

Public Records Exceptions for Review by RTKAC in 2024-2025
Exceptions in Titles 25-32

Ref. #	Title	Description	Responding Agency/ Dept	Agency Proposed Action	Analyst Notes	Subcommittee Action
1	<u>25 MRSA §1577, sub-§1</u>	Title 25, section 1577, subsection 1, relating to the state DNA data base and the state DNA data bank				
2	<u>25 MRSA §2006, sub-§1</u>	Title 25, section 2006, subsection 1, relating to concealed handguns permit applications.	Department of Public Safety	The agency does not recommend any changes	Format: uses phrase "are confidential and not public records for the purposes of Title 1, chapter 13, subchapter 1." Redundant.	10.24.24 - TABLED to review draft language
3	<u>25 MRSA §2006, sub-§2</u>	Title 25, section 2006, subsection 2, relating to concealed handguns permits Title 25, section 2006, subsection 1, relating to concealed handguns permit applications	Department of Public Safety	The agency does not recommend any changes	Format: uses phrase "is not confidential and is a public record." Redundant.	10.24.24 - TABLED to review draft language
4	<u>25 MRSA §2806, sub-§8</u>	Title 25, section 2806, subsection 8, relating to proceedings of the board of trustees of the Maine Criminal Justice Academy concerning complaints of misconduct of law enforcement officers REPEALED	REPEALED – N/A	REPEALED – N/A	REPEALED – N/A	REPEALED – N/A

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5	<u>25 MRSA §2806-A, sub-§10</u>	Title 25, section 2806-A, subsection 10, relating to complaints, charges or accusation of misconduct at the Maine Criminal Justice Academy.				
6	<u>25 MRSA §2929, sub-§§1-4</u>	Title 25, section 2929, subsections 1, 2, 3 and 4, relating to emergency services communications	Public Utilities Commission, E-911 Bureau	The agency does not recommend any changes	None	10.24.24 – Voted 4-0 no changes
7	<u>25 MRSA §2929, sub-§2</u>	Title 25, section 2929, subsection 2, relating to public safety answering point records	Public Utilities Commission, E-911 Bureau	The agency does not recommend any changes	None	10.24.24 – Voted 4-0 no changes
8	<u>25 MRSA §2957</u>	Title 25, section 2957, relating to Maine Drug Enforcement Agency investigative records	Department of Public Safety, Maine Drug Enforcement Agency	The agency does not recommend any changes	None	10.24.24 – Voted 4-0 no changes
9	<u>25 MRSA §4202, sub-§1</u>	Title 25, section 4202, subsection 1, relating to proceedings, communications and records of critical incident stress management team	Department of Public Safety	The agency does not recommend any changes	None	10.24.24 – Voted 4-0 no changes
10	<u>26 MRSA §3</u>	Title 26, section 3, relating to information, reports and records of the Director of Labor Standards within the Department of Labor	Department of Labor	The agency does not recommend any changes	None	10.24.24 – Voted 4-0 no changes
11	<u>26 MRSA §43</u>	Title 26, section 43, relating to the names of persons, firms and corporations providing information to the	Department of Labor	The agency does not recommend any changes	Format: the wording is a bit dense; could benefit from clarity	10.24.24 - TABLED to follow up with DOL

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		Department of Labor, Bureau of Labor Standards				
12	<u>26 MRSA §665, sub-§1</u>	Title 26, section 665, subsection 1, relating to records submitted to the Director of Labor Standards within the Department of Labor by an employer concerning wages	Department of Labor	The agency does not recommend any changes	None	10.24.24 – Voted 4-0 no changes
13	<u>26 MRSA §685, sub-§3</u>	Title 26, section 685, subsection 3, relating to substance abuse testing by an employer				
14	<u>26 MRSA §850-D, sub-§4</u>	Title 26, section 850-D, subsection 4, relating to medical or health information submitted to administrator of paid family and medical leave program	Department of Labor	The agency does not recommend any changes	None	10.24.24 – Voted 4-0 no changes
15	<u>26 MRSA §934</u>	Title 26, section 934, relating to a report of the State Board of Arbitration and Conciliation in labor dispute	State Board of Arbitration and Conciliation, Maine Labor Relations Board	The agency does not recommend any changes	None	10.24.24 – Voted 4-0 no changes
16	<u>26 MRSA §939</u>	Title 26, section 939, relating to information disclosed by a party to the State Board of Arbitration and Conciliation	State Board of Arbitration and Conciliation, Maine Labor Relations Board	The agency does not recommend any changes	None	10.24.24 – Voted 4-0 no changes
17	<u>26 MRSA §965, sub-§2</u>	Title 26, section 965, subsection 2, relating to information disclosed by either party to a dispute to the	Maine Labor Relations Board	The agency does not recommend any changes	Format: Language states that information is “privileged.” May wish to use “confidential.”	10.24.24 – Voted 4-0 no changes

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		Maine Labor Relations Board in context of mediation				
18	<u>26 MRSA §975, sub-§2</u>	Title 26, section 975, subsection 2, paragraph B, relating to information about municipal employees and communications with bargaining agent	Maine Labor Relations Board	The agency takes no position with respect to this public records exception	None	10.24.24 – Voted 4-0 no changes
19	<u>26 MRSA §979-D, sub-§2</u>	Title 26, section 979-D, subsection 2, relating to information disclosed by either party to a dispute to the Maine Labor Relations Board in context of mediation	Maine Labor Relations Board	The agency does not recommend any changes	Format: Language states that information is “privileged.” May wish to use “confidential.”	10.24.24 – Voted 4-0 no changes
20	<u>26 MRSA §979-T, sub-§2</u>	Title 26, section 979-T, subsection 2, paragraph B, relating to information about state employees and communications with bargaining agent	Maine Labor Relations Board	The agency takes no position with respect to this public records exception	None	10.24.24 – Voted 4-0 no changes
21	<u>26 MRSA §1026, sub-§2</u>	Title 26, section 979-D, subsection 2, relating to information disclosed by either party to a dispute to a mediator in context of mediation	Maine Labor Relations Board	The agency does not recommend any changes	Format: Language states that information is “privileged.” May wish to use “confidential.”	10.24.24 – Voted 4-0 no changes
22	<u>26 MRSA §1037, sub-§2</u>	Title 26, section 1037, subsection 2, paragraph B, relating to information about university, academy and community college employees and communications with bargaining agent	Maine Community College System	MCCS does not have any recommended changes to this exception	None	10.24.24 – Voted 4-0 no changes

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23	<u>26 MRSA §1047</u>	Title 26, section 1047, relating to information transmitted to the Bureau of Unemployment Compensation	Department of Labor	The agency does not recommend any changes	Format: Language states that information is "absolutely privileged." However, this appears to be intentional, based on context.	10.24.24-- Voted 4-0 no changes
24	<u>26 MRSA §1082, sub-§7</u>	Title 26, section 1082, subsection 7, relating to employers' unemployment compensation records concerning individual information	Department of Labor	The agency does not recommend any changes	Format: language used is "must be held confidential and may not be published or opened to public inspection." "Are confidential" may be preferable.	10.24.24 - TABLED to review draft language *NO DRAFT CHANGES*
25	<u>26 MRSA §1085, sub-§4</u>	Title 26, section 1085, subsection 4, relating to fingerprint-based criminal history record check of applicants, employees and contractors with the Bureau of Labor Standards	Department of Labor	The agency does not recommend any changes	None	10.24.24 - TABLED to review draft language
26	<u>26 MRSA §1285, sub-§2</u>	Title 26, section 1285, subsection 2, relating to information disclosed by either party to a dispute in context of mediation	Maine Labor Relations Board	The agency does not recommend any changes	Format: Language states that information is "privileged." May wish to use "confidential."	10.24.24 - Voted 4-0 no changes
27	<u>26 MRSA §1295, sub-§2</u>	Title 26, section 1295, subsection 2, paragraph B, relating to information about Judicial Branch employees and communications with bargaining agent	Department of Labor	The agency does not recommend any changes	None	10.24.24 - Voted 4-0 no changes

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28	<u>27 MRSA §10, sub-§6</u>	Title 27, section 10, subsection 6, relating to personally identifiable information relating to parents and children participating in the Imagination Library of Maine Program				
29	<u>27 MRSA §86-B, sub-§1</u>	Title 27, section 86-B, subsection 1, relating to museum draft research, publications and exhibit materials, including scientific, archaeological and historic findings	Maine State Museum	The agency does not recommend any changes	Format: Does not conform to drafting manual; uses "confidential and not public records"	10.24.24 - TABLED to review draft language
30	<u>27 MRSA §86-B, sub-§2</u>	Title 27, section 86-B, subsection 2, relating to personal information contained in any record about the individual that is obtained by the Maine State Museum in the course of a historical research project	Maine State Museum	The agency does not recommend any changes	Format: Does not conform to drafting manual; uses "confidential and not public records"	10.24.24 - TABLED to review draft language
31	<u>27 MRSA §121</u>	Title 27, section 121, relating to library records concerning identity of patrons and use of books and materials	Maine Community College System	MCCS does not have any recommended changes to this exception	Format: Subsection 3 may not conform to drafting manual	10.24.24 – Voted 4-0 no changes
32	<u>27 MRSA §377</u>	Title 27, section 377, relating to the location of a site for archeological research	Maine State Museum; Maine Historic Preservation Commission	The Maine State Museum does not recommend any changes	None	10.24.24 – Voted 4-0 no changes
33	<u>28-A MRSA §755</u>	Title 28-A, section 755, relating to liquor licensees' business and financial records	Department of Administrative and	The agency does not recommend any changes	None	10.24.24 – Voted 4-0 no changes

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			Financial Affairs, BABLO			
34	<u>28-B MRSA §114</u>	Title 28-B, section 114, relating to personal contact information of applicants for adult use cannabis establishment license and employees of those establishments				
35	<u>28-B MRSA §204, sub-§7</u>	Title 28-B, section 204, subsection 7, relating to criminal history record check information for cannabis license applicants				
36	<u>28-B MRSA §511, sub-§4</u>	Title 28-B, section 511, subsection 4, relating to record keeping, inspection of records, and audits of cannabis establishment licensee documents				
37	<u>29-A MRSA §152, sub-§3</u>	Title 29-A, section 152, subsection 3, relating to the Secretary of State's data processing information files concerning motor vehicles				
38	<u>29-A MRSA §251, sub-§4</u>	Title 29-A, section 251, subsection 4, relating to an email address submitted as part of the application process for a license or registration under Title 29-A				
39	<u>29-A MRSA §253</u>	Title 29-A, section 253, relating to motor vehicle records concerning certain nongovernmental vehicles				

