department's Administrative Hearings Rules at 10-144 C.M.R. Ch. 1, and in conformity with Maine's Administrative Procedure Act at 5 M.R.S. Ch. 375.
 - c. **Judicial review.** The final decision shall notify the direct access worker that a person who is aggrieved by a final agency action may be entitled to judicial review in the Superior Court.

2. **Employer appeals.** An employer may request an administrative hearing to appeal fines imposed by the Department, the denial of a request for a waiver, revocation of a waiver, or the denial of a request for the use of an alternate vendor.
 - a. **Administrative hearing.** An employer may appeal sanctions issued by the Department pursuant to this rule and the applicable statutes by submitting a request for hearing in writing to the Department within 30 days of the receipt of the notice of sanctions. The request must specify the reason for the appeal.
 - b. **Hearing process.** The hearing will be conducted, pursuant to the Department's Administrative Hearings Rules at 10-144 C.M.R. Ch. 1, and in conformity with Maine's Administrative Procedure Act at 5 M.R.S. Ch. 375.
 - c. **Judicial review.** The final decision shall notify the employer that a person who is aggrieved by a final agency action may be entitled to judicial review in the Superior Court.

STATUTORY AUTHORITY AND REGULATORY HISTORY

STATUTORY AUTHORITY:

22 M.R.S. ch. 1691

EFFECTIVE DATE:

October 17, 2018 – filing 2018-224

Stocco, Janet

From: janet drew <jdrew22222@yahoo.com>
Sent: Monday, October 7, 2024 2:25 PM
To: Criminal Records Review Committee
Subject: Fw: In Support of Criminal Records Expungement

This message originates from outside the Maine Legislature.

October 7, 2024
Testimony of Janet Drew
York, Maine
In Support of Criminal Records Expungement

Dear members of the Criminal Records Review Committee,

I am a retired nurse and an advocate for criminal legal reforms. I volunteer on York County Jail Board of Visitors and with advocacy groups working to reverse 50 years of punitive, inconsistent and biased enforcement and sentencing policies that are harming families in Maine and nationwide. Sentences extend well past any point of "correction" and then increasingly go on thru post-release supervision, creating more vulnerable individuals, & impact their innocent families and communities. For some reason, this sweet land of **Liberty** now says that even all that is not enough punishment, and their past is now a public record to dog them forever, affecting access to housing, jobs and life.

We need more transparency in the criminal legal system itself, not in the records of individuals.

Maine courts are not in compliance with the US constitution.

1. People lack access to adequate counsel, **(unconstitutional)**.
2. They take a plea rather than wait months, or years, in jail for their day in court, **(unconstitutional)** to fight a laundry list of piled on charges. (Innocent until proven guilty ??????)
3. Prison is used, instead of mental health treatment. Treatment in jails and prisons is inconsistent. This is immoral, if not unconstitutional.... We enforce animal cruelty laws, but ignore carceral harms.

Do we want people to succeed?

Do we want more trained workers in our workforce?

People and Maine itself needs second chances, instead of slow and increasingly draconian system creating harms to families and communities, and our state's economy.

- Codify:
1. Private records for individuals and families.
 2. More transparency and data reporting in court processes.

Thank you,

Janet Drew
York, Maine

Stocco, Janet

From: janet drew <jdrew22222@yahoo.com>
Sent: Monday, October 7, 2024 2:31 PM
To: Criminal Records Review Committee; CJPS
Subject: Fw: [MPAC] Fwd: [State Criminal Justice Network] : Free Community Webinar: The 6th Amendment Right to Counsel – What it is and What it isn't

This message originates from outside the Maine Legislature.

Hello:
Sharing:
This webinar about constitutional right to legal defense (lacking in Maine)

Sincerely,
Janet Drew, RN, ret.
York, ME

[State Criminal Justice Network](#)

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[New NACDL Member Benefit! Starting Your Own Practice Resources](#)

[Free Community Webinar: The 6th Amendment Right to Counsel – What it is and What it isn't](#)

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Oct 1, 2024 3:04 PM

[Tamara Lewis](#)

Join us on **October 17 from 6:00-7:30pm ET/3:00-4:30pm PT** for a free webinar on the **Right to Counsel: What It Is and What It Isn't**. This 90-minute **community-focused** webinar will outline the legal standards that interpret the Sixth Amendment Right to Counsel, along with a panel discussion examining the real-world application of these standards. Presenters include Professor Alisa Smith, University of Central Florida; Melanie Foote, Manager of the Education & Strategic Planning Branch of the Kentucky Department of Public Advocacy; and Cherrika Fauntleroy, Vice President of the Injustice Reform Network. The panel will be moderated by attorney Lonnie Randolph.



The webinar is FREE, but [registration is required](#).

Note: No CLE credits are being offered for this program. The webinar is intended to be a community-focused discussion and will center the conversation on helping communities understand the legal aspects of the Sixth Amendment

right to counsel, as well as discussing the practical ways in which those rights are effectuated (or not) in court every day

Tamara Lewis
Washington, DC
tlewis@nacdl.org

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Have questions about NACDLConnect or need assistance? Contact memberservices@nacdl.org. You are subscribed to "State Criminal Justice Network" as tinanadeaulaw@gmail.com. To change your subscriptions options, go to [My Subscriptions](#). By participating in this community, you agree to abide by NACDL's [Code of Conduct](#).

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Pronouns: she/ her



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Stocco, Janet

From: sarah johnson <sjohns10maine@gmail.com>
Sent: Sunday, October 6, 2024 6:09 PM
To: Criminal Records Review Committee
Cc: sarah johnson
Subject: In Support of Criminal Records Expungement

This message originates from outside the Maine Legislature.

October 6, 2024

Testimony of Sarah Johnson
In Support of Criminal Records Expungement

Dear members of the Criminal Records Review Committee,

My name is Sarah Johnson, and I live in Sanford Maine and have been a volunteer educator in the carceral system for 17 years as well as a full time educator for 4 years. I have been a software developer and support specialist primarily in manufacturing for over 40 years, and see a dire need for a growing workforce.

Public access to criminal records is detrimental to successful reentry, and harmful to individuals, family and community . It is a perpetual punishment creating long term barriers to employment, housing, education and support systems. Denying individuals the opportunity to succeed harms family and community as well. Access to public records implies that the criminal record defines the integrity of a person today. They say nothing about the rehabilitative process, educational, technical or vocational achievements that may have been earned or volunteer programs they may have participated in. They imply that a person may be more likely to commit a crime than another community member, which research shows is not true. They do not educate employers about research showing that formerly incarcerated people tend to be loyal employees and more likely to stay longer at a job. We are harming Maine’s economy, families and communities by allowing access to criminal records with all that they imply.

The consequences of these barriers have generational effects of negative impacts on families and children. A prior analysis by the Center for American Progress found that nearly half of U.S. children now have at least one parent with a record. The economic barriers associated with a parent’s record function as what child development experts call an “adverse childhood experience,” jeopardizing children’s cognitive development, school performance, educational attainment, and even their earnings and employment in adulthood. This is a barrier to fairness and the opportunity to build family generational wealth.

Data in 2023 from the Sorenson Impact Institute and reported on by Forbes ([Driving Impact And Equity Through Criminal Record Expungement](#)) and other media outlets show that up to 79% of people with accessible criminal records are denied housing, and individuals earn on average \$7,000 less than people without records. They posted research finding that 63% of people without the burden of accessible criminal records are more likely to get a job interview, and wages will increase up to 22% within a year after clearance.

Beyond all the data is the question of who we are and who we want to be. If we believe in second chances and want to support our formerly incarcerated neighbors and their families, why are we simultaneously anchoring them with a perpetual sentence? Removing this burden will be a benefit to all Mainers as increased opportunities and growth for individuals extends to family and community.

Thank you for your time and consideration.
Sarah Johnson

LEADERSHIP > LEADERSHIP STRATEGY

Driving Impact And Equity Through Criminal Record Expungement

By **The Sorenson Impact Institute**, Contributor. We help organizations achieve their impact vision.
Nov 29, 2023, 10:27am EST

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In this Q&A, Eliza Roady, Sorenson Impact Institute Managing Director of Impact Investing, talks with Noella Sudbury, Founder and CEO of Rasa Legal, about the immediate and transformative impacts of helping people expunge their criminal records.



Noella Sudbury of Rasa Legal and Eliza Roady of Sorenson Impact Institute SORENSON IMPACT INSTITUTE

By Eliza Roady

Seventy to 100 million Americans carry some kind of misdemeanor or felony record, and due to the racial and ethnic biases in our justice system, criminal records disproportionately impact BIPOC communities. Criminal records create numerous barriers, fueling and reinforcing cycles of poverty, and even old and minor records can make it difficult for someone to rent an apartment, get a job, and rebuild their life.

The impact of clearing criminal records is transformative. Expungement of a record can make an almost immediate difference in a person's life. Research shows that people without records are 63% more likely to get a job interview and that their wages go up by more than 20% within just one year following record clearance.

In my role as the Managing Director of Impact Investing at Sorenson Impact Institute, I am always searching for innovative business models that alleviate the challenges faced by low-income individuals confronting structural and systemic barriers to advancement. One of our latest portfolio companies advancing these goals is [Rasa Legal](#), a firm dedicated to helping eligible Utah individuals expunge their criminal records. Rasa uses technology to streamline the expungement process and provide low-cost legal services for people looking to unlock a better future.

In this interview, I chat with Noella Sudbury, founder and CEO of Rasa, about the impacts of clearing criminal records and why expunging records is good for public safety, community well-being, and the economy.

Read More: [Investing With An Ownership Lens: Addressing The Wealth Gap Through Homeownership And Employee Ownership](#)

Eliza Roady: Hi Noella, thanks for talking with me. First, could you describe how having a criminal record affects people's lives — and how you've seen expungement alter those outcomes?

Noella Sudbury: Of course. A criminal record has a massive impact on a person's economic mobility. People with records are less likely to get a job interview or be promoted, and studies show that individuals with felony records earn, on average, \$7,000 less per year than people without records.

Studies also show that 9 out of 10 employers and 4 out of 5 landlords ask about criminal records, making it incredibly difficult for people with even minor records to obtain jobs, stable housing, or move forward with their lives — 79% of people who live with a person who has a record have been denied housing at least once because of the record.

Expunging records has a major impact on these outcomes. Research finds people without records are 63% more likely to get a job interview, and their wages go up by over 22% just one year after record clearance. We are seeing these statistics confirmed by our clients, who, almost immediately after record clearance, are able to access better jobs, higher wages, health care, and retirement benefits. Many people have told us that clearing their criminal record helps them turn a job into a career, and create a different life for their children.

AD

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BETA



ER: Can you tell me more about how the effects of criminal records extend beyond individuals — to their families, communities, and society as a whole?

NS: Criminal records have far-reaching consequences that extend well beyond the individuals involved. The impact is broad and wide-ranging, affecting issues such as workforce development, recidivism, and economic stability.

One of the most immediate and significant consequences of having a criminal record is limited access to gainful employment. This inability to secure lawful employment perpetuates a cycle of poverty, crime, and reliance on government assistance. This is bad for individuals and expensive for taxpayers.

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Time and again, studies prove that criminal records contribute to higher rates of recidivism, increasing the burden on the criminal justice system and jeopardizing community safety. Research shows that clearing criminal records helps reduce recidivism and is good for public safety.

Finally, criminal records impact kids. Half of all children in America have at least one parent with a criminal record, keeping many families in poverty. Research shows that a parent's record has an impact on their child's future earnings and opportunities, leading to the perpetuation of that poverty across generations.

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ER: Do racial or ethnic biases come into play with these issues?

NS: Unfortunately, yes. Due to the racial and ethnic biases in our justice system, criminal records disproportionately impact BIPOC communities. Across the United States, people of color are arrested and incarcerated at a higher rate. National studies show that by the age of 23, nearly half of all black men are arrested. In addition, 65% of Black adults and 35% of Latino and Asian adults have felt targeted by police because of their race.

Because of these inequities, criminal records disproportionately affect marginalized communities, especially communities of color. Racial disparities in the criminal justice system result in higher rates of arrests and convictions among minority groups. Consequently, these communities face more significant barriers in education, employment, and housing, compounding the negative impact of criminal records on society and perpetuating systemic inequalities.

ER: How do these inequities further social stratification? And how does expungement help?

NS: The justice system is broken all across America. Research shows that 85% of people in the civil legal system end up representing themselves. This is not just or fair, and as a lawyer, I find it to be a heartbreaking statistic.

Rasa is a mission-driven company trying to repair the harms of the criminal justice system, increase access to justice, and show the world that our legal system can do better. Our company is on a mission to make the process of clearing a criminal record simple and affordable for everyone.