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40	<u>29-A MRSA §255, sub-§1</u>	Title 29-A, section 255, subsection 1, relating to motor vehicle records when a protection order is in effect				
41	<u>29-A MRSA §257</u>	Title 29-A, section 257, relating to the Secretary of State's motor vehicle information technology system REPEALED				
42	<u>29-A MRSA §517, sub-§4</u>	Title 29-A, section 517, subsection 4, relating to motor vehicle records concerning unmarked law enforcement vehicles				
43	<u>29-A MRSA §1258, sub-§7</u>	Title 29-A, section 1258, subsection 7, relating to the competency of a person to operate a motor vehicle				
44	<u>29-A MRSA §1301, sub- §6-A</u>	Title 29-A, section 1301, subsection 6-A, relating to the social security number of an applicant for a driver license or nondriver identification card				
45	<u>29-A MRSA §1401, sub-§6</u>	Title 29-A, section 1401, subsection 6, relating to driver's license digital images				
46	<u>29-A MRSA §1410, sub-§5</u>	Title 29-A, section 1410, subsection 5, relating to nondriver identification card digital images				
47	<u>29-A MRSA §2117, sub-§1</u>	Title 29-A, section 2117, subsection 1, relating to				

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		recorded images or audio produced by traffic surveillance cameras on a school bus				
48	<u>29-A MRSA §2117-A, sub-§4</u>	Title 29-A, section 2117-A, subsection 4, relating to data collected or retained through the use of an automatic license plate recognition system	Department of Public Safety / Dept of Transportation	The agency does not recommend any changes	None	10.24.24 – Voted 4-0 no changes
49	<u>29-A MRSA §2251, sub-§7-A</u>	Title 29-A, section 2251, subsection 7-A, relating to personally identifying accident report data contained in State Police accident report database				
50	<u>29-A MRSA §2601, sub-§3-A</u>	Title 29-A, section 2601, subsection 3-A, relating to personally identifiable information in the Department of Public Safety’s electronic citation and warning database				
51	<u>30-A MRSA §503, sub-§1</u>	Title 30-A, section 503, subsection 1, relating to county personnel records				
52	<u>30-A MRSA §503, sub-§1-A</u>	Title 30-A, section 503, subsection 1-A, relating to county personnel records concerning the use of force				
53	<u>30-A MRSA §2702, sub-§1</u>	Title 30-A, section 2702, subsection 1, relating to municipal personnel records	Administered by municipalities. Maine Municipal Assn. provided input.	MMA suggested clarifying 30-A MRSA §2702, sub-§1(B)(2), stating that there is confusion as to whether	Format: Nonconforming; uses term “are not public records”	10.24.24 - TABLED to review draft language

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				<p>the provision protecting performance evaluations and personal references submitted in confidence pertains to materials submitted during the application process, those administered during employment, or both.</p> <p>As regards 30-A MRSA §2702, sub-§1(B)(5), MMA suggested that disciplinary action that is overturned or removed by an arbitrator should be redacted.</p> <p>As regards 30-A MRSA §2702, sub-§1(B)(5)(b), in some cases arbitration exceeds 120 days. If information regarding the disciplinary action can become public after 120 days but before arbitration complete, there could be problems created for the disciplined entity. MMA suggested providing that a disciplinary action cannot be deemed final until appeal timeframe has run</p>		
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				and decision was not appealed.		
54	<u>30-A MRSA §2702, sub-§1-A</u>	Title 30-A, section 2702, subsection 1-A, relating to municipal personnel records concerning the use of force	Administered by municipalities. Maine Municipal Assn. provided input.	MMA noted that the exception Id 30-A MRSA §2702, sub-§1(A)(1) effectively renders 1 MRSA §402, sub-§3(O) meaningless and suggested clarification that application records, except personal contact information, are public records and that personal contact information should be redacted	No changes suggested	10.24.24 - TABLED to review draft language
55	<u>30-A MRSA §4353, sub-§4-A</u>	Title 30-A, section 4353, subsection 4-A, relating to records submitted to a municipal code enforcement officer relating to disability of an applicant for a variance	Administered by municipalities. Maine Municipal Assn. provided input.	MMA does not recommend any changes	No changes suggested	10.24.24 -- Voted 4-0 no changes
56	<u>30-A MRSA §4353-A</u>	Title 30-A, section 4353-A, relating to records submitted to a municipal board of appeals relating to disability of an applicant for a variance	Administered by municipalities. Maine Municipal Assn. provided input.	MMA does not recommend any changes	No changes suggested	10.24.24 -- Voted 4-0 no changes
57	<u>30-A MRSA §4706, sub-§1</u>	Title 30-A, section 4706, subsection 1, relating to municipal housing authorities	Administered by municipalities. Maine Municipal Assn. provided input.	MMA did not provide comments	No changes suggested	10.24.24 -- Voted 4-0 no changes
58	<u>30-A MRSA §4706, sub-§5</u>	Title 30-A, section 4706, subsection 1, relating to municipal personnel records	Administered by municipalities. Maine Municipal	MMA did not provide comments	No changes suggested	10.24.24 -- Voted 4-0 no changes

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			Assn. provided input.			
59	<u>30-A MRSA §5242, sub-§13</u>	Title 30-A, section 5242, subsection 13, relating to tax increment financing districts	Administered by municipalities. Maine Municipal Assn. provided input.	MMA did not provide comments	No changes suggested	10/24/24 - Voted 4-0 no changes
60	<u>32 MRSA §85, sub-§3</u>	Title 32, section 85, subsection 3, relating to criminal history record information for an applicant seeking initial licensure by the Emergency Medical Services Board				
61	<u>32 MRSA §91-B, sub-§1</u>	Title 32, section 91-B, subsection 1, relating to quality assurance activities of an emergency medical services quality assurance committee				
62	<u>32 MRSA §91-B, sub-§1, ¶A</u>	Title 32, section 91-B, subsection 1, paragraph A, relating to personal contact information and personal health information of applicant for credentialing by Emergency Medical Services Board				
63	<u>32 MRSA §91-B, sub-§1, ¶B</u>	Title 32, section 91-B, subsection 1, paragraph B, relating to confidential information as part of application for credentialing				

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		by Emergency Medical Services Board				
64	<u>32 MRSA §91-B, sub-§1, ¶D</u>	Title 32, section 91-B, subsection 1, paragraph D, relating to examination questions used for credentialing by Emergency Medical Services Board				
65	<u>32 MRSA §91-B, sub-§1, ¶¶E-F</u>	Title 32, section 91-B, subsection 1, paragraphs E and F, relating to health care information or records provided to the Emergency Medical Services Board				
66	<u>32 MRSA §1092-A, sub-§§1-2</u>	Title 32, section 1092-A, subsections 1 and 2, relating to privileged communications of dentists and dental hygienists' patients REPEALED				
67	<u>32 MRSA §2105-A, sub-§3</u>	Title 32, section 2105-A, subsection 3, relating to information provided by a health care facility to the State Board of Nursing that identifies a patient	Maine Board of Nursing	The Board suggests that subsection 3, paragraph B be amended to clarify that information or records in a Consent Agreement that identify or permit identification of a patient are confidential.	None	10.24.24 - TABLED to review draft language
68	<u>32 MRSA §2109</u>	Title 32, section 2109, relating to personal contact and health information of nurse applicants and licensees	Maine Board of Nursing	The Board does not recommend any changes	None	10.24.24 – Voted 4-0 no changes

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69	<u>32 MRSA §2109-A, sub-§2</u>	Title 32, section 2109-A relating to the board's ability to redact applicant or licensee records for potential risks to personal safety	Maine Board of Nursing	The Board does not recommend any changes	Format: This is not framed as a public records exception, but the redaction does effectively result in a portion of an otherwise public record being withheld. Also note that subsection 1 does not conform to drafting manual – uses “not public” v. confidential.	10.24.24 - TABLED (follow #79)
70	<u>32 MRSA §2111, sub-§1, ¶F</u>	Title 32, section 2111 relating to background check results received by the State Board of Nursing	Maine Board of Nursing	The Board does not recommend any changes	None	
71	<u>32 MRSA §2571-A, sub-§1, ¶F</u>	Title 32, section 2571-A relating to background check results received by the Board of Osteopathic Licensure for licensing through the Interstate Medical Licensure Compact				
72	<u>32 MRSA §2599</u>	Title 32, section 2599, relating to medical staff reviews and hospital reviews - osteopathic physicians				
73	<u>32 MRSA §2600-A</u>	Title 32, section 2600-A, relating to personal contact and health information of osteopathic physician applicants and licensees				

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74	<u>32 MRSA §2600-E</u>	Title 32, section 2600-E, relating to the board's ability to redact applicant or licensee records for potential risks to personal safety				
75	<u>32 MRSA §3121, sub-§1, ¶F</u>	Title 32, section 3121, subsection 1, paragraph F, relating to fingerprint-based criminal history record check information for applicants for multistate licenses under Physical Therapy Licensure Compact	Dept of Professional and Financial Regulation, Office of Professional and Occupational Regulation, Board of Examiners in Physical Therapy	OPOR does not recommend changes	None	10.24.24 – Voted 4-0 no changes
76	<u>32 MRSA §3275-A, sub-§1, ¶F</u>	Title 32, section 3275-A relating to background check results received by the Board Licensure in Medicine for licensing through the Interstate Medical Licensure Compact	Board of Licensure in Medicine	No changes recommended	None	10.24.24 – Voted 4-0 no changes
77	<u>32 MRSA §3296</u>	Title 32, section 3296, relating to Board of Licensure in Medicine medical review committees	Board of Licensure in Medicine	No changes recommended	None	10.24.24 – Voted 4-0 no changes
78	<u>32 MRSA §3300-A</u>	Title 32, section 3300-A, relating to Board of Licensure in Medicine personal contact and health information about applicants and licensees	Board of Licensure in Medicine	BOLM recommends that personal email addresses be specifically identified in this exception	None	10.24.24 – Voted 4-0 to accept draft changes
79	<u>32 MRSA §3300-H, sub-§2</u>	Title 32, section 3300-H, subsection 2, relating to the board's ability to redact	Board of Licensure in Medicine	BOLM recommends removal of this exception	Format: This is not framed as a public records exception, but	10.24.24 - TABLED to follow up with BOLM