ER: How does Rasa's use of technology change the work you are able to do?

NS: Technology is transformative and leads to scalable impact. By using computer software to bridge the access-to-justice gap, we believe we can create more racial and ethnic equality, economic opportunity for working-class Americans, and a more equitable future for low-income children and families.

Our tool can tell a person in under 3 minutes what is on their record and whether they are eligible for expungement, now or in the future. Our tool is mobile-friendly, and can be accessed online from anywhere, allowing us to serve people in rural communities where there are few lawyers or services. We're committed to making our tool accessible and affordable, so we also provide free use of our tool to nonprofit partners to help individuals who are at or below the federal poverty line. Since we opened, we've served over 10,000 people throughout the state of Utah.

ER: Why should everyone care about these issues, even if they feel they do not affect them personally?

NS: Reduced employment for the millions of Americans with records is estimated to cost the United States economy \$87 billion annually. According to the Bureau of Justice Statistics, around 60% of formerly incarcerated individuals are actively seeking employment. These people want to get back to work, but their

records are holding them back. When a significant portion of the population is unable to find meaningful employment, it places strain on social welfare programs and increases the burden on taxpayers.

For employers, people with records represent an untapped pool of skilled and loyal workers, especially in this tight labor market. [Research shows](#) that hiring people with criminal records leads to higher retention rates. In addition, [85% of HR professionals](#) report that individuals with criminal records perform as well as or better than employees without records. Hiring people with records also helps employers diversify their workforce. Due to the racial and ethnic disparities in our criminal justice system, criminal records are more common among minority populations. Providing second chances leads to upward mobility for communities of color.

Eliza Roady has nearly two decades of experience working across the venture capital, legal, and international development fields. She brings expertise to her work, supporting innovation to tackle the challenges of poverty. Eliza leads the impact investing team at the Sorenson Impact Institute and manages the impact investing training program for undergraduate and graduate students. She also designs and implements the impact investing program's capital management and deployment strategy, including structuring innovative impact vehicles. Prior to joining the Sorenson, Eliza helped build and lead investing work for Acumen America, a \$40M impact venture fund focused on alleviating poverty and increasing opportunity for low-income Americans across the financial inclusion, workforce development, and healthcare sectors. Eliza formerly practiced corporate law at the law firm Orrick, Herrington & Sutcliffe, where she specialized in venture capital and M&A transactions and founded one of the first law firm practice groups in the country to work specifically with social enterprise companies and impact investors.

Noella Sudbury, J.D., is the founder and CEO of Rasa Legal. Noella is a licensed Utah attorney with over a decade of experience in criminal law, policy, and data-driven justice reform. While serving as a Senior Policy Advisor to Salt Lake County Mayor Ben McAdams, Noella led the successful campaign to pass Utah's Clean Slate law, which automates the expungement process for more than 450,000 Utahns. Noella has served on the National Clean Slate Initiative Steering Committee and has provided technical assistance to other state campaigns to pass automatic clearance. Noella has received several honors and awards for her public service, including being selected as Utah Business Magazine's 2019 Woman of the Year and being honored with the 2022 Distinguished Service Award from the Utah State Bar. In 2023, she was named by Inc. Magazine as one of the Top 200 most dynamic female founders in America. Follow me on [Twitter](#) or [LinkedIn](#). Check out my [website](#).

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To: Janet Stocco & Sophia Paddon, Criminal Records Review Committee
From: GLAD Attorneys Mary L. Bonauto, Sarah K. Austin
Re: Written Comments of GLBTQ Legal Advocates & Defenders (GLAD) for CRRC Meeting on October 8, 2024
Date: October 7, 2024

GLAD is a nonprofit legal organization based in Boston with attorneys in Maine, New Hampshire, and Massachusetts that focuses on New England and litigates and engages in public policy nationally. Our mission is to promote justice under law, including by addressing discrimination against LGBTQ+ people based on sexual orientation, gender identity, and HIV status. Attorney Mary Bonauto is a licensed attorney and lobbyist in Maine and resident of Portland. Attorney Sarah K. Austin is a GLAD attorney and resident of Portland.

GLAD previously submitted testimony to the Criminal Records Review Committee on August 12, 2024, and GLAD attorney Lisa Rodriguez-Ross presented to the Committee on August 13, 2024. We appreciate the Committee for its continued work to address the rapidly developing area of “record relief” and to review other state policies and activities concerning sealing and otherwise limiting public access to criminal records.

State legislatures and courts are engaging on these issues in expanding options for sealing, expungement and preventing and addressing collateral consequences of “legal restrictions that burden people long after their criminal case is closed.”¹ The strongest policies are marked by accessibility, efficacy, coordination across jurisdictions, fairness, and administrability.²

¹ Margaret C. Love, “The Many Roads from Reentry to Reintegration: A National Survey of Laws Restoring Rights and Opportunities after Arrest or Conviction,” *Collateral Consequences Res. Ctr.* (March 2022) at i, available at https://ccresourcecenter.org/wp-content/uploads/2022/08/MRFRTR_8.24.22.pdf (hereafter, “CCRC, Many Roads”).

² *Id.* at 3–5.

All these issues merit further research. As a starting point, we have identified a number of useful laws and secondary sources addressing how other states are providing record relief for survivors of human trafficking, for marijuana-related offenses, and for other offenses.

1. Record Relief for Survivors of Human Trafficking

In addition to relief that is already available in the form of sealing, expungement, and pardons or commutations, at least 20 states provide a separate process for survivors of human trafficking to clear their records. Specifically, these states allow survivors to file a motion to vacate prior convictions that resulted from or were incident to having been a victim of human trafficking.³

The purpose of a motion to vacate is distinct from the purpose of a motion to seal or expunge records. While motions to seal or expunge records are intended to help people with sound convictions fully reintegrate into society, a motion to vacate is intended to cure problems with the original conviction (including but not limited to substantive errors, procedural errors, and wrongful convictions due to legal or actual innocence). In other words, while sealing and expungement allow people to move on from their past convictions, vacatur recognizes that the past convictions were themselves unjust.

Motions to vacate are especially appropriate for people who have been victimized by human trafficking schemes. This population represents some of the most vulnerable people in our society.⁴ And it is well known that human trafficking schemes operate through force, threats, and other forms of coercion.⁵

³ New York Criminal Procedure Law § 440.10(1)(i); Florida Statute § 943.0583; Wisconsin Stat. Ann. § 973.015; Vermont Stat. Ann. tit. 13 § 2658; New Hampshire Rev. Stat. § 633:7(VI)(b)–(c); Maryland Code Ann., Crim. Proc. § 8-302; Mississippi Rev. Code § 97-3-54.6; Wyoming Stat. Ann. § 6-2-708; Connecticut Gen. Stat. § 54-95c; 11 Delaware Code § 787(j); West Virginia Code § 61-14-9; Arizona Rev. Stat. Ann. § 13-909; California Penal Code § 236.14; 725 Illinois Comp. Stat. § 5/116-2.1; Montana Code Ann. § 46-18-608; Nevada Rev. Stat. § 179.247; North Dakota Cent. Code § 12.1-41-14; Rhode Island Gen. Laws Ann. § 11-67.1-17(a); 18 Pennsylvania Cons. Stat. § 3019; Washington Rev. Code Ann. § 9.96.060.

⁴ See generally Elizabeth Hopper & José Hidalgo, *Invisible Chains: Psychological Coercion of Human Trafficking Victims*, 1 Intercultural Human Rights L. Rev. 185 (2006).

⁵ See generally *id.*

Given these realities, at least 20 states have determined that a victim of human trafficking is not blameworthy and should not be held criminally responsible for conduct that results from or is incident to their experience as a victim of human trafficking.

For example, Wyoming law provides that a person “is not criminally liable for any commercial sex act or other criminal acts committed as a direct result of, or incident to, being a victim of human trafficking.”⁶ Thus, courts may “vacate [a] conviction if the defendant's participation in the offense is found to have been the result of having been a victim” of human trafficking.⁷

Similarly, in Vermont, a court must grant a motion to vacate a conviction if (1) the conviction was for any offense other than specified serious, violent felonies and (2) it “was obtained as a result of the person having been a victim of human trafficking.”⁸ The court must also order expungement of “all records and files related to the moving party’s arrest, citation, investigation, charge, adjudication of guilt, criminal proceedings, and probation for the offense.”⁹ Delaware follows a similar approach.¹⁰

New York also requires courts to vacate judgments of conviction on the merits if “the defendant's participation in the offense was a result of having been a victim” of sex trafficking, labor trafficking, or trafficking in persons.¹¹

In addition to remedying the injustice to survivors of human trafficking, allowing past convictions to be vacated for cause is an especially powerful form of relief because of its potential to erase immigration consequences attendant to those convictions.¹² Other forms of conviction relief, including expungement and sealing, often do not have this effect.¹³

⁶ Wyoming Stat. Ann. § 6-2-708(a).

⁷ *Id.* § 6-2-708(c).

⁸ 13 Vermont Stat. Ann. § 2658(d)(1).

⁹ *Id.* § 2658(d)(2).

¹⁰ 11 Delaware Code § 787(j).

¹¹ N.Y. Crim. Proc. Law § 440.10(1)(i), (6).

¹² See Immigrant Legal Resource Center, Best Practices: Clean Slate and Immigrants 2, *available at* https://www.ilrc.org/sites/default/files/resources/2020.06_clean_slate_and_immigrants_06.29.pdf (discussing potential impact of vacatur and suggested language).

¹³ *Id.* at 1.

We encourage the Committee to consider whether other classes of convictions—for example, all convictions for decriminalized conduct—should be eligible for vacatur as well as sealing or expungement.¹⁴

And for all policy proposals under consideration, we hope the Committee will investigate all potential immigration consequences—including impact on individuals who may need access to their records while in immigration proceedings or applying for immigration benefits like citizenship. We encourage the Committee to invite stakeholders to participate and offer public comment on that topic.

2. Marijuana Offenses

Under current Maine law, certain marijuana offenses are eligible for sealing.¹⁵ To get the benefit of this legislation, a person must affirmatively file a motion to seal in an appropriate court.¹⁶ A motion to seal cannot be granted without a court hearing,¹⁷ even though the eligibility criteria are objective and do not involve an exercise of judicial discretion.¹⁸ There is no guarantee of legal assistance at any step of this process.¹⁹

The predictable effect of these procedural barriers is that many people will continue to be punished, by way of collateral consequences, for conduct that we now recognize is not criminal. The burden naturally falls most heavily on people with limited time, few resources, no ability to hire an attorney, discomfort navigating legal systems, or a history of trauma.²⁰ These populations undoubtedly stand to benefit from record relief but may not be able to access it.

To avoid these unjust outcomes, the growing trend in New England and nationally is to allow for automatic sealing or expungement of certain marijuana offenses. For example:

¹⁴ At least one state, New York, vacates convictions for marijuana offenses that have since been decriminalized. *See* New York Crim. Pro. Law § 440.46-a(1).

¹⁵ 15 M.R.S. § 2261(6) (as amended in 2024 by LD 2236).

¹⁶ *Id.* § 2263.

¹⁷ *Id.* § 2264(5).

¹⁸ *Id.* §§ 2262, 2264(5).

¹⁹ *Id.* § 2264(2).

²⁰ J. J. Prescott & Sonja B. Starr, *The Case for Expunging Criminal Records*, N.Y. Times (Mar. 20, 2019), <https://www.nytimes.com/2019/03/20/opinion/expunge-criminal-records.html> (last visited Oct 3, 2024).

- In 2020, the Vermont Legislature passed legislation requiring the Criminal Division of the Superior Court to “order the expungement” of certain marijuana cultivation or possession convictions, and to “complete[]” the expungement process for all such convictions by January 1, 2022.²¹
- Similarly, in 2022, Connecticut passed legislation requiring automatic erasure of criminal records related to certain convictions for possession of marijuana.²²
- Rhode Island also passed legislation in 2022 requiring automatic expungement of marijuana possession convictions, including felony convictions, by July 1, 2024.²³

States outside New England have enacted similar reforms. For example, in 2024 Delaware began automatically expunging convictions for a broad range of offenses, including marijuana possession and related offenses.²⁴ Other jurisdictions requiring automatic relief for marijuana convictions include Minnesota, Missouri, California, the District of Columbia, New Jersey, New York, New Mexico, and possibly others.²⁵

Adopting this growing trend in Maine for marijuana offenses—and for other decriminalized conduct, including prostitution—will ensure that no Mainers face ongoing punishment for conduct we no longer consider criminal. It will allow all Mainers to have equal access to the benefits of sealing. And it will likely enhance public safety and boost Maine’s economy more effectively than the existing statutory framework.²⁶

²¹ Vermont P.L. 167 (S.234), § 31.