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		applicant or licensee records for potential risks to personal safety			the redaction does effectively result in a portion of an otherwise public record being withheld. Also note that subsection 1 does not conform to drafting manual – uses “not public” v. confidential.	
80	32 MRSA §6080	Title 32, section 6080, relating to information held by Bureau of Consumer Credit Protection about applicant or licensee related to investigation under Maine Money Transmission Modernization Act NEW				
81	<u>32 MRSA §6115, sub-§1</u>	Title 32, section 6115, subsection 1, relating to financial information provided to the Superintendent of the Bureau of Consumer Credit Protection, Department of Professional and Financial Regulation concerning money transmitters				
82	<u>32 MRSA §6207-B</u>	Title 32, section 6207-B, relating to the nonbusiness address of a person licensed or certified under the Alcohol	Dept of Professional and Financial Regulation, Office of Professional and	In addition to removing the word “nonbusiness” from the exception, OPOR recommends that the exception contained	New Format does not conform to drafting manual – uses “is not a public record”	10.24.24 – Voted 4-0 to accept draft changes

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		and Drug Counselors chapter of law.	Occupational Regulation, State Board of Alcohol and Drug Counselors	in 32 M.R.S. § 6207-B to be amended to be identical to the one in 32 M.R.S. § 7032 (see response)		
83	<u>32 MRSA §7032</u>	Title 32, section 7032, relating to the address and telephone number of social worker licensee or applicant for licensure	Dept of Professional and Financial Regulation, Office of Professional and Occupational Regulation, State Board of Social Work Licensure	OPOR does not recommend changes at this time	None	10.24.24 – Voted 4-0 no changes
84	<u>32 MRSA §7365, sub-§3</u>	Title 32, section 7365, subsection 3, relating to polygraph examination for pre-employment screening or law enforcement investigation	Department of Public Safety	The agency does not recommend any changes	None	10.24.24 – Voted 4-0 no changes
85	<u>32 MRSA §7365, sub-§4, ¶A</u>	Title 32, section 7365, subsection 4, paragraph A, relating to information concerning polygraph applicant or licensee and paragraph B, relating to information of a minor to whom a polygraph has been administered	Department of Public Safety	The agency does not recommend any changes	None	10.24.24 – Voted 4-0 no changes
86	<u>32 MRSA §7365, sub-§4, ¶B</u>	Title 32, section 7365, subsection 4, paragraph B, relating to information of a minor to whom a polygraph has been administered	Department of Public Safety	The agency does not recommend any changes	None	10.24.24 – Voted 4-0 no changes

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87	<u>32 MRSA §8124</u>	Title 32, section 8124, relating to the home address and home telephone number of a professional investigator or investigative assistant	Department of Public Safety	The agency does not recommend any changes	None	10.24.24 – Voted 4-0 no changes
88	<u>32 MRSA §9418</u>	Title 32, section 9418, relating to private security guards	Department of Public Safety	The agency does not recommend any changes	Format: Does not conform to drafting manual- uses “are confidential and may not be made available for public inspection or copying”	10.24.24 - TABLED to review draft language
89	<u>32 MRSA §11305, sub-§3</u>	Title 32, section 11305, subsection 3, relating to administration of the Maine Commodity Code by the Securities Administrator	Dept of Professional and Financial Regulation, Office of Securities	The Office does not recommend any changes to this exception	Format: Nonconforming - stating records are public and then providing exceptions	10.24.24 – Voted 4-0 to accept draft changes
90	<u>32 MRSA §13006</u>	Title 32, section 13006, relating to real estate grievance and professional standards committee hearings	Dept of Professional and Financial Regulation, Office of Professional and Occupational Regulation, Maine Real Estate Commission	No changes recommended	None	10.24.24 – Voted 4-0 no changes
91	<u>32 MRSA §13725, sub-§8</u>	Title 32, section 13725, subsection 8, relating to records identifying an individual seeking access to Insulin Safety Net program held by the Pharmacy Board	Dept of Professional and Financial Regulation, , Office of Professional and Occupational Regulation, Maine Board of Pharmacy	No changes; At the time of this response, the Insulin Safety Net Program has not yet been implemented by the Board of Pharmacy within the Office of Professional and	None	10.24.24 – Voted 4-0 no changes

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				Occupational Regulation.		
92	<u>32 MRSA §14021, sub-§7</u>	Title 32, section 14021, subsection 7, relating to criminal history records provide to the Board of Real Estate Appraisers to determine eligibility of applicant for licensure	Dept of Professional and Financial Regulation, , Office of Professional and Occupational Regulation, Maine Board of Real Estate Appraisers	OPOR does not recommend any changes. Of note is that any changes to the law would require approval from the U.S. Department of Justice, Criminal Justice Information Law Unit.	None	10.24.24 – Voted 4-0 no changes
93	<u>32 MRSA §16524</u>	Title 32, section 16524, relating to personal information of an applicant for Securities Restitution Assistance Fund	Dept of Professional and Financial Regulation, Office of Securities	The Office does not recommend any changes to this exception	Format: Nonconforming - Instead of using “confidential,” uses “not public records.” Related to Ref #94	10.24.24 – Voted 4-0 to accept draft changes
94	<u>32 MRSA §16607, sub-§2</u>	Title 32, section 16607, subsection 2, relating to records obtained or filed under the Maine Securities Act	Dept of Professional and Financial Regulation, Office of Securities	The Office does not recommend any changes to this exception	Format: Nonconforming - Instead of using “confidential,” uses “not public records.” Related to Ref #93	10.24.24 – Voted 4-0 to accept draft changes
95	<u>32 MRSA §16808</u>	Title 32, section 16808 relating to records provided by a broker-dealer or investment adviser to the Department of Health and Human Services and law enforcement agencies regarding financial exploitation of an eligible adult.				

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96	<u>32 MRSA §18509, sub-§6</u>	Title 32, section 18509, subsection 6 relating to information distributed by a board that licenses, regulates or educates physicians in the state.	Board of Licensure in Medicine	BOLM does not recommend any changes.	Format: Does not conform to drafting standards: "confidential within the meaning of Title 1, section 402, subsection 3, paragraph A"	10.24.24 – Voted 4-0 to accept draft changes
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Draft exception language for Commission 10.31.24

5 MRSA §25012 is enacted to read:

Confidentiality. Personally identifiable information obtained in furtherance of the commission's duties pursuant to section 25007, subsection 1, paragraph A is confidential, except that the executive director may authorize disclosure of personally identifiable information if the executive director has obtained the consent of the individual to whom the personally identifiable information applies. "Personally identifiable information" includes, but is not limited to, name, address, date of birth, email address, internet protocol address and any other 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.

Right to Know Exceptions Subcommittee

Language to review 10.31.24

Reference #2

25 MRSA §2006, sub-§1

1. Application, refusals and collected information; proceedings. All applications for a permit to carry concealed handguns and documents made a part of the application, refusals and any information of record collected by the issuing authority during the process of ascertaining whether an applicant is of good moral character and meets the additional requirements of sections 2003 and 2005 are confidential and are not public records for the purposes of Title 1, chapter 13, subchapter 1. The applicant may waive this confidentiality by written notice to the issuing authority. All proceedings relating to the issuance, refusal, suspension or revocation of a permit to carry concealed handguns are not public proceedings under Title 1, chapter 13, unless otherwise requested by the applicant.

Reference #3

25 MRSA §2006, sub-§2

2. Permanent record of permit. The issuing authority shall make a permanent record of each permit to carry concealed handguns in a suitable book or file kept for that purpose. The record must include the information contained in the permit itself. The record is confidential except that the following information about each permit holder is not confidential and is a public record:

- A. The municipality of residence;
- B. The date the permit was issued; and
- C. The date the permit expires.

This subsection does not limit disclosure of confidential information for criminal justice purposes or permitting purposes to law enforcement officers and issuing authorities.

Reference #24 – NO DRAFT CHANGES (see context for use of term “confidential”)

26 MRSA §1082, sub-§7

7. Records and reports. Each employing unit shall keep true and accurate work records, containing such information as the commissioner may prescribe. These records must be

open to inspection and be subject to being copied by the commissioner or the commissioner's authorized representatives at any reasonable time and as often as may be necessary. The commissioner may require from any employing unit any sworn or unsworn reports, with respect to persons employed by it, that the commissioner considers necessary for the effective administration of this chapter. Information thus obtained or obtained from any individual pursuant to the administration of this chapter, except to the extent necessary for proper presentation of a claim, must be held confidential and may not be published or opened to public inspection, other than to public employees in the performance of their public duties or to any agent of an agency that is under contract with a state or local child-support agency, or to any agent of an agency that is under contract or subcontract with the state employment and job training agency, pursuant to safeguards established by the commissioner, in any manner revealing the individual's or employing unit's identity, but the department shall, upon request, provide to any party to an adjudicatory proceeding information from the records relating to the proceeding. Final decisions

claimants and employers are deleted from the decisions. Records, with any necessary authentication of those records, required in the prosecution of any criminal action brought by another state for misrepresentation to obtain benefits under the law of this State must be made available to the agency administering the employment security law of any such state for the purpose of such prosecution.

A. A person who violates this subsection commits a Class E crime.

B. An agent of an agency that is under contract with a state or local child-support agency, or an agent of an agency that is under contract or subcontract with the state employment and job training agency who discloses any information that is confidential pursuant to this subsection, other than disclosure authorized by this subsection, commits a Class E crime.

Violation of this subsection is a strict liability crime as defined in Title 17-A, section 34, subsection 4-A.

Reference #25

26 MRSA §1085, sub-§4

4. Confidentiality. All information obtained by the bureau pursuant to this section is confidential ~~and not a public record as defined in Title 1, section 402, subsection 3.~~ The information may be used only for making decisions regarding the suitability of an affected person for new or continued employment with the bureau, to provide services to the bureau under an identified contract or to access federal tax information obtained from the bureau.

Reference #29

27 MRSA §86-B, sub-§1

1. Draft research and materials. Museum draft research, publications and exhibit materials, including scientific, archaeological and historical findings, are confidential ~~and not public records for the purposes of Title 1, chapter 13, subchapter 1~~ until complete and presented to the public. The Museum Director may authorize disclosure before publication or presentation to the public.

Reference #30

27 MRSA §86-B, sub-§2

2. Personal history research and materials. Personal information contained in any record about the individual that is obtained by the Maine State Museum in the course of a historical research project is confidential ~~and not a public record for the purposes of Title 1, chapter 13, subchapter 1~~ until:

- A. The individual authorizes the release of the personal information as a public record; or
- B. The death of the individual, except that the Museum Director may, at the request of the individual, designate in writing that personal information about the individual remain confidential for a specified period, not to exceed 25 years after the death of the individual, to protect the privacy of the individual or the privacy of the parent or child of the individual.

Reference #53 and #54

30-A MRSA §2702, sub-§1

§2702. Personnel records

1. Confidential records. The following records are confidential and not open to public inspection. They are not "public records" as defined in Title 1, section 402, subsection 3. These records include:

- A. Except as provided in this paragraph, applications, resumes, letters and notes of reference, working papers, research materials, records, examinations and any other documents or records and the information they contain, solicited or prepared either by the applicant or the municipality for use in the examination or evaluation of applicants for positions as municipal employees.

(1) Notwithstanding any confidentiality provision other than this paragraph, applications, resumes and letters and notes of reference, other than those letters and notes of reference expressly submitted in confidence, pertaining to the applicant hired are public records after the applicant is hired, except that personal contact information is not a public record.

(2) Telephone numbers are not public records if they are designated as "unlisted" or "unpublished" in an application, resume or letter or note of reference.

(3) This paragraph does not preclude union representatives from access to personnel records that may be necessary for the bargaining agent to carry out its collective bargaining responsibilities. Any records available to union representatives that are otherwise covered by this subsection must remain confidential and are not open to public inspection;

B. Municipal records pertaining to an identifiable employee and containing the following:

(1) Medical information of any kind, including information pertaining to diagnosis or treatment of mental or emotional disorders;

(2) Performance evaluations and personal references submitted in confidence;

(3) Information pertaining to the creditworthiness of a named employee;

(4) Information pertaining to the personal history, general character or conduct of members of an employee's immediate family;

(5) Complaints, charges or accusations of misconduct, replies to those complaints, charges or accusations and any other information or materials that may result in disciplinary action. If disciplinary action is taken, the final written decision relating to that action is no longer confidential after the decision is completed if it imposes or upholds discipline. The decision must state the conduct or other facts on the basis of which disciplinary action is being imposed and the conclusions of the acting authority as to the reasons for that action. If an arbitrator completely overturns or removes disciplinary action from an employee personnel file, the final written decision is public except that the employee's name must be deleted from the final written decision and kept confidential. If the employee whose name was deleted from the final written decision discloses that the employee is the person who is the subject of the final written decision, the entire final written report, with regard to that employee, is public.

For purposes of this subparagraph, "final written decision" means:

(a) The final written administrative decision that is not appealed pursuant to a grievance arbitration procedure; or

(b) If the final written administrative decision is appealed to arbitration, the final written decision of a neutral arbitrator.

A final written administrative decision that is appealed to arbitration is no longer confidential 120 days after a written request for the decision is made to the employer if the final written decision of the neutral arbitrator is not issued and released before the expiration of the 120 days; and

(6) Personal information, including that which pertains to the employee's:

- (a) Age;
- (b) Ancestry, ethnicity, genetic information, national origin, race or skin color;
- (c) Marital status;
- (d) Mental or physical disabilities;
- (e) Personal contact information, as described in Title 1, section 402, subsection 3, paragraph O;
- (f) Personal employment choices pertaining to elected payroll deductions, deferred compensation, savings plans, pension plans, health insurance and life insurance;
- (g) Religion;
- (h) Sex, gender identity or sexual orientation as defined in Title 5, section 4553, subsection 9-C; or
- (i) Social security number.

Such personal information may be disclosed publicly in aggregate form, unless there is a reasonable possibility that the information would be able to be used, directly or indirectly, to identify any specific employee. When there is a work requirement for public access to personal information under this paragraph that is not otherwise protected by law, that information may be made public.

C. Other information to which access by the general public is prohibited by law.

This subsection does not preclude union representatives from having access to personnel records, consistent with subsection 4, that may be necessary for the bargaining agent to carry out its collective bargaining responsibilities. Any records available to union representatives that are otherwise covered by this subsection remain confidential and are not open for public inspection.

1-A. Investigations of deadly force or physical force by law enforcement officer.

The name of a law enforcement officer is not confidential under subsection 1, paragraph B, subparagraph (5) in cases involving:

- A. The use of deadly force by a law enforcement officer; or

B. The use of physical force by a law enforcement officer resulting in death or serious bodily injury.

In cases specified in paragraphs A and B, regardless of whether disciplinary action is taken, the findings of any investigation into the officer's conduct are no longer confidential when the investigation is completed and a decision on whether to bring criminal charges has been made, except that if criminal charges are brought, the findings of the investigation remain confidential until the conclusion of the criminal case.

2. Employee right to review. On written request from an employee or former employee, the municipal official with custody of the records shall provide the employee, former employee or the employee's authorized representative with an opportunity to review the employee's personnel file, if the municipal official has a personnel file for that employee. These reviews shall take place during normal office hours at the location where the personnel files are maintained. For the purposes of this subsection, a personnel file includes, but is not limited to, any formal or informal employee evaluations and reports relating to the employee's character, credit, work habits, compensation and benefits which the municipal official may possess. The records described in subsection 1, paragraph B, may also be examined by the employee to whom they relate, as provided in this subsection.

3. Constitutional obligations of a prosecutor. Notwithstanding this section or any other provision of law, this section does not preclude the disclosure of confidential personnel records and the information contained in those records to the Attorney General, a deputy attorney general, an assistant attorney general, a district attorney, a deputy district attorney, an assistant district attorney or the equivalent departments or offices in a federal jurisdiction that are related to the determination of and compliance with the constitutional obligations of the State or the United States to provide discovery to a defendant in a criminal matter. A person or entity participating in good faith disclosure under this subsection or participating in a related proceeding is immune from criminal and civil liability for the act of disclosure or for participating in the proceeding.

Reference #67

32 MRSA §2105-A, sub-§3

3. Confidentiality of information. Reports, information or records provided to the board by a health care facility pursuant to this chapter are confidential insofar as the reports, information or records identify or permit identification of a patient, except that the board may disclose confidential information:

A. In an adjudicatory hearing or informal conference before the board or in a subsequent formal proceeding to which the information is relevant; and

B. In a consent agreement or other written settlement when the information constitutes or pertains to the basis of board action, except that any information that identifies or could reasonably lead to identification of a patient is confidential.

A copy of a report, information or record received by the board under this subsection must be provided to the licensee.

Reference #88

32 MRSA §9418

§9418. Confidentiality of application and information collected by the commissioner

Notwithstanding Title 1, chapter 13, subchapter 1, all applications for a license to be a contract security company and any documents made a part of the application, refusals and any information of record collected by the commissioner during the process of ascertaining whether an applicant is of good moral character and meets the additional requirements of sections 9405 and 9411-A, and all information of record collected by the commissioner during the process of ascertaining whether a natural person meets the requirements of section 9410-A, are confidential and may not be made available for public inspection or copying. The applicant or natural person may waive this confidentiality by written notice to the commissioner. All proceedings relating to the issuance of a license to be a contract security company are not public proceedings under Title 1, chapter 13, unless otherwise requested by the applicant.

The commissioner or his designee shall make a permanent record of each license to be a contract security company in a suitable book or file kept for that purpose. The record shall include a copy of the license and shall be available for public inspection. Upon a specific request, the commissioner or his designee shall provide a list of names and current addresses of security guards employed by licensed contract security companies.

Reference #94

32 MRSA §16607, sub-§2

2. Nonpublic records. The following records are not public records and are not available for public examination under subsection 1 confidential:

A. A record obtained by the administrator in connection with an audit or inspection under section 16411, subsection 4 or an investigation under section 16602;

B. A part of a record filed in connection with a registration statement under section 16301 and sections 16303 to 16305 or a record under section 16411, subsection 4 that contains trade secrets or confidential information if the person filing the registration statement or report has asserted a claim of confidentiality or privilege that is authorized by law;

C. A record that is not required to be provided to the administrator or filed under this chapter and is provided to the administrator only on the condition that the record ~~will not be subject to public examination or disclosure is confidential;~~

D. A record received from a person specified in section 16608, subsection 1 that has been designated as confidential by the agency furnishing the record;

E. Any social security number, residential address unless used as a business address and residential telephone number unless used as a business telephone number contained in a record that is filed;

F. A record obtained by the administrator through a designee of the administrator that, pursuant to a routine technical rule, as defined in Title 5, chapter 375, subchapter 2-A, or an order under this chapter, has been:

(1) Expunged from the administrator's records by the designee; or

(2) Determined to be nonpublic or nondisclosable by that designee if the administrator finds the determination to be in the public interest and for the protection of investors;

G. Records to the extent that they relate solely to the administrator's internal personnel rules and practices, including, but not limited to, protocols, guidelines, manuals and memoranda of procedure for employees of the Office of Securities;

H. Interagency or intra-agency memoranda or letters, including generally records that reflect discussions between or consideration by the administrator and employees of the Office of Securities of any action taken or proposed to be taken by the administrator or employees of the Office of Securities, including, but not limited to, reports, summaries, analyses, conclusions or other work product of the administrator or employees of the Office of Securities, except those that by law would routinely be discoverable in litigation; and

I. Records to the extent that disclosure could reasonably be expected to constitute an unwarranted invasion of personal privacy.