²² Connecticut P.L. 21-1 (SB 1201), § 9.

²³ Rhode Island Gen. Laws § 12-1.3-5.

²⁴ See 11 Delaware Code § 4373(a) (establishing eligibility for mandatory expungement); *id.* § 4373A (requiring that all convictions eligible for mandatory expungement shall be automatically expunged by the State Bureau of Identification beginning August 1, 2024).

²⁵ Minnesota Stat. § 609A.055(1)(a)(2), (2)–(3); Missouri Constitution, Art. XIV § 2(10)(8); California Health & Safety Code §§ 11361.8–9; District of Columbia Act 24-284 § 16-802; New Jersey P.L. 2021, c.019 (A1897); New York Crim. Pro. Law § 440.46-a(1), (4)(g) (requiring automatic vacatur, dismissal, and expungement); New Mexico Stat. Ann. § 29-3A-8.

²⁶ See Mackenzie J. Yee, *Expungement Law: An Extraordinary Remedy for an Extraordinary Harm*, 25 Geo. J. Poverty Law & Pol’y 169, 179 (2017) (noting a recent study that found “average rates of recidivism were lower” and individual economic outcomes were better in states that allowed automatic juvenile expungement compared to states allowing expungement only by application).

We are sensitive to concerns about the fiscal impact of automatic sealing. We encourage the Committee to consider the relative fiscal impact and the administrative burden of requiring affirmative motions to seal to be filed and heard in court, especially in light of the historic backlogs currently facing Maine’s Judiciary.²⁷

If automatic sealing is not feasible at this time, we hope the Committee will explore avenues for (1) increasing access to justice in the sealing context; and (2) reducing the fiscal impact and administrative burden on Maine’s Judiciary. One option for achieving these joint goals might involve removing the mandatory hearing requirement for motions to seal if they can be granted on the papers. Another option might include improving self-help resources for individuals proceeding without a lawyer. The court websites for Vermont²⁸ and Utah²⁹ are some examples of efforts to make self-help resources more accessible.

3. Other Offenses

Existing Maine law makes sealing available only for certain classes of convictions, including convictions for certain marijuana offenses and for Class E crimes other than sexual assault.³⁰

a. Most states allow record relief for a broad range of offenses, and recent research supports this approach.

Many states, including other states in New England, allow record relief for a much broader range of offenses. For example, Rhode Island allows expungement for any crime other than a “crime of violence.”³¹ Vermont makes expungement and sealing available for most misdemeanors and many nonviolent felonies.³² Connecticut allows automatic

²⁷ See Johnny Maffei, ‘A constitutional crisis’: Maine courts need more staff to solve backlog, WGME (June 7, 2023), <https://wgme.com/news/local/a-constitutional-crisis-maine-courts-need-more-staff-to-solve-backlog-androscoggin-franklin-oxford-national-center-for-state-courts-judicial-officers-clerks>; Samantha Hogan, *Maine courts may take until 2028 to touch backlog of cases*, New Center Maine (Mar. 24, 2023), <https://www.newscentermaine.com/article/news/local/maine-courts-backlog-cases-2028-valerie-stanfill-chief-justice/97-08531fa3-8464-445b-b329-4fef03352bf1>.

²⁸ <https://www.vermontjudiciary.org/criminal/expungement>.

²⁹ <https://www.utcourts.gov/en/self-help/case-categories/criminal-justice/expunge.html>.

³⁰ 15 M.R.S. § 2261(6) (as amended by LD 2236).

³¹ Rhode Island Gen. Laws § 12-1.3-2(a); *see also id.* § 12-1.3-1(1) (defining “crime of violence”).

³² 13 Vermont Stat. Ann. §§ 7601, 7602(a)(1)(A).

expungement for most misdemeanor convictions and certain less serious felony convictions, with some exceptions including family violence and sex offenses.³³ New Hampshire makes annulment available for any offense other than certain specified “violent crime[s],” “felony obstruction of justice,” and “offense[s] for which the [individual] was sentenced to an extended term of imprisonment.”³⁴

Nationally, the Collateral Consequences Resource Center reports that 38 states allow record relief for at least some felonies as well as misdemeanors.³⁵ Recent research validates policies that allow relief broadly rather than for only narrow classes of crimes: As a recent RAND report found, generally “a conviction for a certain type of crime does not reliably predict whether that person will commit the same type of crime—or any crime—in the future.”³⁶

b. Jurisdictions are divided on the proper role of judicial discretion in determining whether to seal or expunge past convictions.

When evaluating whether to make sealing or expungement available for a broader class of convictions, the Committee will likely need to consider the appropriate criteria for granting relief for new categories of offenses. This may require the Committee to address the proper role of judicial discretion in the sealing or expungement decision.

Many states, including Maine and Connecticut, leave no role for judicial discretion.³⁷ In these states, record relief is mandatory if the individual meets certain objective criteria. These objective criteria might involve the type of conviction, the amount of time since last conviction, and possibly other elements like the number of past convictions.³⁸ Such mandatory schemes are consistent with research showing that the key

³³ Connecticut Gen. Stat. §§ 54-142a(e), 54-142t(a).

³⁴ New Hampshire Rev. Stat. Ann. § 651:5(III), (V); *see also id.* § 651:5(XIII) (narrowly defining “violent crime”).

³⁵ Restoration of Rights Project, 50-State Comparison: Expungement, Sealing & Other Record Relief (“RRP, 50-State Comparison”), *available at* <https://ccresourcecenter.org/state-restoration-profiles/50-state-comparison-judicial-expungement-sealing-and-set-aside-2-2/>.

³⁶ Shawn D. Bushway, RAND Corp., *Resetting the Record: The Facts on Hiring People with Criminal Histories 5* (2024), *available at* https://www.rand.org/pubs/research_briefs/RBA2968-1.html#:~:text=Misperceptions%20can%20keep%20employers%20from,support%20better%2Dinformed%20hiring%20decisions.

³⁷ *See* 15 M.R.S. §§ 2262, 2262-A, 2264(5); Connecticut Gen. Stat. §§ 54-142a(e).

³⁸ *See, e.g.*, 15 M.R.S. § 2262.

factors for predicting risk of re-offense are “a person’s time since last conviction, age, and number of convictions.”³⁹ Currently, at least 30 states require mandatory relief in at least some circumstances.⁴⁰

Other states allow judges to exercise discretion in deciding whether to grant a motion for sealing or expungement. Allowing discretion can carry some benefits. For example, it allows “judges to consider individuals and their stories flexibly instead of forcing them to make categorical decisions.”⁴¹ Thus, by incorporating discretion, criminal record relief statutes can expand the scope of convictions that may be eligible for relief, knowing that the ultimate determination will require a judicial finding of rehabilitation based on individual facts and circumstances.

Some states use a tiered system of decision-making, meaning some convictions are eligible for mandatory expungement or sealing, while relief for other more serious convictions depends on an exercise of judicial discretion.⁴² If the Committee decides that judicial discretion may be appropriate in some circumstances, it should likely adopt this tiered approach because Maine’s existing sealing statutes contemplate only mandatory sealing.⁴³

c. If the Committee favors allowing judicial discretion in some cases, it should recommend statutory measures that will proactively manage and guard against the attendant risks of unfairness, arbitrary decision-making, and implicit bias.

Judicial discretion comes with serious risks. At the most fundamental level, “discretion creates uncertainty and the possibility for unfair results and arbitrary

³⁹ Bushway, *Resetting the Record* 3–4.

⁴⁰ RRP, 50-State Comparison.

⁴¹ Yee, *Expungement Law*, at 183.

⁴² *See, e.g.*, 11 Delaware Code §§ 4372–73 (allowing for mandatory expungement, either automatically or by application, in some circumstances); *id.* § 4374 (allowing for discretionary expungement in other circumstances).

⁴³ *See* 15 M.R.S. §§ 2262, 2262-A (setting forth criteria for sealing); *id.* § 2264(5) (providing that, “if the court determines that the person who filed the motion has established by a preponderance of the evidence each of the statutory prerequisites specified in section 2262 or 2262-A, the court shall grant the motion” to seal).

decisions.”⁴⁴ Discretion is also a breeding ground for implicit bias, which has been shown to affect criminal court proceedings and produce racially disparate outcomes.⁴⁵

If the Committee determines that an element of judicial discretion is necessary, there are ways to defend against implicit bias, disparate treatment, and arbitrary decision-making.

For example, developing a checklist of specific, relevant factors that judges must consider can “help cabin discretion in ways that increase overall accuracy” and decrease bias.⁴⁶ Several jurisdictions, including Minnesota and the District of Columbia, have developed such checklists to guide the exercise of judicial discretion in the record-relief context.⁴⁷ The more objective the factors on the checklist, the more successful the checklist will be in preventing unfair results.⁴⁸ Requiring judges to issue written decisions specifying the reasons for denial, as Maine does, can ensure strict adherence to a checklist and protect against undue disparities.⁴⁹

The role of discretion, and the risk of bias, can also be limited by “shifting the burden of proof away from the petitioner [if] the petitioner meets all other statutory

⁴⁴ Chris Skall, *Journey Out of Neverland: CORI Reform, Commonwealth v. Peter Pon, and Massachusetts’s Emergence as a National Exemplar for Criminal Record Sealing*, 57 B.C. L. Rev 337, 376 (2016).

⁴⁵ See, e.g., L. Song Richardson, *Systemic Triage: Implicit Racial Bias in the Criminal Courtroom*, 126 Yale L. J. 864, 882–84 (2017); see generally Jerry Kang et al., *Implicit Bias in the Courtroom*, 59 UCLA L. Rev. 1124 (2012); Jerry Kang, *What Judges Can Do About Implicit Bias*, 57 Court Rev. 78 (2021); cf. Susan Nembhard & Lily Robin, *Racial and Ethnic Disparities throughout the Criminal Legal System*, Urban Institute (2021).

⁴⁶ Kang, *What Judges Can Do About Implicit Bias*, at 85. Such checklists also encourage careful deliberation and require judges to take their time in deciding whether to grant record relief, which further promotes fair decision-making. *Id.* at 84–85.

⁴⁷ See, e.g., Minnesota Stat. § 609A.03(5)(c) (specifying 12 factors judges must consider in deciding on an expungement petition); D.C. Code § 16-803(h) (similar); see also Yee, *Expungement Law*, at 184 (“Such factors should generally include the reasons proffered for retaining the record such as risk posed to society, the extent of the hardship imposed by the record, the time elapsed since the offense, the offender’s age at the time of the offense, the nature and seriousness of the offense, any aggravating or mitigating factors relating to the offense, post-offense conduct, and any other evidence of rehabilitation.”).

⁴⁸ Skall, *Journey Out of Neverland*, at 378.

⁴⁹ See 15 M.R.S. § 2264(5).

requirements,”⁵⁰ which creates a rebuttable presumption that any eligible individual is entitled to relief. Under this approach, a judge could only deny an eligible individual’s motion to seal upon an affirmative showing by the prosecutor that, based on the specific checklist factors, it would be against the public interest to seal the conviction record. Several jurisdictions have already adopted this protective measure in some circumstances.⁵¹

In addition, increasing judicial awareness of implicit bias may increase their motivation to make fair decisions.⁵² Leading scholars in law and psychology have recommended implicit-bias training for judges as one strategy among many for reducing the influence of implicit bias in discretionary decision-making.⁵³

We hope the Committee will consider these options for defending against implicit bias and will continue investigating to identify other protective strategies. Whatever path the Committee takes, we strongly encourage that it propose demographic data collection as part of the sealing process. Data collection will allow the Committee and the Legislature to (1) track any disparities based on race, sex, sexual orientation, gender identity, or other protected traits that may emerge as record-relief legislation is implemented, and (2) amend the law in future sessions to remedy such disparities.⁵⁴

4. Areas for Further Exploration

As noted above, further research is needed regarding the effect of different forms criminal record relief in immigration proceedings; the fiscal impact of the current sealing

⁵⁰ Yee, *Expungement Law*, at 184; see also Skall, *Journey Out of Neverland*, at 378 (suggesting that states “create a presumption in favor of sealing a record that can be rebutted by a prosecutor upon a showing that such a decision is contrary to the public interest”).

⁵¹ See, e.g., Louisiana Code of Crim. Pro. Art. 980(E)–(F); Minnesota Stat. § 609A.03(5)(b) (providing that “the court shall grant the petition to seal the record unless the agency or jurisdiction whose records would be affected establishes by clear and convincing evidence that the interests of the public and public safety outweigh the disadvantages to the petitioner of not sealing the record”); D.C. Code § 16-803(I)(1) (providing that “the burden shall be on the prosecutor to establish by a preponderance of the evidence that it is not in the interests of justice to grant relief”).

⁵² Kang et al., *Implicit Bias in the Courtroom*, at 1174–77.

⁵³ *Id.* at 1176–77.

⁵⁴ Kang, *What Judges Can Do About Implicit Bias*, at 88–89 (summarizing the need for data collection as a check on implicit bias).

statutes on Maine’s backlogged judiciary; the options for increasing access to justice in the sealing context; and methods for demographic data collection in the sealing process.

In addition, we are aware that Maine has made strides in recent years to ensure that restitution obligations are only imposed after consideration of an individual’s ability to pay.⁵⁵ We hope the Committee will consider applying these already stated legislative values in the sealing context to prohibit the denial of a motion to seal based solely on nonpayment of court debt if the individual has no ability to pay.

We thank the Criminal Records Review Committee members, staff and Chairs for their work on this important Committee.

Respectfully submitted,

GLBTQ Legal Advocates & Defenders

By Attorneys Mary L. Bonauto & Sarah K. Austin

October 7, 2024

⁵⁵ 17-A M.R.S. § 2005(1)(C), (2)(D) (adult context); 15 M.R.S. § 3314-C(3)(A)(3), (3)(B)(5), (6) (juvenile context).

Testimony to the Criminal Records Review Committee

Date: October 8, 2024

Chair Bailey, Speaker Talbot-Ross, Honorable Members of the Criminal Records Review Committee,

My name is Valencia Dumas, and I am a resident of Sanford. Thank you for allowing me to speak on a matter that affects not just my life but the lives of so many in Maine who are trying to rebuild after substance use disorder and past mistakes. I address you today not only as a woman in long-term recovery but also as a full-time college student, an advocate, and someone who has extensively worked within Maine's justice system. This includes my involvement with the York County Treatment and Recovery Court, where I have served as a participant, mentor, recovery coach, and intern. Regrettably, due to a 30-second incident, a mere blip in my life, I will never be considered for a position beyond that.

Despite the challenges and discrimination I face, I am determined to succeed and make a difference in the lives of others. I have dedicated my life to serving my community and improving the lives of those who face challenges similar to those I once experienced. I am honored to have been nominated for an Academic Achievement and Community Service Award at Southern Maine Community College. I am proud to maintain a 4.0 GPA and am on track to fulfill the requirements for my MHRT-C (Mental Health Rehabilitation Technician-Community) and CADC (Certified Alcohol and Drug Counselor) certifications. In the spring, I will be interning with the National Treatment Court Alumni Association, graduating from Southern Maine Community College, and transferring to the University of Southern Maine to achieve a master's in social work with a minor in social justice.

But no matter what I do, how hard I work, or how much I prove myself, there is always a shadow hanging over me—a label I will never be free from: criminal. For me, it was just one mistake, a 30-second incident in the depths of addiction that continues to dictate my future. I am always the person with the criminal record, regardless of how far I've come. In one instance, after receiving a job offer, I was fired when my record was pulled before I had even authorized the background check. Other times, I have made it to the final stages of the job hiring process only to have the offer revoked because of my record.

My research on access to criminal records taught me that I am not alone. Countless others face the same uphill battle. Maine's current criminal records system makes it incredibly difficult for people like me—people in recovery, people who have turned their lives around—to truly escape the long-term consequences of our past. We are denied housing, jobs, and education opportunities not because we are incapable or unworthy but because our records define us more than our present actions ever could.

This system is broken. While Maine has taken steps to address the opioid crisis, we have not done enough to address the systemic barriers that prevent those of us in recovery from fully reintegrating into society. I urge you to consider expanding the number of records eligible for sealing or expungement. Sealing or expunging old records isn't about pretending the past never happened—it's about acknowledging that people can and do change. It's about allowing those of us who have put in the work to recover and rebuild to have a real chance at a future where we are not perpetually punished for our past.

Without these changes, no amount of effort will ever be enough. People like me will always be fighting against a system that refuses to see beyond our worst moments. My criminal record is not who I am. It no longer reflects the person I have become. I am living proof that

people can change, that recovery is possible, and that we deserve the opportunity to contribute meaningfully to our communities. We deserve to have a seat at the table.

In closing, I ask this Committee to look beyond the label of “criminal” and see the human beings who stand before you—individuals who have made mistakes but have also committed to change. Please help us remove the barriers that keep us from moving forward.

I am open to any questions the Committee may have. Thank you for taking the time to hear my testimony.

Sincerely,

A handwritten signature in cursive script that reads "Valencia R. Dumas". The signature is written in black ink and includes a long, sweeping horizontal stroke at the end.

Valencia R. Dumas
17 Washington Street, Apt 209
Sanford, Maine 04073
(207) 877-5059

Testimony to the Criminal Records Review Committee

October 8, 2024

Chair Bailey, Speaker Talbot-Ross and Honorable Members of the Criminal Records Review Committee,

Good morning. I truly appreciate your taking the time to explore the ways in which criminal records impact individuals and families throughout our state. My name is Donna Harbison and I reside in Biddeford, Maine. As the Program Coordinator for Agape, Inc. and its' two programs Dignity and InnerEdge Counseling, I hear from people daily from across the state who are deeply impacted by a criminal record; trapped in poverty, even decades after completing their sentence.

Agape is dedicated to bringing dignity to individuals who use opiates, both currently and those who are in recovery, whatever that may mean for them. Our mission is rooted in compassion, science, and the belief that every person deserves the opportunity to rebuild their life without the burden of a criminal record.

In Maine, criminal records impose a lifelong punishment. Many of our current policies are not working. There is no avenue to expungement, no way to move forward. Individuals who have served their sentence are forced to face immense barriers to housing, employment, and education making it nearly impossible to reintegrate into society, earn a livable wage and support their families. The barriers created by a criminal record permeates the family structure, perpetuating cycles of poverty and instability for children and elder adults who may also be part of the family unit.

Criminal records lead to legalized discrimination, locking people out of opportunities and keeping them trapped in a cycle of hardship and exclusion. We see these effects every day. Applications and resumes never considered, opportunities to volunteer dismissed. Whole families unable to find housing due to one person's criminal record. People are continuously punished by a system that perpetuates and prioritizes stigma and discrimination over rehabilitation. It's clear: this approach is not only ineffective, but deeply harmful.

It is widely accepted that addiction — substance use disorder — is a medical condition that requires treatment, not punishment. Yet, our current system continues to criminalize individuals for behaviors that are directly tied to their health. This is a poor use of resources—both in terms of human lives and financial costs. The expenses associated with criminalization are staggering, and they continue to pile up as we funnel people into the criminal justice system rather than into the healthcare system where they belong.

We continue to hear from community members who are unable to access services related to their healthcare, including substance use and mental health. We do not have an existing system in which people are able to access treatment and care when in immediate need. Yet we criminalize the behaviors associated with their medical conditions, even when in medical crisis.

By decriminalizing substance use, we can redirect resources to where they are most needed—toward treatment, resources, and community supports. This approach not only saves lives, but also helps to reduce the broader societal costs associated with criminalization. A year in Maine State Prison costs more than twice as much as it would to provide housing, weekly counseling and medication-assisted treatment for a year at current MaineCare reimbursement rates (Maine Center for Economic Policy and ACLU Maine).

Almost 32,000 individuals are released from jails and prisons every year in Maine (Prison Policy Initiative). Every year. Over 30,000 families trapped in economic instability, housing insecurity, and facing immense barriers to participating in their community in meaningful ways due to their criminal record. We are facing a workforce shortage in our state and yet, thousands of incredibly talented, hardworking citizens are unable to fill desperately needed positions due to their criminal records. Many of our current policies are not working. This continued criminalization of substance use creates a vicious cycle of harming individuals, families, and communities.

These are bold changes, yes—but bold change is exactly what we need right now. We can't continue down the same path, hoping to fix a system that has been broken for decades. It's time to try something new—something that emphasizes healing over punishment, dignity over shame. We urge this committee to support reforms that expand eligibility for record sealing, create pathways to expungement, and decriminalize substance use to create a more just and compassionate society.

I appreciate your interest and attention and would be willing to answer any questions the Committee may have.

Respectfully submitted,

Donna Harbison

Agape, Inc.
25 Middle Street
Portland, Maine 04101
207-240-5099

Testimony to the Criminal Records Review Committee

October 8th, 2024

Chair Bailey, Speaker Talbot Ross, and Members of the Criminal Records Review Committee,

My name is Jonathan Reynolds, and I am a person in long-term recovery. I say that I am a person in long-term recovery because prior to my recovery that was not always the case. When I was active in my addiction, I acquired criminal convictions directly related to my untreated substance use disorder. As a result of those convictions, I now have a criminal record that creates tremendous barriers in the success of my recovery.

Today I have three years of continuous abstinence from all mind or mood altering substances. I have recently acquired my associates degree in Mental Health and Human Services. In doing so, I completed the courses necessary to sit for my Certified Alcohol and Drug Counselor (CADC) exam, which I had taken and passed in October of 2023. The barrier I am facing now is that the criminal convictions that I acquired during my active use are a hindrance to my licensing to obtain my CADC through the State of Maine. The process for which it would take to defend my past criminal history would require me to visit every courthouse in every county that I acquired the charges in and have them print off a list of those charges. I would then need to explain the circumstances for why I acquired each charge and provide an explanation as to why they should not preclude me from being a Counselor. Without even starting the process of defending each charge, I would have to miss up to three days of work just to collect the documentation. Having to miss even one day of work is an immense hardship for many Mainers that rely on their paychecks, especially folks in the beginning stages of their recovery.

The reason why I am testifying today is because reducing barriers that come with criminal records could directly uplift the person I am today. I am so much more than a former substance user or a person with a criminal record. I want to use my experience to help other people in recovery that want to achieve their professional goals, especially given that folks with lived experience are those best fit to work in addiction treatment settings.

Today, I am a father and dedicated partner. I am soon to graduate with a bachelor's degree in Mental Health and Human Services. I also work for Mobilize Recovery doing community organizing, youth organizing, and community outreach. I encourage this Committee to review the testimony submitted by our Executive Director Courtney Gary-Allen. Her testimony goes into more depth on the current statutes and rules describing what past criminal convictions preclude folks from working in licensed direct care facilities, such as addiction treatment settings.

I thank you for the opportunity to address the Committee, and I am happy to answer any questions.

Jonathan Reynolds - Augusta, ME

Subject: Testimony Regarding Criminal Records Review and Expungement
Testimony before the Criminal Records Review Committee on October 8, 2024

Good Morning Senator Bailey, Speaker Talbot Ross, and Distinguished Members of the Criminal Records Review Committee,

My name is Cody McClain, and I am a resident of Saco. Today, I would like to address the topic of reviewing activities in other states concerning the expungement, sealing, vacating, and limitation of public access to criminal records.

As a registered sex offender due to an out-of-state conviction, I wish to share my ongoing struggle regarding this issue. I have previously reached out to this committee, as well as to Senator Bailey and Speaker Talbot Ross, at the beginning of this year but have yet to receive a response.

In 2015, at the age of 20, I was convicted of misdemeanor charges in California, which required me to register as a sex offender. Since then, I have continually challenged the rulings associated with my case but have received little assistance from the courts or government. In 2020, California implemented a tiered registry system, similar to Maine's. On March 24, 2021, my court of conviction ruled that I should be classified as a Tier One registrant. Despite this, the State of Maine has not followed the court order, even after the Attorney General's office reviewed the file and instructed the State Bureau of Identification to maintain my Tier Three registration, despite my offense being nonviolent and nonphysical. When is it morally and legally acceptable for the office of the Attorney General to look at a certified copy of a court order and choose not to comply with it which is a possible contempt of court issue where I am the victim just based on the fact that Attorney General Aaron Freys office has in 2021 and to this date failed to follow an order of the court from the state of California (attached is a redacted copy of the court docket which is the order and a copy of the motion that was presented also redacted of personal and private information). This situation has severely impacted my life, forcing me to withdraw from my criminal justice degree with only four classes remaining. My aspirations to become a lawyer or advocate for those in the foster care system have been shattered due to a misdemeanor conviction. Moreover, I have suffered from post-traumatic stress disorder, triggered by my past experiences. I have been battling unjust and constitutionally vague sex offender registration laws now with no help from legal assistance because I can not find a lawyer willing to help. The ACLU in 2022 has said they can't help me. Governor Jannett Mills lists the sex offender registry as a reason that Maine citizens on the registry are unable to maintain employment. Part of the issue we have is whether one is to consider the sex offender

registry a criminal sentence or consider is a civil remedy and the courts are not clear as to what way they view this. If this is a criminal matter then why would the maine courts forms not include sex offender forms as part of that let alone the sex offender section has no forms that are accessible online¹

According to a report dated January 25, 2022, from the Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking under SORNA, Maine met three out of five minimum requirements while California met only one.² Since moving to Maine, I have experienced harassment and discrimination in the workplace solely based on my status as a sex offender. I have been fired and faced significant barriers in securing employment, often resulting from stigma rather than my qualifications or conduct. The office also posted a 141 page case law summary in july of 2023³

This situation has severely impacted my life, forcing me to withdraw from my criminal justice degree with only four classes remaining. My aspirations to become a lawyer or advocate for those in the foster care system have been shattered due to a misdemeanor conviction. Moreover, I have suffered from post-traumatic stress disorder, triggered by my past experiences.