Language reviewed and voted 10.24.24

Reference #78

32 MRSA §3300-A

§3300-A. Confidentiality of personal information of applicant or licensee

An applicant or licensee shall provide the board with a current professional address and telephone number, which will be their public contact address, and a personal residence address, and telephone number and email address. An applicant's or licensee's personal residence address, and telephone number and email address is are confidential information and may not be disclosed except as permitted by this section or as required by law, unless. However, if the personal residence address and telephone number have been provided as the public contact address, the personal residence address and telephone number are not confidential. Personal health information submitted as part of any application is confidential information and may not be disclosed except as permitted by this section or as required by law. The personal health information and personal residence address, and telephone number and email address may be provided to other governmental licensing or disciplinary authorities or to any health care providers located within or outside this State that are concerned with granting, limiting or denying a physician's employment or privileges.

Reference #82

32 MRSA §6207-B

§6207-B. Confidential information

~~The nonbusiness address of a person licensed or certified under this chapter is confidential, not open to the public and not a public record as defined in Title 1, section 402, subsection 3.~~

~~The address and telephone number of an applicant for licensure or a person licensed under this chapter that are in the possession of the board are confidential. Nothing in this section prohibits the board and its staff from using and disclosing the address and telephone number of an applicant or licensee as necessary to perform the duties and functions of the board.~~

Reference #89

32 MRSA §11305, sub-§3

~~**3. Public information.** Notwithstanding any other provision of law, except as provided in paragraph A, all information collected, assembled or maintained by the administrator is public information and is available for the examination of the public.~~

~~A. The following are exceptions to this subsection:~~

- ~~(1) Information obtained in private investigations pursuant to section 11301;~~
- ~~(2) Information made confidential by rule or order of the administrator; or~~
- ~~(3) Information obtained from federal agencies which may not be disclosed under federal law.~~

3. Public Information. The following information collected, assembled, or maintained by the administrator is confidential:

A. Information obtained in private investigations pursuant to section 11301;

B. Information made confidential by rule or order of the administrator; and

C. Information obtained from federal agencies which may not be disclosed under federal law.

Reference #93

32 MRS §16524

§16524. Confidentiality of personal information

Personal information contained in an application for restitution assistance under this subchapter is not subject to disclosure to the extent the information is designated as not a public record by section 16607, subsection 2, paragraph B is confidential.

Reference #96

32 MRS §18509, sub-§6

6. Confidentiality. Information provided to the interstate commission or distributed by a member board is confidential within the meaning of Title 1, section 402, subsection 3, paragraph A and may be used only for investigatory or disciplinary matters under sections 18510 and 18511.

§503. Personnel records

1. Confidential records. The following records are confidential and not open to public inspection. They are not "public records" as defined in Title 1, section 402, subsection 3. These records include:

A. Except as provided in this paragraph, applications, resumes, letters and notes of reference, working papers, research materials, records, examinations and any other documents or records and the information they contain, solicited or prepared either by the applicant or the county for use in the examination or evaluation of applicants for positions as county employees.

(1) Notwithstanding any confidentiality provision other than this paragraph, applications, resumes and letters and notes of reference, other than those letters and notes of reference expressly submitted in confidence, pertaining to the applicant hired are public records after the applicant is hired.

(2) Telephone numbers are not public records if they are designated as "unlisted" or "unpublished" in an application, resume or letter or note of reference.

(3) This paragraph does not preclude union representatives from access to personnel records which may be necessary for the bargaining agent to carry out its collective bargaining responsibilities. Any records available to union representatives which are otherwise covered by this subsection shall remain confidential and are not open to public inspection; [PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD); PL 1989, c. 402, §2 (RPR).]

B. County records containing the following:

(1) Medical information of any kind, including information pertaining to the diagnosis or treatment of mental or emotional disorders;

(2) Performance evaluations and personal references submitted in confidence;

(3) Information pertaining to the creditworthiness of a named employee;

(4) Information pertaining to the personal history, general character or conduct of members of an employee's immediate family;

(5) Complaints, charges or accusations of misconduct, replies to those complaints, charges or accusations and any other information or materials that may result in disciplinary action. If disciplinary action is taken, the final written decision relating to that action is no longer confidential after the decision is completed if it imposes or upholds discipline. The decision must state the conduct or other facts on the basis of which disciplinary action is being imposed and the conclusions of the acting authority as to the reasons for that action. If an arbitrator completely overturns or removes disciplinary action from an employee personnel file, the final written decision is public except that the employee's name must be deleted from the final written decision and kept confidential. If the employee whose name was deleted from the final written decision discloses that the employee is the person who is the subject of the final written decision, the entire final written report, with regard to that employee, is public.

For purposes of this subparagraph, "final written decision" means:

(a) The final written administrative decision that is not appealed pursuant to a grievance arbitration procedure; or

(b) If the final written administrative decision is appealed to arbitration, the final written decision of a neutral arbitrator.

A final written administrative decision that is appealed to arbitration is no longer confidential 120 days after a written request for the decision is made to the employer if the final written

decision of the neutral arbitrator is not issued and released before the expiration of the 120 days; and

- (6) Personal information, including that which pertains to the employee's:
- (a) Age;
 - (b) Ancestry, ethnicity, genetic information, national origin, race or skin color;
 - (c) Marital status;
 - (d) Mental or physical disabilities;
 - (e) Personal contact information, as described in Title 1, section 402, subsection 3, paragraph O;
 - (f) Personal employment choices pertaining to elected payroll deductions, deferred compensation, savings plans, pension plans, health insurance and life insurance;
 - (g) Religion;
 - (h) Sex, gender identity or sexual orientation as defined in Title 5, section 4553, subsection 9-C; or
 - (i) Social security number.

Such personal information may be disclosed publicly in aggregate form, unless there is a reasonable possibility that the information would be able to be used, directly or indirectly, to identify any specific employee; and [PL 2023, c. 159, §2 (AMD).]

C. Other information to which access by the general public is prohibited by law. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]
[PL 2023, c. 159, §2 (AMD).]

1-A. Investigations of deadly force or physical force by law enforcement officer. The name of a law enforcement officer is not confidential under subsection 1, paragraph B, subparagraph (5) in cases involving:

- A. The use of deadly force by a law enforcement officer; or [PL 1991, c. 729, §6 (NEW).]
- B. The use of physical force by a law enforcement officer resulting in death or serious bodily injury. [PL 1991, c. 729, §6 (NEW).]

In cases specified in paragraphs A and B, regardless of whether disciplinary action is taken, the findings of any investigation into the officer's conduct are no longer confidential when the investigation is completed and a decision on whether to bring criminal charges has been made, except that if criminal charges are brought, the findings of the investigation remain confidential until the conclusion of the criminal case.

[PL 1991, c. 729, §6 (NEW).]

1-B. Investigation of allegation of sexual misconduct or sexual harassment by county jail employee. Notwithstanding subsection 1, paragraph B, subparagraph (5), in the case of an allegation of sexual misconduct or sexual harassment within a county jail or detention facility, a determination that the allegation was substantiated, unsubstantiated or unfounded may be disclosed to the alleged victim. Unless the allegation is determined to be unfounded, the following information may also be shared with the alleged victim:

- A. Whether the individual alleged to have engaged in the sexual misconduct or sexual harassment is still assigned to the same work location where the sexual misconduct or sexual harassment allegedly occurred; [PL 2023, c. 615, §4 (NEW).]

B. Whether the individual under paragraph A is still employed at the county jail or detention facility; [PL 2023, c. 615, §4 (NEW).]

C. Whether the individual under paragraph A has been criminally charged or convicted of a crime arising out of the allegation of sexual misconduct or sexual harassment; and [PL 2023, c. 615, §4 (NEW).]

D. Whether the prosecuting agency declined to seek an indictment or the grand jury declined to indict the individual under paragraph A based on the allegation of sexual misconduct or sexual harassment. [PL 2023, c. 646, Pt. B, §2 (AMD).]

[PL 2023, c. 646, Pt. B, §2 (AMD).]

2. Employee right to review. On written request from an employee or former employee, a county official with custody of the records shall provide that employee, former employee or the employee's authorized representative with an opportunity to review the employee's personnel file, if the county official has a personnel file for that employee. These reviews shall take place during normal office hours at the location where the personnel files are maintained.

A. For the purposes of this subsection, a personnel file includes, but is not limited to, any formal or informal employee evaluations and reports relating to the employee's character, credit, work habits, compensation and benefits of which the county official has possession. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. The records described in subsection 1, paragraph B, may also be examined by the employee to whom they relate, as provided in this subsection. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Constitutional obligations of a prosecutor. Notwithstanding this section or any other provision of law, this section does not preclude the disclosure of confidential personnel records and the information contained in those records to the Attorney General, a deputy attorney general, an assistant attorney general, a district attorney, a deputy district attorney, an assistant district attorney or the equivalent departments or offices in a federal jurisdiction that are related to the determination of and compliance with the constitutional obligations of the State or the United States to provide discovery to a defendant in a criminal matter. A person or entity participating in good faith disclosure under this subsection or participating in a related proceeding is immune from criminal and civil liability for the act of disclosure or for participating in the proceeding.

[PL 2013, c. 201, §2 (NEW).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1989, c. 402, §2 (AMD). PL 1991, c. 229, §2 (AMD). PL 1991, c. 729, §6 (AMD). PL 1997, c. 770, §2 (AMD). PL 2013, c. 201, §2 (AMD). PL 2019, c. 451, §2 (AMD). PL 2023, c. 159, §2 (AMD). PL 2023, c. 615, §4 (AMD). PL 2023, c. 646, Pt. B, §2 (AMD).

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§7070. Personnel records

Every appointment, transfer, promotion, demotion, dismissal, vacancy, change of salary rate, leave of absence, absence from duty and other temporary or permanent change in status of employees in both the classified service and the unclassified service of the Executive and Legislative Departments must be reported to the officer at such time, in such form and together with such supportive or pertinent information as the officer by rule prescribes. [RR 2023, c. 1, Pt. B, §42 (COR); RR 2023, c. 1, Pt. B, §50 (AFF).]

The officer shall maintain a perpetual roster of all officers and employees in the classified and unclassified services, showing for each person such data that the officer considers pertinent. [RR 2023, c. 1, Pt. B, §43 (COR); RR 2023, c. 1, Pt. B, §50 (AFF).]