The current legal framework in Maine provides no remedy for individuals in my situation, which raises significant due process concerns. California has indicated that I could rectify this issue by returning there, but my life and community ties are in Maine. Why should I be forced to disrupt my life to seek justice? As a registered sex offender i would as this committee to look into why the COMMISSION TO SERVE AS GUIDE ON SEX OFFENDER INITIATIVES has not had any update on the web site or the website can not be found since at least the maine democrats posting in 2015⁴

There are discrepancies in the information provided on the Maine state legislature's website regarding the sex offender registry. For example when it comes to community notification of sex offenders the current framework of the law leaves the choice to the towns for example the town of norway posts information in their paper and goes door to door, the town of Sabattus goes door to door in the neighborhood, there are several

¹ As of 09/23/2024 the sex offender section of the maine court forms is blank and no forms exist online (attached is a copy of the court forms section on that date)

² See the progress report conducted by the SMART office at <https://smart.ojp.gov/progress-check>

³ The case law summary is located <https://smart.ojp.gov/case-law-summary-july-2023.pdf>

⁴ See the maine democrates posting here

<https://www.mainesenate.org/commission-to-serve-as-guide-on-sex-offender-initiatives/>

towns in the state that don't do any form of notification, which brings the issue of inconsistency in the law when a town like Norway can have a law on the books that the state has told them that they can't enforce or even when a town such as Augusta which has a large number of registered sex offenders and most of the low income housing is off limits to them solely because they are in the restricted zones as per the town's website which has a 49 page of addresses that are in the restricted zones which so far is the only town I have found that has that information on the town's website.⁵ As of August 2024, there were 2,889 registered sex offenders in Maine, and I am working to ascertain how many are registered due to out-of-state convictions. I have submitted a Freedom of Access request but received limited information in response. (attached is the Foa request and the acknowledged receipt of the foa) as of the current date I have not received any other information as of yet.⁶

Research, such as a study from the University of Southern Maine, shows that Maine sex offenders do not reoffend at a higher rate than other convicted criminals. Given this data, I urge the committee to consider consolidating sex offender registration laws and creating a process for out-of-state offenders to receive the due process they deserve. Three other studies look at homelessness using SOR data. Harris et al.'s overview of SORs from 42 states and 2 US territories (Delaware declined to participate) found that 30 states and one territory tracked homelessness among those on their registries, with a combined overall rate of homelessness (for all on the registries) at 3.0 percent, and with individual state rates as high as 5.7 percent in California and 4.8 percent in Maine.⁷

The last comprehensive review of Maine's sex offender registration laws occurred in 2016 under Senator Bill Diamond.⁸ Since then, the landscape of understanding sex offenses has evolved significantly. Current statistics indicate that a substantial percentage of registered sex offenders are first-time offenders, which calls into question

⁵ See the 49 page restricted zone list at

https://www.augustamaine.gov/corecode/uploads/document6/uploaded_pdfs/Sex%20Offender%20Residency%20Restriction%20by%20Street_1717555941.pdf And the map of the restricted zones at https://www.augustamaine.gov/corecode/uploads/document6/uploaded_pdfs/750%20Foot%20Sex%20Offender%20Restricted%20Zones_1717555901.pdf

⁶ As of 9/23/2024 there has been no response from the division of records management responsible for maintaining Maine's sex offender registry. But based on other Foa requests sent to Maine state police I can only assume that they are going to claim that this request is an invasion of privacy.

⁷ Information on homeless sex offenders can be found at

<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC10445610/#:~:text=Finally%2C%20three%20other%20studies%20look,Byrne%20et%20al.>

⁸ See the information here

<https://www.wmtw.com/article/thousands-removed-from-maine-sex-offender-registry/2013073> this is in reference to the 127th legislature passing of LD1112 found https://legislature.maine.gov/legis/bills/bills_127th/billtexts/HP077301.asp

the efficacy and fairness of lifelong registration for nonviolent misdemeanors. Especially when the individuals who called for the sex offender registry to be made in the first place are now saying that they don't believe in it as it does not do as they intended for it to do because the people who belong on it are not coming in and cant be located or have not been caught yet. By making reform to the sex offender laws it would have a financial effect of near nothing in fact it would save the towns and the state in resources.

I respectfully recommend that the committee explore reforms to ensure that individuals like myself, who have demonstrated rehabilitation, can access fair treatment under the law. As well as look into why the office of the Attorney General feels like they can commit contempt of court by violation of a court order for 3 years at this point.

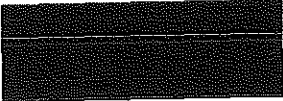
Thank you for your time and consideration. I appreciate the opportunity to speak on this important issue.

Sincerely,

Cody McClain

bouchardcody0@gmail.com

2073144836



RECORD OF CASE EVENTS:

10/17/19 - CONTINUED

THE COURT NOTES THAT THE DEFENDANT UNSUCCESSFULLY COMPLETED PROBATION. DEFENDANT IS OUT OF CUSTODY. ENTERED ON CJIS BY S. LEYVA-SCMET ON 10/18/2019.

04/08/20 14:50

ORDER FROM FIFTH DISTRICT COURT OF APPEAL, FILED. THE "PETITION FOR WRIT OF HABEAS CORPUS," FILED ON FEBRUARY 24, 2020, IS DENIED.. COURT OF APPEAL CASE NUMBER: FG00802. ENTERED ON CJIS BY JCHANDLER DATE 04/08/2020.

05/27/20 13:00

RECEIVED SERVICE COPY/COURTESY OF ANSWER TO THE RESPONDENTS ANSWER TO THE PETITION. ENTERED ON CJIS BY JCHANDLER DATE 05/27/2020.

03/16/21 09:55

MOTION TO DESIGNATE IN COURT MINUTES NEW TIER CATEGORY FOR DEFENDANT PER SB 384 NEW TIER CATAGORY SB 384 FILED. HEARING SET ON 03/24/2021 AT 8:30 A.M. IN SUPERIOR COURT, METROPOLITAN JUSTICE BUILDING, D- 1M FOR MOTION. ENTERED ON CJIS BY D. BLEDSOE - SCMET 03/16/2021.

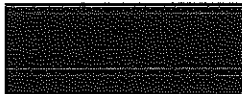
03/24/21 08:30 **

HEARING HELD ON 03/24/21 AT 8:30 A.M. IN SUPERIOR COURT, METROPOLITAN JUSTICE BUILDING, D- 1M. HON. TIFFANY E ORGAN-BOWLES, JUDGE, PRESIDING. CLERK: MELISSA HUNTER. REPORTER: ELECTRONIC RECORDING-DIV F. BAILIFF: DEPUTY SHERIFF
NATURE OF PROCEEDINGS: MOTION.
TO ENSURE THE PUBLIC HAS ACCESS TO COURT PROCEEDINGS DURING THE COVID-19 PANDEMIC, THIS COURT WILL BE AUDIO LIVE STREAMING ALL NON-CONFIDENTIAL MATTERS. THIS ALTERNATIVE METHOD FOR OBSERVING COURTROOM PROCEEDINGS IS STRONGLY ENCOURAGED DURING THIS TIME FOR ALL NON-PARTIES TO AVOID ATTENDING COURT IN-PERSON WHERE SOCIAL DISTANCING PROTOCOLS AND LIMITED COURTROOM ACCESS APPLIES.

IT IS ALSO AVAILABLE BECAUSE JUDICIAL OFFICERS MAY HAVE TO LIMIT, OR IMPOSE OTHER REASONABLE RESTRICTIONS UPON, PUBLIC ACCESS TO THEIR COURTROOMS AND ADJACENT HALLWAYS BASED ON RECOMMENDED SOCIAL DISTANCING REQUIREMENTS.

EACH JUDGE RETAINS THE DISCRETION AND AUTHORITY TO REFUSE, LIMIT OR TERMINATE AUDIO LIVE STREAMING OF THE PROCEEDINGS, OR PORTIONS THEREOF, PURSUANT TO THE FACTORS AND PROHIBITIONS ARTICULATED IN CALIFORNIA RULES OF COURT, RULE 1.150, AND IN CONSIDERATION OF OTHER STATUTORY AND CONSTITUTIONAL PROVISIONS.

BY COURT ORDER AND CALIFORNIA RULES OF COURT, RULE 1.150, AUDIO LIVE STREAMS MAY NOT BE RECORDED, BROADCASTED OR REBROADCASTED WITHOUT PRIOR WRITTEN



RECORD OF CASE EVENTS:

03/24/21 - CONTINUED

PERMISSION FROM THE COURT. WITNESSES WHO HAVE BEEN INSTRUCTED NOT TO DISCUSS THEIR TESTIMONY OR COURT PROCEEDINGS WITH OTHERS MAY NOT LISTEN TO THE AUDIO STREAMING OF ANY PORTION OF THE TRIAL.

DEPUTY DISTRICT ATTORNEY PHILLIP MAKOROW APPEARED. PROBATION OFFICER CECILIA DOMINGUEZ APPEARED. DEPUTY PUBLIC DEFENDER TERYL WAKEMAN APPEARED FOR DEFENDANT.

PERSONAL PRESENCE OF DEFENDANT WAIVED BY COUNSEL. DEFENDANT'S MOTION TO DESIGNATE NEW FIER CATEGORY PER SB 384 IS RECEIVED AND CONSIDERED BY THE COURT.

THE COURT MAKES THE FOLLOWING FINDINGS AND/OR ORDERS: MOTION OF DEFENDANT FOR MOTION TO DESIGNATE NEW FIER CATEGORY PER SB 384 IS GRANTED.

DEFENDANT IS ORDERED TO REGISTER AS A FIER ONE SEX OFFENDER FOR A MINIMUM OF 10 YEARS PURSUANT TO PC 290.006.

CLERK OF THE COURT'S CERTIFICATION. I CERTIFY THAT THE FOREGOING IS A CORRECT ABSTRACT OF THE DISPOSITION OF ARREST AND SUPPLEMENTAL COURT ACTION IN THIS CASE. SIGNED: M HUNTER.

ENTERED ON CJIS BY MELISSA HUNTER - SCMET ON 03/24/2021.

10/12/21 14:00

CREDIT OF \$100.00 FOR AB1869.
ENTERED ON CJIS BY LOPEZ DATE 10/12/2021.

02/16/22 08:00

CREDIT OF \$45.00 FOR AB177.
ENTERED ON CJIS BY AUTOMATED ENTRY.

11/15/22 08:00

CREDIT OF \$600.00 FOR AB199.
ENTERED ON CJIS BY AUTOMATED ENTRY.

09/19/23 13:33

ORDER FOR THE DISPOSITION OR DESTRUCTION OF CRIMINAL CASE EXHIBITS, FILED.
ENTERED ON CJIS BY M. RINY-SCMET ON 09/19/2023.

09/20/23 13:18

15 DAY NOTICE OF DISPOSITIONS OF EXHIBITS, AND / OR DEPOSITIONS MAILED TO KERN COUNTY DISTRICT ATTORNEY'S OFFICE.
ENTERED ON CJIS BY M. RINY-SCMET ON 09/20/2023.

11/14/23 08:16

IN RECEIPT OF REQUEST TO RETAIN PEOPLE'S EXHIBITS FROM KERN COUNTY DISTRICT ATTORNEY. THE EXHIBIT UNIT WILL RETAIN FOR ONE YEAR.
ENTERED ON CJIS BY M. DELGON-SCMET ON 11/14/2023.