Records of the Bureau of Human Resources are public records and open to inspection of the public during regular office hours at reasonable times and in accordance with the procedure as the officer may provide. [RR 2023, c. 1, Pt. B, §44 (COR); RR 2023, c. 1, Pt. B, §50 (AFF).]

The following records shall be confidential and not open to public inspection, and shall not be "public records," as defined in Title 1, section 402, subsection 3: [PL 1985, c. 785, Pt. B, §38 (NEW).]

1. Papers relating to applications, examinations or evaluations of applicants. Except as provided in this subsection, applications, resumes, letters and notes of reference, working papers, research materials, records, examinations and any other documents or records and the information they contain, solicited or prepared either by the applicant or the State for use in the examination or evaluation of applicants for positions as state employees.

A. Notwithstanding any confidentiality provision other than this subsection, applications, resumes and letters and notes of reference, other than those letters and notes of reference expressly submitted in confidence, pertaining to the applicant hired are public records after the applicant is hired, except that personal contact information is not a public record as provided in Title 1, section 402, subsection 3, paragraph O. [PL 2007, c. 597, §5 (AMD).]

B. Telephone numbers are not public records if they are designated as "unlisted" or "unpublished" in an application, resume or letter or note of reference. [PL 1989, c. 402, §1 (NEW).]

C. This subsection does not preclude union representatives from access to personnel records, consistent with subsection 4, which may be necessary for the bargaining agent to carry out its collective bargaining responsibilities. Any records available to union representatives which are otherwise covered by this subsection shall remain confidential and are not open to public inspection; [PL 1989, c. 402, §1 (NEW).]

[PL 2007, c. 597, §5 (AMD).]

2. Personal information. Records containing the following, except they may be examined by the employee to whom they relate when the examination is permitted or required by law:

A. Medical information of any kind, including information pertaining to diagnosis or treatment of mental or emotional disorders; [PL 1985, c. 785, Pt. B, §38 (NEW).]

B. Performance evaluations and personal references submitted in confidence; [PL 1985, c. 785, Pt. B, §38 (NEW).]

C. Information pertaining to the credit worthiness of a named employee; [PL 1985, c. 785, Pt. B, §38 (NEW).]

D. Information pertaining to the personal history, general character or conduct of members of the employee's immediate family; [PL 1997, c. 124, §2 (AMD).]

D-1. Personal information, including that which pertains to the employee's:

- (1) Age;
- (2) Ancestry, ethnicity, genetic information, national origin, race or skin color;
- (3) Marital status;
- (4) Mental or physical disabilities;
- (5) Personal contact information, as described in Title 1, section 402, subsection 3, paragraph O;
- (6) Personal employment choices pertaining to elected payroll deductions, deferred compensation, savings plans, pension plans, health insurance and life insurance;
- (7) Religion;
- (8) Sex, gender identity or sexual orientation as defined in section 4553, subsection 9-C; or
- (9) Social security number.

Such personal information may be disclosed publicly in aggregate form, unless there is a reasonable possibility that the information would be able to be used, directly or indirectly, to identify any specific employee.

When there is a work requirement for public access to personal information under this paragraph that is not otherwise protected by law, that information may be made public. The State Human Resources Officer, upon the request of the employing agency, shall make the determination that the release of certain personal information not otherwise protected by law is allowed; [PL 2023, c. 615, §1 (AMD).]

E. Except as provided in paragraph F and section 7070-A, complaints, charges or accusations of misconduct, replies to those complaints, charges or accusations and any other information or materials that may result in disciplinary action. If disciplinary action is taken, the final written decision relating to that action is no longer confidential after the decision is completed if it imposes or upholds discipline. The decision must state the conduct or other facts on the basis of which disciplinary action is being imposed and the conclusions of the acting authority as to the reasons for that action. If an arbitrator completely overturns or removes disciplinary action from an employee personnel file, the final written decision is public except that the employee's name must be deleted from the final written decision and kept confidential. If the employee whose name was deleted from the final written decision discloses that the employee is the person who is the subject of the final written decision, the entire final written report, with regard to that employee, is public.

For purposes of this paragraph, "final written decision" means:

- (1) The final written administrative decision that is not appealed pursuant to a grievance arbitration procedure; or
- (2) If the final written administrative decision is appealed to arbitration, the final written decision of a neutral arbitrator.

A final written administrative decision that is appealed to arbitration is no longer confidential 120 days after a written request for the decision is made to the employer if the final written decision of the neutral arbitrator is not issued and released before the expiration of the 120 days; and [PL 2023, c. 615, §2 (AMD).]

F. In the case of an allegation of sexual misconduct or sexual harassment within a correctional facility, a determination that the allegation was substantiated, unsubstantiated or unfounded, except that the determination may be disclosed to the alleged victim. Unless the allegation is determined to be unfounded, the following information may also be shared with the alleged victim:

- (1) Whether the individual alleged to have engaged in the sexual misconduct or sexual harassment is still assigned to the same work location where the sexual misconduct or sexual harassment allegedly occurred;
- (2) Whether the individual under subparagraph (1) is still employed at the correctional facility;
- (3) Whether the individual under subparagraph (1) has been criminally charged or convicted of a crime arising out of the allegation of sexual misconduct or sexual harassment; and
- (4) Whether the prosecuting agency declined to seek an indictment or the grand jury declined to indict the individual under subparagraph (1) based on the allegation of sexual misconduct or sexual harassment. [PL 2023, c. 646, Pt. B, §1 (AMD).]

This subsection does not preclude union representatives from having access to personnel records, consistent with subsection 4, that may be necessary for the bargaining agent to carry out its collective bargaining responsibilities. Any records available to union representatives that are otherwise covered by this subsection remain confidential and are not open for public inspection; [PL 2023, c. 646, Pt. B, §1 (AMD).]

3. Other information. Other information to which access by the general public is prohibited by law. [PL 1985, c. 785, Pt. B, §38 (NEW).]

4. Disclosure of certain information for grievance and other proceedings. The State Human Resources Officer may release specific information designated confidential by this section to be used in negotiations, mediation, fact-finding, arbitration, grievance proceedings and other proceedings in which the State is a party. For the purpose of this subsection, "other proceedings" means unemployment compensation proceedings, workers' compensation proceedings, human rights proceedings and labor relations proceedings.

Confidential information provided under this subsection shall be governed by the following.

- A. The information to be released shall be information only as necessary and directly related to the proceeding as determined by the State Human Resources Officer. [PL 1987, c. 673, §1 (NEW); PL 2023, c. 412, Pt. D, §3 (REV).]
- B. [PL 2007, c. 240, Pt. HH, §12 (RP).]
- C. The proceeding for which the confidential information is provided shall be private and not open to the public; or, if the proceeding is open to the public, the confidential information shall not be disclosed except exclusively in the presence of the fact finder, the parties and counsel of record, and the employee who is the subject of the proceeding and provisions are made to ensure that there is no public access to the confidential information. [PL 1987, c. 673, §1 (NEW).]

The State may use this confidential information in proceedings and provide copies to the employee organization that is a party to the proceedings, provided the information is directly related to those proceedings as defined by the applicable collective bargaining agreement. Confidential personnel records in the possession of the Bureau of Human Resources may not be open to public inspection and may not be "public records," as defined in Title 1, section 402, subsection 3. [PL 2007, c. 240, Pt. HH, §12 (AMD); PL 2023, c. 412, Pt. D, §3 (REV).]

5. Constitutional obligations of a prosecutor. Notwithstanding this section or any other provision of law, this section does not preclude the disclosure of confidential personnel records and the information contained in those records to the Attorney General, a deputy attorney general, an assistant attorney general, a district attorney, a deputy district attorney, an assistant district attorney or the equivalent departments or offices in a federal jurisdiction that are related to the determination of and compliance with the constitutional obligations of the State or the United States to provide discovery to a defendant in a criminal matter. A person or entity participating in good faith disclosure under this

subsection or participating in a related proceeding is immune from criminal and civil liability for the act of disclosure or for participating in the proceeding.

[PL 2013, c. 201, §1 (NEW).]

SECTION HISTORY

PL 1985, c. 785, §B38 (NEW). PL 1987, c. 673, §1 (AMD). PL 1989, c. 402, §1 (AMD). PL 1991, c. 229, §1 (AMD). PL 1991, c. 729, §1 (AMD). PL 1997, c. 124, §2 (AMD). PL 1997, c. 770, §1 (AMD). PL 2007, c. 240, Pt. HH, §12 (AMD). PL 2007, c. 466, Pt. A, §21 (AMD). PL 2007, c. 597, §§5, 6 (AMD). PL 2013, c. 201, §1 (AMD). PL 2019, c. 451, §1 (AMD). PL 2023, c. 159, §1 (AMD). PL 2023, c. 412, Pt. D, §3 (REV). RR 2023, c. 1, Pt. B, §§42-44 (COR). RR 2023, c. 1, Pt. B, §50 (AFF). PL 2023, c. 615, §§1-3 (AMD). PL 2023, c. 646, Pt. B, §1 (AMD).

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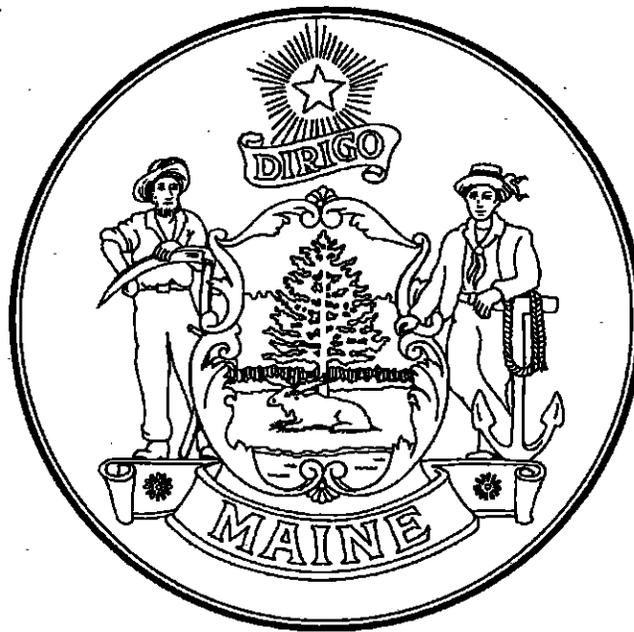
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MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND THIRTY-FIRST LEGISLATURE

SECOND REGULAR SESSION
January 3, 2024 to May 10, 2024

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
AUGUST 9, 2024

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH THE MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

Augusta, Maine
2024

purposes of this subsection, "temporary portable toilet" means a prefabricated toilet designed for temporary use.

Sec. 2. 30-A MRSA §4211, sub-§3-A is enacted to read:

3-A. Temporary portable toilets. Except for persons required to be licensed under Title 22, chapter 562, a person may place and use a temporary portable toilet on property as long as the temporary portable toilet is maintained and serviced in a reasonable manner to protect the public's health and safety and the environment. For purposes of this subsection, "temporary portable toilet" means a prefabricated toilet designed for temporary use.

See title page for effective date.

CHAPTER 615

S.P. 970 - L.D. 2250

**An Act to Allow the
Department of Corrections and
County Jails to Comply with
the Federal Prison Rape
Elimination Act of 2003**

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the federal Prison Rape Elimination Act of 2003 requires the State's Department of Corrections and county jails to comply with relevant standards established by the United States Department of Justice to receive grant funding; and

Whereas, the State's Department of Corrections and county jails would not be able to comply with the relevant standards under current state law for the United States Department of Justice's upcoming audit; and

Whereas, noncompliance would result in a loss of over \$80,000 in grant funding to the State's Department of Corrections and would prohibit the State's Department of Corrections and county jails from accepting resident transfers from facilities that meet relevant federal standards, including, but not limited to, county jails and facilities in other states; and

Whereas, legislative action is immediately necessary to ensure the State's Department of Corrections is in compliance with relevant standards for the United States Department of Justice's upcoming audit, ensuring the continuation of grant funding; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the

preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 5 MRSA §7070, sub-§2, ¶D-1, as repealed and replaced by PL 2019, c. 451, §1 and amended by PL 2023, c. 412, Pt. D, §3, is further amended by amending the last blocked paragraph to read:

When there is a work requirement for public access to personal information under this paragraph that is not otherwise protected by law, that information may be made public. The State Human Resources Officer, upon the request of the employing agency, shall make the determination that the release of certain personal information not otherwise protected by law is allowed; and

Sec. 2. 5 MRSA §7070, sub-§2, ¶E, as amended by PL 2023, c. 159, §1, is further amended to read:

E. Except as provided in paragraph F and section 7070-A, complaints, charges or accusations of misconduct, replies to those complaints, charges or accusations and any other information or materials that may result in disciplinary action. If disciplinary action is taken, the final written decision relating to that action is no longer confidential after the decision is completed if it imposes or upholds discipline. The decision must state the conduct or other facts on the basis of which disciplinary action is being imposed and the conclusions of the acting authority as to the reasons for that action. If an arbitrator completely overturns or removes disciplinary action from an employee personnel file, the final written decision is public except that the employee's name must be deleted from the final written decision and kept confidential. If the employee whose name was deleted from the final written decision discloses that the employee is the person who is the subject of the final written decision, the entire final written report, with regard to that employee, is public.

For purposes of this paragraph, "final written decision" means:

- (1) The final written administrative decision that is not appealed pursuant to a grievance arbitration procedure; or
- (2) If the final written administrative decision is appealed to arbitration, the final written decision of a neutral arbitrator.

A final written administrative decision that is appealed to arbitration is no longer confidential 120 days after a written request for the decision is made to the employer if the final written decision

of the neutral arbitrator is not issued and released before the expiration of the 120 days; and

Sec. 3. 5 MRSA §7070, sub-§2, ¶F is enacted to read:

F. In the case of an allegation of sexual misconduct or sexual harassment within a correctional facility, a determination that the allegation was substantiated, unsubstantiated or unfounded, except that the determination may be disclosed to the alleged victim. Unless the allegation is determined to be unfounded, the following information may also be shared with the alleged victim:

(1) Whether the individual alleged to have engaged in the sexual misconduct or sexual harassment is still assigned to the same work location where the sexual misconduct or sexual harassment allegedly occurred;

(2) Whether the individual under subparagraph (1) is still employed at the correctional facility;

(3) Whether the individual under subparagraph (1) has been criminally charged or convicted of a crime arising out of the allegation of sexual misconduct or sexual harassment; and

(4) Whether the prosecuting agency declined to indict the individual under subparagraph (1) based on the allegation of sexual misconduct or sexual harassment.

Sec. 4. 30-A MRSA §503, sub-§1-B is enacted to read:

1-B. Investigation of allegation of sexual misconduct or sexual harassment by county jail employee. Notwithstanding subsection 1, paragraph B, subparagraph (5), in the case of an allegation of sexual misconduct or sexual harassment within a county jail or detention facility, a determination that the allegation was substantiated, unsubstantiated or unfounded may be disclosed to the alleged victim. Unless the allegation is determined to be unfounded, the following information may also be shared with the alleged victim:

A. Whether the individual alleged to have engaged in the sexual misconduct or sexual harassment is still assigned to the same work location where the sexual misconduct or sexual harassment allegedly occurred;

B. Whether the individual under paragraph A is still employed at the county jail or detention facility;

C. Whether the individual under paragraph A has been criminally charged or convicted of a crime arising out of the allegation of sexual misconduct or sexual harassment; and

D. Whether the prosecuting agency declined to indict the individual under paragraph A based on the allegation of sexual misconduct or sexual harassment.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.

Effective April 11, 2024.

CHAPTER 616

S.P. 919 - L.D. 2164

An Act to Establish the Maine-Island of Ireland Trade Commission and Improve Collaboration with the Island of Ireland

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

Sec. 1. 5 MRSA §12004-K, first ¶, as enacted by PL 1987, c. 786, §5, is amended to read:

The primary responsibility of intergovernmental organizations is to establish cooperation between this State and other states or Canadian provinces or other countries.

Sec. 2. 5 MRSA §12004-K, sub-§10-A is enacted to read:

10-A.

State Government	Maine-Island of Ireland Trade Commission	Not Authorized	10 MRSA §21
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Sec. 3. 10 MRSA c. 1-B is enacted to read:

CHAPTER 1-B

MAINE-ISLAND OF IRELAND TRADE COMMISSION

§21. Maine-Island of Ireland Trade Commission

The Maine-Island of Ireland Trade Commission, referred to in this section as "the commission," is established by Title 5, section 12004-K, subsection 10-A to promote cooperation between this State and the island of Ireland.

1. Membership. The commission consists of 9 members appointed as follows:

A. Two members of the Senate, appointed by the President of the Senate, including one member of the party holding the largest number of seats in the Legislature and one member of the party holding the 2nd largest number of seats in the Legislature;



131st MAINE LEGISLATURE

FIRST SPECIAL SESSION-2023

Legislative Document

No. 1937

H.P. 1245

House of Representatives, May 15, 2023

An Act to Remove the Confidentiality of the Transportation of Hazardous Materials by Railroad Companies

(AFTER DEADLINE)

(EMERGENCY)

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.

Reference to the Committee on Transportation suggested and ordered printed.

A handwritten signature in cursive script that reads "R B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Speaker TALBOT ROSS of Portland.
Cosponsored by Senator BENNETT of Oxford and
Representatives: HASENFUS of Readfield, MOONEN of Portland, Senator: GUERIN of
Penobscot.

APPROVED
APRIL 12, 2024
BY GOVERNOR

CHAPTER
618
PUBLIC LAW

STATE OF MAINE

IN THE YEAR OF OUR LORD
TWO THOUSAND TWENTY-FOUR

H.P. 1245 - L.D. 1937

An Act Regarding the Transportation of Hazardous Materials by Railroad Companies

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, records provided by railroad companies describing hazardous materials transported in the State, the routes of hazardous materials shipments and the frequency of hazardous materials operations on those routes that are in the possession of a state or local emergency management entity or law enforcement agency, fire department or other first responder are not subject to public disclosure; and

Whereas, this legislation makes those records subject to public disclosure when those records are related to a train carrying hazardous materials that has derailed at any point from a main line train track; and

Whereas, this legislation needs to take effect before the expiration of the 90-day period because the potential for discharge of hazardous materials transported by a railroad company poses a threat to public health, safety and welfare; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 1 MRSA §402, sub-§3, ¶U, as amended by PL 2019, c. 667, Pt. B, §4, is further amended to read:

U. Records provided by a railroad company pursuant to Title 23, section 7311, subsection 5 and records describing hazardous materials transported by the railroad company in this State, the routes of hazardous materials shipments and the frequency of hazardous materials operations on those routes that are in the possession of a state or local emergency management entity or law enforcement agency, fire department or other first responder, except that records related to a train carrying hazardous materials that has derailed at any point from a main line train track or related to a discharge of

hazardous materials transported by a railroad company that poses a threat to public health, safety and welfare are subject to public disclosure after that discharge. For the purposes of this paragraph, "hazardous material" has the same meaning as set forth in 49 Code of Federal Regulations, Section 105.5; and

Sec. 2. 23 MRSA §5003, as enacted by PL 1987, c. 141, Pt. A, §4, is amended to read:

§5003. Collection of judgment against foreign railroad company lessee

When any foreign railroad company, ~~which~~ that is or has been doing business in this State as the lessee of any railroad, refuses or neglects for 60 days after demand to pay and discharge any judgment recovered by any person against the railroad company owning that leased road for damages to the property of the person by the doings, misdoings or neglects of the foreign railroad company, its agents or servants, ~~which and that~~ judgment belongs to the foreign railroad company to pay and discharge, the Superior Court, on complaint, may compel payment thereof of the judgment by the foreign ~~corporation~~ railroad company and make, pass and enforce all necessary orders, decrees and processes for the purpose. Nothing in this section allows for nonparticipation by foreign railroad company lessees.

Sec. 3. 23 MRSA §7015 is enacted to read:

§7015. Prevention and response plans and environmental impact analysis

Within 180 days of the effective date of this section, a railroad company shall submit to the Commissioner of Environmental Protection a prevention and response plan including the environmental impact analysis submitted to the United States Department of Transportation, Pipeline and Hazardous Materials Safety Administration. The railroad company shall also provide any updates submitted to the Pipeline and Hazardous Materials Safety Administration to the Commissioner of Environmental Protection.