1 PAM SINGH
Public Defender
2 1315 Truxtun Avenue
Bakersfield, CA 93301
3 (661) 868-4799
4 Peter Kang, SBN 194726
Attorney for Defendant
5
6

7 SUPERIOR COURT OF CALIFORNIA, COUNTY OF KERN
8 METROPOLITAN DIVISION

9 PEOPLE OF THE STATE OF CALIFORNIA,) [REDACTED]
10 Plaintiff,)
11 vs.) MOTION TO DESIGNATE
IN COURT MINUTES NEW TIER
12 CODY MCCLAINE,) CATEGORY FOR DEFENDANT
PER SB 384
13 Defendant.) [REDACTED] 21
14)
15)
16)
17)

18
19 TO THE ABOVE ENTITLED COURT; AND TO THE DISTRICT ATTORNEY OF KERN
20 COUNTY, STATE OF CALIFORNIA:
21 PLEASE TAKE NOTICE that on **March 30 2021 at 8:30 a.m.** in Department LM of the
22 above-entitled court, that Mr. McClaine will move the court for an order to reflect in court minutes
23 that defendant's crimes place him in a Tier One category pursuant to SB 384.
24 The instant motion is made pursuant to SB 384 and the Due Process Clause of the United
25 States Constitution.
26 The motion will be based on this notice of motion, all pleadings and records on file herein,
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1 the following points and authorities, and any argument presented at the hearing on said motion.

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Dated: March 23, 2021

Respectfully Submitted,

By //Signed Peter Kang//
Peter Kang
Deputy Public Defender

1 STATEMENT OF FACTS

2 On December 1, 2015, defendant was convicted of two counts of misdemeanor PC 647.6
3 and one misdemeanor count of PC 314.1.

4 POINTS AND AUTHORITIES

5 On January 1, 2021, Senate Bill (SB) 384 replaced California's lifetime sex registration
6 requirement with a three-tiered registration system that no longer required lifetime registration for most
7 offenses. Relevant to defendant's case, pursuant to SB 384, Mr. McClain's crime places him in the Tier
8 One category, requiring registration as a sex offender for at least ten (10) years. Consistent to SB 384,
9 the ten year registration requirement is for people like Mr. McClain convicted of the lowest level sex
10 offenses including first misdemeanor convictions for [REDACTED]

11 While Mr. McClain has not been a registered sex offender long enough to petition remove
12 registry requirement, Mr. McClain's makes a less consequential request. Mr. McClain requests the
13 court to appropriately categorize him as a Tier One category offender in the court minutes or abstract of
14 judgement pursuant to SB 384. While classification will not change his registration requirements now,
15 the Tier One designation would signal to others that he is a low level, as a opposed to a high level
16 offender.

17 Dated: March 23, 2021

Respectfully Submitted,

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19 By//Signed// Peter Kang

20 PETER KANG
21 Deputy Public Defender
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DECLARATION OF PERSONAL SERVICE

I am a citizen of the United States and a resident of the County of Kern, California; I am over the age of eighteen years; my business address is the Office of the Public Defender of the County of Kern, 1315 Truxtun Avenue, Bakersfield, California; and not a party to the cause:

The People of the State of California vs. CODY MCCLAIN

Kern County Superior Court No. BM844935A

On March 16, 2021, I served the attached MOTION in said cause by personally emailing a true copy thereof on:

District Attorney, County of Kern bakersfieldmotions@kcrnda.org

I declare under penalty of perjury that the foregoing is true and correct.

Executed on March 16, 2021, at Bakersfield, California.

//Signed// Peter Kang

DECLARATION OF PERSONAL SERVICE

Testimony to the Criminal Records Review Committee

October 8th, 2024

Chair Bailey, Speaker Talbot Ross, and Members of the Criminal Records Review Committee,

My name is Samantha Genest and I am a resident of Portland, Maine. I am grateful for the opportunity to address the Committee regarding the current laws surrounding criminal records in the State of Maine. Like many Mainers impacted by the opioid crisis, I have lived experience with struggling with addiction. Fortunately, I have been in recovery for five and a half years. While I was in active addiction, I was convicted of crimes that remain on my criminal record. In sharing my experience, I hope to convey the hindrance that the current criminal records system has placed on my own recovery and the recovery of others.

Finding meaningful, gainful employment is imperative to building self-esteem, a solid foundation for a lifetime of recovery and growth, and the difference between surviving and thriving. During the last five and a half years of my recovery, I have been offered and subsequently denied numerous employment opportunities due to my criminal record.

I wanted to work with children in a behavioral health unit because I felt my personal experience offered a unique level of understanding and relatability. I disclosed my background, was offered the job, and lost the opportunity due to my record. I also had this same experience trying to work in an adult mental health unit and a substance use disorder treatment center. Many of these state-run facilities are suffering from worker shortages and consequent burn-out for folks that do work in direct support. These are just a few examples of the many jobs I have missed out on due to my record, regardless of the fact that I have completely turned my life around.

Substance use disorder is a medical condition that I sought treatment for, and having a criminal record has created barriers for me in trying to find economic security in my recovery. I fully believe in reparations and taking responsibility for crimes committed. However, I feel that there should be a point where the system begins to help build a person back up and acknowledges their growth by creating more opportunities to have one's record sealed.

I urge this Committee to expand the number of crimes that can be sealed, especially related to substance use disorder. Please consider reducing the number of years a person has to wait post-conviction before applying for sealing. These steps could enhance the lives of so many of us who have taken the steps to change and want to build a stable life in recovery.

I thank you again for the opportunity to address the Committee and share my experience.

Sincerely,
Samantha Genest
Portland

October 8, 2024

Chair Bailey, Speaker Talbot-Ross, and Members of the Criminal Records Review Committee,

My name is Nancy, and I am a resident of Androscoggin County. I am also a mother, a wife, a daughter, an aunt, a sister, and a dog mom of a very sweet golden retriever. I have lived in Maine since I was seven years old, and I have been proud to call this state my home for the last thirty-seven years.

I am writing to you today as a person in recovery from substance use disorder, as well as someone with a criminal record whose convictions were directly related to substance use. In full transparency, I was hesitant to write this letter to you today because I do not want to expose myself or my family to stigma for a crime that I committed twenty-two years ago. Living in rural Maine with a criminal record can be hard because there is so much prejudice and discrimination towards people with past felony convictions.

Nevertheless, I feel that it is important for me to share some of my experience with you. I have witnessed firsthand the barriers that having a criminal record can create in reaching one's full potential. For the sake of keeping my criminal history as anonymous as possible, I do not want to disclose the full details of what transpired. I will share that I served a sentence at the Maine Women's Correctional Center in the early 2000s for a drug-related crime. I was in my early 20s at this time and had not yet found recovery. Today, my life looks nothing like it did back then. In addition to having a family, I have worked in the social services field for over 15 years and have been an active member of Maine's recovery community.

Despite the changes that I have made and the life I have built, my criminal record still causes me deep anxiety. For example, I recently switched jobs and had to meet with Human Resources after my background check came back. I had to explain in full detail what happened and had to advocate for myself why I should be hired in spite of my criminal record, which I acquired over two decades ago and my current resume shows that I was very qualified for the job at hand. My son is ten years old and knows nothing about my past. As much as I would love to volunteer at his school, I choose not to out of the fear of exposure and possible rejection.

I have thought about applying for a pardon. However, I would be nervous to draw more attention to something that happened so long ago, and expose my family to the consequential discrimination in such a public process. Furthermore, I know that everytime I have to talk about what happened, I expose myself to more inner-shame. There are thousands of people out there in my situation. I am not exactly sure what policy changes can be enacted to address these barriers, but I do wish that more crimes could be eligible for records sealing. I recently met a person from Indiana, and he described to me their Second Chance Law that gives people the opportunity to seal felonies after a certain number of years have gone by and there is no additional criminal justice involvement. I wish we had second chances in Maine. Yes, some people do re-offend but they would not be eligible to have their records sealed.

I thank you for taking the time to learn about my experiences and the challenges I continue to face.

Nancy - Androscoggin County Resident

CRIMINAL RECORDS REVIEW COMMITTEE
Tuesday, October 8, 2024 at 9:00a.m.

Written Comments Received from Residents of
Correctional Facilities and County Jails

A. Marion	Maine State Prison
C. McElligott	Mountain View Correctional Facility
W. Heiser, Jr.	Maine State Prison
T. Heaberlin	Mountain View Correctional Facility
C. Bilynski (and others)	Cumberland County Jail
R. Jobes	Maine Correctional Center
S. Webster	Maine State Prison

Return After 5 Days to:

Maine State Prison

Name Anthony Marion

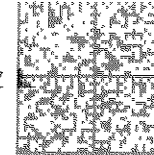
MDOC # 111037

807 Cushing Road

Warren, Maine 04864-4600

SO.MAINE 041

17 SEP 2024 PM 2



US POSTAGE IN PITNEY BOWEN



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02 4W
0000389268 SEP 17 2024

This correspondence is forwarded from the Maine State Prison-Warren. The contents have not been evaluated and the Maine State Prison-Warren is not responsible for the substance or content of the enclosed communication.

Criminal Records Review Committee
C/O Legislative Information Office
100 State House Station
Augusta, ME 04330

04330-634300



Provide Your Comments on Limiting Public Access to Certain Conviction Records

The Maine Legislature created the Criminal Records Review Committee to consider both the harms and benefits of limiting public access to certain criminal conviction records, especially records of convictions (a) for conduct that is no longer criminal in Maine; (b) for nonviolent crimes; or (c) for conduct committed by victims and survivors of sexual exploitation and sex trafficking through a sealing process.

What is Sealing? Under Maine law, a person convicted of certain low-level crimes may file a motion in court to “seal” their conviction. If the person meets all of the requirements (*for example, they have waited the required number of years after finishing their sentence without being convicted of a new crime*) the court will order that the conviction be “sealed” from the public. This means that most employers, lenders, landlords, school admissions officers, and others won’t learn about the conviction if they request a background check from the State. However, certain people including law enforcement, prosecutors and courts will still have access to the “sealed” conviction record.

The Committee invites residents of state correctional facilities and county jails to provide their thoughts on these issues. If you are interested in helping the committee with its work, please consider answering one, a few or all of the following questions in writing and mailing your response to:

**Criminal Records Review Committee
c/o Legislative Information Office
100 State House Station
Augusta, Me 04330**

**Deadline for mailing your answers to
these questions: September 30, 2024**

Our Questions to You:

*Note: You are **not** required to answer all of these questions.*

1. Do you already know that Maine has a process motion to seal process? How much do you know about this process?
2. How would you feel if you had an opportunity to request that your criminal conviction be sealed as long as you aren’t convicted of any new crimes for a certain number of years after you are released? Would this knowledge impact the choices you make while you’re incarcerated or after you are released?
3. The current sealing law in Maine applies only to (a) Class E crimes, (b) Class D Marijuana cultivation and possession offenses that are no longer illegal in Maine and (c) convictions of engaging in prostitution. Do you think the law should remain this way or be expanded to allow the sealing of other types of crimes? **Why?**
4. What types of incentives should the law for sealing criminal convictions include? (*For example: What if a court could waive the waiting period for applying to seal your conviction if you decide to get your G.E.D., associate degree or other college degree after you are convicted*) Do you think incentives would be helpful?
5. What are the biggest challenges you expect to face when you finish your sentence? (*For example: difficulty finding housing, employment, or a professional license*) How does your criminal record impact these challenges?
6. **If you’ve previously been incarcerated**, what were the biggest challenges you faced when you were released and how did your criminal record impact these challenges?
7. What opportunities would you like to have while you are preparing for your release that would address some of the challenges you anticipate facing and how does your criminal record history impact the opportunities available to you? (*For example, are there education programs, apprenticeships, or other types of programs to help you prepare for life after release that would be helpful? If so, does how does your criminal record affect whether you have access to these programs now?*)

**If you have any questions about this poster,
please speak to:**

1.) No, I did not.

2.) I would feel relieved and a lot more hopeful for my future knowing that I could eventually request that my criminal conviction be sealed even if it was 10 years from now.

That alone would be a tremendous incentive, it would also help to expand my opportunity possibilities, and it would most definitely help to push me in the right direction to make wiser and more positive choices both while incarcerated and after my release.

3.) The law should be expanded to include most all crimes unless of course that person poses an immediate and present danger to the community.

Someone's criminal record should not follow them around, haunt them, and affect their daily lives and future especially since they have already paid severely for their mistakes.

If I have turned my life around, stayed out of trouble, and have become a productive member of society, my past should no longer be able to dictate my future for the rest of my life.

People make mistakes, they make bad choices, but if they learn from them and change their lives for the better, that's what matters the most.

Right now I have very little hope for my future. I often think about just giving up in life. A lot of that has to do with how my criminal record affects my daily life on the outside. It feels like an uphill battle (on a daily basis) that I just won't win.

IF I knew (right now) I could get my record sealed in like 5-10 years, I'd feel completely different than I do now for sure. I'd have hope for my future again.

People should not be defined by their mistakes. They should be defined by how they correct their mistakes and what they do after that!!

4.) Incentives would most definitely be helpful and a waiver after completion of some sort of schooling, apprenticeship, or job training etc. would be most helpful, especially to those who need some sort of professional licensing like a CDL, Counseling, Plumbing, Heating, Electrical, RN, CNA etc, etc.

5.) My biggest challenges will be housing, employment, and transportation. I have 3 DUI's and my last one was back in 2011. I have changed my ways since then and I really want to get my Class A CDL and drive truck for a living. My 13th year old driving record may stop me from being able to obtain a CDL but if I am able to get one an employer may still see me as a liability for something I did over 13 years ago.

6.) The biggest challenges for me was transportation and employment not to mention having no money upon my release.

A lot of places do a background check and turn down felons. It's hard to get a good paying job even being an educated felon.

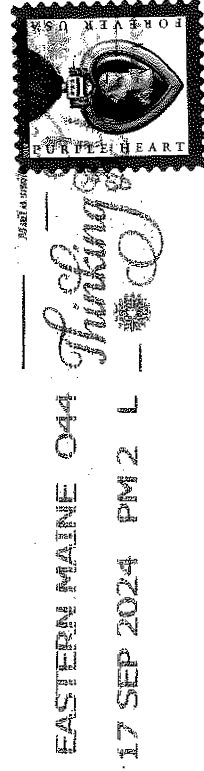
7.) Education, Apprenticeships, Work Release Programs etc. are all very important for a person's success upon their release. I may have an opportunity to get free CDL training while I'm incarcerated but I have to get DHS to let me get my driver's license reinstated because they had it suspended for back child support. Hopefully they will let me get it back so I can get the free training while I'm incarcerated.

The biggest problem I see here is that space in the programs offered here is just very limited. Only a select few are actually given an opportunity.

Everyone should have an equal opportunity. No inmate should be left behind!

Thank You!!
Anthony Marion

Casey McElligott 120294
1182 Dover Rd.
Charleston, ME 04422



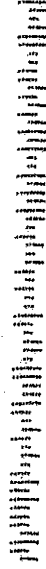
EASTERN MAINE 044

17 SEP 2024 PM 2 L

Thinking

Criminal Records Review Committee
c/o legislative info office
100 State House Station
Augusta, ME 04330

04330-634200



1. No I did not know about the Motion to Seal Process. I know nothing about this process, would I be able to earn my gun right privileges back after a certain amount of years if I don't have violent crime charges?

2. I don't believe being Felonies on my records stops me from Succeeding but if I had the opportunity to get my gun rights back I can tell you right now the system would never see my fear again. It's not going to anyways but if I had the rights to protect my wife and kids back for going a certain amount of time trouble free I think that would be the right thing to do because in not the same person now as I was 10 years ago and 10 years from now I won't be the same person as I am now but we've never been violent ever.

3. I think it should be expanded to all crimes except crimes that involve children because you really gotta keep an eye on them I want and need to know if I live next door to a pedophile to protect my family

4. I think incentives would be helpful. For example. If I show good deeds such as Community involvement, community service, Education steady employment, good credit scores shows responsible for your life, current on your child support, church

5. Felonies only slow down people who give up. It really only stops me from being able to do select things. I can still do real estate which makes more millionaires than any other business out there. I can still do more than not

6. I was previously incarcerated and when I got out last time within 3 years I had 2 trucks full of tools an LLC. and a house on a lake but being an addict I lost it all. Well most, my wife and kids are still there and that's all I care about. I'll get it back.

7. I would have liked to have learned how to weld while I was here like they said there's all these programs in prison but there is nothing of that sort here I wish it was more like a technical school here that would make people succeed.

U.S. Army Demo Spec

Return After 5 Days to:

Maine State Prison

Name Wm. F. Heiser Jr.

MDOC # 159691 / MD115T

807 Cushing Road

Warren, Maine 04864-4600

SO. MAINE P&DC 041

27 SEP 2024 PM 3 L

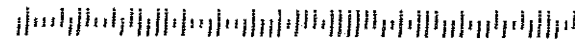
Think



Criminal Records Review Committee
C/O Legislative Information Office
100 State House Station
Augusta, Me 04330

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04330-634200



9-26-24

"To Criminal Records Review Committee,
c/o Legislative Information Office"

I, Wm. F. Heiser Jr., U.S. Army Demo. Spec.,
159691/WD115T here @ M.S.P. in Warren,
Maine request that you please Seal my
Conviction Record!

I got into trouble for teaching sex-
ed to a teen girl & got 20 years! Court
says teaching sex-ed is for the schools to
teach, not me! I've been incarcerated
going on 8 years & have learned my lesson!
I've completed "Impact of Crime" with
Instructor Shirey teaching crimes, "Sexual
abuse, elderly abuse, etc. Many others!"

"I was awarded a Certificate of Completion!"

I'm going to have problems when I get out
w/ this crime hanging over my head!

"Employment, Housing, etc."

"I'd like to remain Anonymous for Safety
Reasons & have my Convictions permanently
Sealed!" Thanks Very Much!

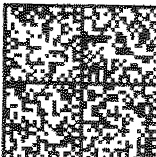
(Wm. F. Heiser Jr.
U.S. Army Demo. Spec.)

Sincerely,
Wm. F. Heiser Jr.

Thomas Heberlein
MDC #10690
Mountain View Correctional Facility
1262 Davis Road
Charleston, ME 04422

Criminal Records Review Committee
c/o Legislative Information Office
100 State House Station
Augusta, ME 04330

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To: Criminal Records Review Committee
c/o Legislative Information Office
100 State House Station
Augusta, ME 04330

19 September 2024

From: Thomas Darrell Heaberlin
MIDOC#406908
MVCF, 1202 Dover Road
Charleston, ME 04422

i am reaching out as an incarcerated individual, held at Mountain View Correctional Facility. Below, i will be answering the seven questions posted on the flyer in my housing unit, titled "Provide Your Comments on Limiting Public Access to Certain Conviction Records," a topic to be addressed at your next meeting. i will not be reiterating the questions; rather, i will answer each question (and respective sections within each question) sequentially.

1- part 1: No ; part 2: Nothing.

2- part 1: i would feel enthused; part 2: of course it would.

3- i feel strongly that the law should be expanded, due to the evolving climate (and anticipated trajectory) of drug policy reform [personally - i feel psilocybin mushrooms, and other recently de-prioritized, plant-based psychedelics, should fall into consideration]

4- no comment (i don't feel incentives genuinely produce meaningful commitment).

5+6- my concerns facing my future decarceration are congruent with the issues i found most concerning when i was released from prison, in 2021 - being targeted by law enforcement (as well as being marginalized by public stigma) as a 'forever felon', due to my record. There is this presumption of implicit guilt, completely →

disregarding the implied 'corrective' nature of having served my sentence in the Department of Corrections.

i have had probation, law enforcement, and corrections admin say things to the effect of "it's not like that..."

i am speaking from sincere experience - it is very much like that. A felony conviction for "drug-related offense" is a marginalizing factor for anyone living in the 'free' world.

Knowing how easily my whole life can be destroyed, simply by the claims of someone with a grudge, has me concerned, despite having several years left to serve.

i don't know how i could ever feel safe living in one place again, knowing that if a jealous ex, or jaded partner, decides they want to ruin my life, all they have to do is provide a fabricated tip saying i am manufacturing drugs, and, given my record, the possession of common household items will be enough to bury me alive for a decade.

This is not far-fetched, paranoid, or tangential.

This is how i ended up serving 5-years, currently.

No drugs (not even trace amounts).

No precursors.

Table salt, watch batteries, and camping gear - plus a jealous partner, intent on destroying my world.

7- Seeing the programs run here, i don't see how or what could be done to actually help. The emphasis now seems to be rooted in utilizing the boon of funding for 'recovery' type classes - staff is dispassionate and the agenda focuses on treating ^{the} symptomatic issue (drug use) instead of the root problem (typically, mental illness and/or trauma).

Best regards,
~~Thom~~
#40690

Thank you for considering the input of those of us who are incarcerated. i don't anticipate you having very many responses, though...

Christopher M. Bilinsky #296539
Comberland County Jail
50 County Way
Portland, Maine 04102

THIS CORRESPONDENCE IS FROM
THE BERLAND COUNTY JAIL
SECTIONAL MAIL UNIT

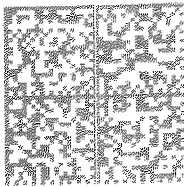
Chimney Repair Review Committee

40 Legislative Information Office

100 State House Station

Augusta, Maine

04330

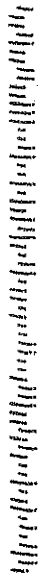


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TO: Criminal Records Review Committee:

I've got plenty to say about this "Wolf in Sheep's Clothing" New Statute:

On its face, it seems beneficial but "Sealing" is NOT "Expungement." The Legislature is NOT doing its Citizens true justice by this half-measure offering.

Limiting public access is one thing but, excluding all access is most effective and, the only way to truly ensure justice is done.

Complete removal from a Citizens' file, regarding an incident that is no longer a crime is NOT merely "JUST," it should be mandatory/mandated by law and/or Constitutional Amendment (as both Arizona and Missouri did with marijuana offenses) and, let's keep in mind, this still doesn't make up for all of the families utterly destroyed by D.H.H.S. removing children or, courts handing out prison sentences for conduct that's now perfectly legal.

Let's look at the bigger picture: Aside from MATTERS that are no longer considered criminal or jailable, what about all of the charges that are filed by unchecked (and sometimes over-reaching and/or vindictive) prosecutors? It's a well-known fact, especially for defense lawyers and those of us with criminal records, that prosecutors routinely "over-charge" citizens - which has been an effective method for securing "plea-deals" for the lower offense(s) that the criminal is usually guilty of. Those "excessive" over-charges, often unsupported and unprovable by the state get dismissed in lieu of the criminal defendant pleading to the offense in which he actually committed. However, these "over charges" that get dismissed remain on that person's criminal history record, available to any law enforcement agent or court and, much like a bell that can't be un-rung once rung once a prosecutor and/or judge sees this individual had all these "scary" charges, they don't merely forget them. They get factored into how that person is often viewed, treated and possibly sentenced (especially in some states (Florida) and particularly, the Federal System, which adds points for unconvicted offenses. Points that equate to significantly more time a citizen

is required to serve incarcerated for an underlying and non-related offense)
"Record Sealing" should be just that, a completely un-operable
SEAL for all time from ALL Records.

Look, in Maine, The Courts (Judiciary) has already put a "get
around" in place with "order" JA-05-20 (A.5-24) which allows "sealed"
or "non-public" Records here in Maine, to be accessible to the public.
(See Section III Therein)

What our Citizens and STATES in Maine need is one modeled
AFTER the one New York uses (see C.P.L. §160.50) or Virginia's Chapt. 23.1
of Virginia Code ANNOTATED § 19.2-392.1 et. seq. Those types work to remove all
offenses which have ended favorably for an accused and, the models used in
Arizona (AZ Rule 36(3) and A.R.S. § 36-2862(c)) and Missouri (ART 14 § 2, 10(8)(a))
for the complete removal of (marijuana) convictions which are no longer criminal.
These are complete, right down to the returning of arrest photographs, fingerprints
and DNA.

There is no viable person a person should have criminal offenses that
he/she hasn't been convicted of prejudicing his existence or future in any way,
shape, or form, that not "justice" envisioned by our forefathers or what a
civilized society has come to expect.

Look, there's no magical wash cloth to wipe away the injustices
suffered by citizens like myself, a veteran, by the continued existence and
dissemination of unfounded/unjustified criminal allegations, some made over
30 yrs ago or, for crimes I went to prison for that are no longer criminal.
But, we can, and should now see 'the error of our ways' and ensure such
injustice doesn't continue to infect our ever evolving system of so-called justice.
What we need is true and complete and effective STATE(S) in place that
allow for: (A) TOTAL Expungement of unconvicted criminal allegations and all
references thereto (which is available through a Governor's Pardon but, I've yet to find a
single case or person whose received such);

(B) An "Automatic" STATE that MANDATES the complete and TOTAL Expungement
of all criminal convictions (and all references thereto) to be initiated and completed by the
STATE for MATTERS that are no longer criminal;

(C) A STATUTE THAT ensures these are sealed from any/all persons and which returns to the ~~family~~ formerly accused, their arrest photo(s), fingerprints and D.N.A. which includes a "Certificate" verifying the complete expunction/removal of any/all references to these qualified offenses and;

(D) Penalties for prosecutors, courts or arresting agencies who fail or refuse to timely comply, as well as some form of consequence for any individual or agency who stands or defames an individual entitled to expunction/removal sealing, who utters/refers to expunged matters.

If you want "Restorative Justice," want to re-gain some faith and trust from citizens and neighbors and friends, then implement laws they can see, use and actually benefit from. Or, at the very least, one that prohibits us from continued, unwarranted persecution by the judicial and executive branches of government; potential educators, employers, landlords or various and sometimes much needed assistance agencies of the state or federal government.

We need useful and effective change/laws and not ones that advertise what they're not truly selling. Most of us already feel betrayed or under-served enough.

Truly,

Christopher N. Bilyski #276539

Cumberland County Jail

50 County Way

Portland, Maine 04102

P.S. I'm intimately familiar with the benefits and pitfalls related to record sealing/expunction and herein offer to volunteer my knowledge and experience to help forward/implement such measures

here in Maine. I remain available by mail, telephone or personal visit/interview, as well as through my attorney, Justin W. Andrus who can "vouch" for my level of knowledge and experience. He can be reached at: 751-4437 or online at:

jwandr@andrus-law.com

P.P.S. I'm also including the names of just the individuals in my housing unit who agree with my viewpoint on this particular matter. This demonstrates the overwhelming interest in this matter. The signatures represent 1 of 2 floors of one housing unit here @ Cumberland County Jail.

IF YOU BELIEVE THERE SHOULD BE A LAW IN MAINE WHICH:

(A) Permanently Removes All UNCONVICTED offenses from Your Record:

(B) Permanently Removes All offenses from Your Record that are no longer Crimes

Then Please fill out information below to be forwarded to:

The Criminal Records Review Committee % legislative information office,
100 STATE HOUSE STATION, AUGUSTA, MAINE, 04330 (or write them yourself)

NAME	ID #	D/O/B	SIGNATURE	CELL #
① Chris Bilynsky	# 226539	3/26/20	Chris Bilynsky	#130b
② Stephen Gurney	269131	10/27/1985	Stephen Gurney	132B
③ Daryl W. G. S.	#628546	06/22/1985	Daryl W. G. S.	130T
④ Haven Willis	# 251271	7/15/25-12/24/77	Haven Willis	129 B
⑤ Avante Valentine	621974	12/07/2004	Avante Valentine	134 B
⑥ Bailey Gamblin	551818	11/12/2000	Bailey Gamblin	137 B
⑦ MOSES LAW	#22995	01/16/96	Moses Law	235
⑧ Michael Barnes	557360	8/29/1991	Michael Barnes	211
⑨ Eddie Pankosky	544935	3/18/87	Eddie Pankosky	117
⑩ Michael Hale	19	10-24-70	Michael Hale	135 B
⑪ Chris Brown	307730	7/3/87	Chris Brown	112T
⑫ Phil Canhelmo		1-8-75	Phil Canhelmo	118 B
⑬ James McCall	656967	11-19-64	James McCall	119
⑭ Michael Hills	644524	2-18-84	Michael Hills	132 AB
⑮ Bryan Taylor	1069933	5/28/79	Bryan Taylor	138 B
⑯ WILLIAM Haskell	268869	09/24/83	William Haskell	117 B
⑰ PATRICK McNamee	407 212	01/05/86	Patrick McNamee	113
⑱ Stephen Thruett		2-3-1961	Stephen Thruett	111
⑲ CHRIS Dimastromano		9-9-88	Chris Dimastromano	109

Printed Name	Id#	D/OB	Signature	Cell #
20 Marc Pinsky	630-519	07/02/92		210
21 Raymond	485913	01-11-1976		131
22 Kobe James	547171	04-04-1999	Kobe James	#212
23 Tristin Chamberlain	467039	08-22-01		237
24 Treese Vasois	536465	Jan 24 th		233
25 Jeremy Beardon	146568	11-09-80	Jeremy Beardon	116
26 Tyler Kusichko	541541	11-09-90		126
27 Scott Decker	214968	02-08-1983	Scott Decker	115
28 Anthony Davis	3200	09/25/90		238
29 Abukar Said Ali - 641110		05/03/2002	ABUKAR	134
30 Cheryl L. S. 65613		12-04-98		131
31 David Logugone 491250		08-13-97		136
32 Ntare Roland Mitima		09-30-98		232
33 Issak Alnow		02-02/99	Issak	232
34 Anthony Muhammad 561674		12-27-76		230
35 Anthony R. Labor 494255		09-26-1998		230
36 Dennis R. Jenkins 366522		10/1/1970		217
37 Nathan Raymond 266246		5/9/1985		217
38 Andrew Clay		6/29/87	Andrew Clay	114
39 Rudolph Wiestreef		11/22/78		128
40 Ja-Shaen Lipscomb		6/10/89		230
41				
42				
43				
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Return After 5 Days to:

Maine Correctional Center

Name Rayna Jones

MDOC # 164183

813 Cushing Road

Warren, ME 04864

Criminal Records
Review Committee
100 state house Station,
Augusta ME 04330

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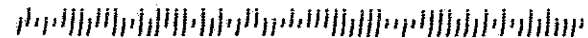
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Criminal Records
Review Committee
c/o Legislative Info
Office

100 State House
Station, Augusta ME 04330

What is Sealing?

To whom it may concern,

I just heard about (Sealing) this is my first time in Prison but I believe because Maine's Opiate Epidemic is so high that they should Seal crimes like Possession even Class C and all misdemeanors so that the people getting sober have a chance and don't go back to drugs. A lot of people have ended up getting addicted to something and addiction doesn't care if you're a doctor or a nurse. Unfortunately if you try to get a job after it's very hard. Some of my friends buy Duquene because they are afraid of their jobs finding out and getting fired. If you want to help the people of Maine this is how.

Thank you

Sincerely
Raynee Gibbs

Return After 5 Days to:

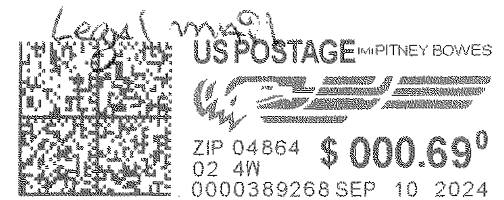
Maine State Prison

Name Shawn M Webster

MDOC # 65230

807 Cushing Road

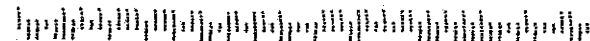
Warren, Maine 04864-4600



Criminal Records Review Committee
c/o Legislative Information Office
"100 State House Station"
Augusta, Maine 04330

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0433036342 0099



September 07 2004

Director of all maines legislators: C/115

I am writing to you in regard to the memo-
 that was passed out to President's about allowing a
 way to seal records. The state of maine allows 18-
 year olds to have their record expunged as a fresh
 start and incentive as a new adult. In behonest I my-
 self have not found a problem obtaining a job I do
 on some other's behalf I have experience building
 homes, obtaining any equipment and training. To be
 100% honest concerning a warrant record being the
 fact that there is a danger to not allow one to see
 what a person was convicted of. Sexual predators
 are endangering our community, as we speak
 due to lack of restricted areas. Prohibiting
 one to live near day care schools and more. A sexual
 predator and murderer that is a true danger to women
 and other states named RALPH C. MILLER # Y01-17-529-
 has an GROSS SEXUAL ASSAULTS, Another case in
 California, a woman got home after being with a
 friend a male forced his way into her home after
 saying he was looking for a friend while he zygomatic-
 bone then sexually assaulted her. To cover that kind
 of charge it would be a danger on it's own that
 could have been me, you, our family or someone
 else family, after allowing a sexual predator
 to conceal a record and be in the streets and

victimizes another Person. Place of things that
would leave the state of Fault No excuses Please.
Keep the Community safe its success when Residents
next door to them. Think power having me out
that ~~is~~ understanding why this matter is urgent
and dangerous.

J. Webster
AKA HILLBURY
#65230

- 1. Are you aware that Maine has a process for people to file a motion with a court to seal certain types of criminal convictions? How much do you know about the process?**

Yes, I have heard talk about it from other inmates, but it is my understanding that this hardly ever happens, and when it does it is for minor offenses where the criminal record really doesn't seem to affect your housing or job opportunities. This should really be expanded to everyone regardless of crime, so we can all have a fair shot at succeeding upon release.

- 2. How would you feel if you had an opportunity to request that your criminal conviction be sealed as long as you don't have any new criminal convictions for a certain number of years after you are released?**

I think it would help by allowing us similar opportunities as all other citizens when it comes to housing, jobs, etc. All the stigma associated with a criminal record and certain crimes essentially destroys a person's ability to be successful when compared to others that don't have to jump through all of the hurdles that other citizens don't have. Someone can get out of here with no place to live, no food, no money, and try their hardest to find a job, and when they can't secure employment, they turn to crime to be able to survive.

Would this knowledge impact the choices you make after you are released?

I think people would be more likely to try to be successful and feel more like they fit in with society instead of always feeling like we don't belong, and we are not good enough because of our past. Maybe we would feel some sense of self-worth instead of feeling like everyone is looking down upon us. Example: if everyone is always telling you that you are this or you are that, even though you have changed, it will eventually get to you and you will be what everyone says you are. As we learn from this prison system, we really act like the environment we are in. If you take a "bad" inmate and put them into an "honor" pod, they will likely not act like they did in a close unit. And the same goes the other way.

- 3. What types of incentives should the CRRC consider for people who want to seal their criminal convictions? For example, if the waiting period before applying to seal your conviction should be waived by a court if you are pursuing a G.E.D., associate's degree or other college degree, do you think that would be a helpful incentive? Can you think of other helpful incentives?**

I think it would offer an incentive, however, I believe that it shouldn't be sealed simply by signing up for a course and saying "hey, look at me, I'm pursuing an education", if we did that, everyone would sign up for a class and never complete the degree just to get the waiver. Now, I think it would be totally different if they in fact obtain a diploma or degree, and then continue with the waiver process. Other helpful incentives would be treating everyone equal once their time in prison has been served. Some of us have

been incarcerated for half our life and are not even close to being that same person that committed crime years ago. So why treat us as a criminal for the rest of our lives. Especially those on the sex offender registry, who has ruined more lives that it has saved. Most victims know or are related to the perpetrator and those people already know that that person has a history of sexual offenses, and the snatch off the street cases are not helped by the registry. Honestly, the registry has cost more lives that it has saved. Remember when the gunman from Canada came to Maine and shot people just for being on the sex offender registry? I do, because my father was on the registry at the time and was scared for his life. This creates stigma for the "offender" for the rest of his and his family's lives. For example: My youngest daughter is picked on at school because her father is a "sex offender", and just because she has the same last name, she is picked on and no one will let their kid go to her house to play or for sleep overs even though I am still in prison. They treat her as an outcast. This needs to be demolished, and be for law enforcement only. This is the only crime we do this with, which is completely unfair and unjust, and it is also the 2nd lowest crime for recidivism behind murder. So why have the registry? And if we are going to have it, then make it for every crime. Things need to be more just in this country.

4. **What are the biggest challenges to reintegrating into society that you will face when you finish your sentence (for example: difficulty finding housing, employment, or a professional license) and how does your criminal record impact these challenges?**

Being a "sex offender", it is going to be difficult finding housing and employment, and I will have some new restrictions on my ability as a CDL operator. So to be honest, due to the stigma, restrictions, and difficulty being able to succeed, I would rather stay here in prison for the remainder of my life. It is because of the registry more so than the record, but they are all tied together.

5. **What opportunities would you like to have while you are preparing for your release that would address some of the challenges you anticipate facing when reintegrating into society (for example: more education options, apprenticeships, or other programs to help prepare you for your life after release)?**

Since being incarcerated, I have been able to obtain an Associate's degree and now working toward my Bachelors. I have been able to help teach and tutor about 50-60 other people who obtained their Hi-set. So education is okay here, but we do need more programs like culinary arts, automotive, small engines, etc. Trades that people will actually be able to use when they get out of here.

Richard Watson #68224
807 Cushing Road
Warren, Maine 04864

CRRC Input

- 1) No I was not aware:
Nothing:
- 2) would it not be better to offer this once you leave prison at the start and then if you reoffend you no longer get the option to have your Records sealed:
- 3) If the records were sealed for everyone as a whole, there would be larger opportunities for success:
- 4) Depends on the Crime which it should not. All crimes have a victim / All crimes affect the family / All crimes affect the community. All of these things will be a challenge in question #4 for any of us leaving prison if nothing is changed. The majority of us have changed. Therefore in the future things must change!
- 5) An adequate housing option, not a shelter. Not all of us lived on the streets before coming in, therefore we should not be forced to do so!

Ken Terrell
159274