Sec. 4. 23 MRSA §7311, sub-§2-A is enacted to read:

2-A. State, county, municipal notice. In the event of a main line train derailment involving hazardous materials, a railroad company shall make a 9-1-1 call, as defined in Title 25, section 2921, subsection 17, to alert first responders, including municipal and county fire chiefs in the jurisdiction, and provide timely notice to the Department of Public Safety, the Department of Environmental Protection and the Maine Emergency Management Agency. The Maine Emergency Management Agency may notify the Department of Transportation and the municipal and county fire chiefs located within the affected area of the accident.

Sec. 5. 23 MRSA §7311, sub-§2-B is enacted to read:

2-B. Public notice. In the event of a main line train derailment involving hazardous materials, the Maine Emergency Management Agency shall, if requested by a municipal or county fire chief serving as incident commander, issue an alert through an emergency alert system or wireless emergency alert system for the area identified by the incident commander.

Sec. 6. 23 MRSA §7311, sub-§2-C is enacted to read:

2-C. Failure to issue notice. If a railroad company fails to provide timely notice as required under subsection 2-A, the Commissioner of Transportation may assess a fine up

to \$25,000 per failed notice per day in the event of a main line train derailment involving hazardous materials.

Sec. 7. 23 MRSA §7311, sub-§5 is enacted to read:

5. Routine inspections. Upon request of the Commissioner of Transportation, a railroad company shall submit reports of inspections conducted pursuant to federal agency requirements under 49 Code of Federal Regulations, Subtitle B, Chapter II by a railroad company of trains, rails, rail safety equipment and rail corridors. Records under this subsection are not public records pursuant to Title 1, section 402, subsection 3, paragraph U.

Sec. 8. 23 MRSA §7313 is enacted to read:

§7313. Mandatory training offered by railroad companies to fire and emergency medical services

1. Training. A railroad company shall offer training to each fire department, each local organization for emergency management and each organization that has a mutual aid agreement with each fire department and each local organization for emergency management along routes over which the railroad company transports oil or other hazardous materials. Additional training must be offered to each fire department and each local organization for emergency management at least once every 3 years after the initial training provided for under this subsection.

2. Hazardous materials; techniques to assess hazards. The training under subsection 1 must address the general hazards of oil and hazardous materials that travel through the jurisdiction or mutual aid agreement jurisdiction of each fire department and local organization for emergency management; techniques to assess hazards to the environment and to the safety of first responders and the public; factors that an incident commander must consider in determining whether to attempt to suppress a fire or to evacuate the public and first responders from an area; and other strategies for initial response by first responders.

3. Suggested protocols. The training under subsection 1 must include suggested protocols or practices for first responders to safely respond to a derailment; methods to identify railroad cars and hazardous material contents; first responder safety issues; railroad response tactics; public notification and evacuation considerations; environmental contamination response; railroad response personnel and resources coordination at an accident; and any other protocols and practices for safe initial local response, including the notification requirements and the responsibilities of an incident commander during any rail accident involving oil or other hazardous materials.

Sec. 9. 23 MRSA §7314 is enacted to read:

§7314. Post-accident reporting requirements

1. Post-accident review. After an accident involving hazardous materials subject to review by the applicable federal agency or when an accident is not reviewed by the applicable federal agency but review is considered necessary by the Commissioner of Transportation, the commissioner shall ensure that a post-accident review and analysis is performed in a timely manner. The commissioner's review and analysis must be undertaken

under an agreement with an entity having relevant knowledge and experience that is fully independent of the railroad carrier's companies.

2. Evaluation requirements. The Commissioner of Transportation's review and analysis process must include an after-action review and must evaluate, at a minimum, processes occurring during the accident for emergency assessment, hazard operations, population protection and accident management. The review and analysis must be designed to minimize disruption of the federal review of the accident.

3. Report. By March 1st following any calendar year in which one or more post-accident reviews and analyses are performed, the Commissioner of Transportation shall submit a report to the joint standing committees of the Legislature having jurisdiction over railroads and public records matters. The report must:

A. Provide a summary of the accidents, as long as the information provided does not include information excluded from the definition of "public records" pursuant to Title 1, section 402, subsection 3, paragraph U;

B. Identify findings, conclusions and process changes;

C. Include any costs associated with accidents; and

D. Make recommendations for changes to laws and rules, if any.

Sec. 10. Appropriations and allocations. The following appropriations and allocations are made.

TRANSPORTATION, DEPARTMENT OF

Multimodal Transportation Fund Z017

Initiative: Provides allocations for accident reviews and analyses regarding hazardous materials performed by a qualified entity.

OTHER SPECIAL REVENUE FUNDS	2023-24	2024-25
All Other	\$0	\$40,000
OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	\$40,000

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.

§402. Definitions

1. Conditional approval. Approval of an application or granting of a license, certificate or any other type of permit upon conditions not otherwise specifically required by the statute, ordinance or regulation pursuant to which the approval or granting is issued.

[PL 1975, c. 758 (NEW).]

1-A. Legislative subcommittee. "Legislative subcommittee" means 3 or more Legislators from a legislative committee appointed for the purpose of conducting legislative business on behalf of the committee.

[PL 1991, c. 773, §1 (NEW).]

2. Public proceedings. The term "public proceedings" as used in this subchapter means the transactions of any functions affecting any or all citizens of the State by any of the following:

A. The Legislature of Maine and its committees and subcommittees; [PL 1975, c. 758 (NEW).]

B. Any board or commission of any state agency or authority, the Board of Trustees of the University of Maine System and any of its committees and subcommittees, the Board of Trustees of the Maine Maritime Academy and any of its committees and subcommittees, the Board of Trustees of the Maine Community College System and any of its committees and subcommittees; [PL 1989, c. 878, Pt. A, §1 (RPR); PL 2003, c. 20, Pt. OO, §2 (AMD); PL 2003, c. 20, Pt. OO, §4 (AFF).]

C. Any board, commission, agency or authority of any county, municipality, school district or any regional or other political or administrative subdivision; [PL 1991, c. 848, §1 (AMD).]

D. The full membership meetings of any association, the membership of which is composed exclusively of counties, municipalities, school administrative units or other political or administrative subdivisions; of boards, commissions, agencies or authorities of any such subdivisions; or of any combination of any of these entities; [PL 1995, c. 608, §1 (AMD).]

E. The board of directors of a nonprofit, nonstock private corporation that provides statewide noncommercial public broadcasting services and any of its committees and subcommittees; [PL 2009, c. 334, §1 (AMD).]

F. Any advisory organization, including any authority, board, commission, committee, council, task force or similar organization of an advisory nature, established, authorized or organized by law or resolve or by Executive Order issued by the Governor and not otherwise covered by this subsection, unless the law, resolve or Executive Order establishing, authorizing or organizing the advisory organization specifically exempts the organization from the application of this subchapter; and [PL 2009, c. 334, §2 (AMD).]

G. The committee meetings, subcommittee meetings and full membership meetings of any association that:

(1) Promotes, organizes or regulates statewide interscholastic activities in public schools or in both public and private schools; and

(2) Receives its funding from the public and private school members, either through membership dues or fees collected from those schools based on the number of participants of those schools in interscholastic activities.

This paragraph applies to only those meetings pertaining to interscholastic sports and does not apply to any meeting or any portion of any meeting the subject of which is limited to personnel issues, allegations of interscholastic athletic rule violations by member schools, administrators, coaches or student athletes or the eligibility of an individual student athlete or coach. [PL 2009, c. 334, §3 (NEW).]

[PL 2009, c. 334, §§1-3 (AMD).]

3. Public records. The term "public records" means any written, printed or graphic matter or any mechanical or electronic data compilation from which information can be obtained, directly or after translation into a form susceptible of visual or aural comprehension, that is in the possession or custody of an agency or public official of this State or any of its political subdivisions, or is in the possession or custody of an association, the membership of which is composed exclusively of one or more of any of these entities, and has been received or prepared for use in connection with the transaction of public or governmental business or contains information relating to the transaction of public or governmental business, except:

A. Records that have been designated confidential by statute; [PL 1975, c. 758 (NEW).]

B. Records that would be within the scope of a privilege against discovery or use as evidence recognized by the courts of this State in civil or criminal trials if the records or inspection thereof were sought in the course of a court proceeding; [PL 1975, c. 758 (NEW).]

C. Legislative papers and reports until signed and publicly distributed in accordance with legislative rules, and records, working papers, drafts and interoffice and intraoffice memoranda used or maintained by any Legislator, legislative agency or legislative employee to prepare proposed Senate or House papers or reports for consideration by the Legislature or any of its committees during the legislative session or sessions in which the papers or reports are prepared or considered or to which the paper or report is carried over; [PL 1991, c. 773, §2 (AMD).]

C-1. Information contained in a communication between a constituent and an elected official if the information:

(1) Is of a personal nature, consisting of:

(a) An individual's medical information of any kind, including information pertaining to diagnosis or treatment of mental or emotional disorders;

(b) Credit or financial information;

(c) Information pertaining to the personal history, general character or conduct of the constituent or any member of the constituent's immediate family; or

(d) Complaints, charges of misconduct, replies to complaints or charges of misconduct or memoranda or other materials pertaining to disciplinary action; or

(2) Would be confidential if it were in the possession of another public agency or official; [PL 2019, c. 667, Pt. A, §1 (AMD).]

D. Material prepared for and used specifically and exclusively in preparation for negotiations, including the development of bargaining proposals to be made and the analysis of proposals received, by a public employer in collective bargaining with its employees and their designated representatives; [PL 1989, c. 358, §4 (AMD).]

E. Records, working papers, interoffice and intraoffice memoranda used by or prepared for faculty and administrative committees of the Maine Maritime Academy, the Maine Community College System and the University of Maine System when the subject matter is confidential or otherwise protected from disclosure by statute, other law, legal precedent or privilege recognized by the courts of this State. The provisions of this paragraph do not apply to the boards of trustees and the committees and subcommittees of those boards, which are referred to in subsection 2, paragraph B; [PL 2019, c. 667, Pt. B, §1 (AMD).]

F. Records that would be confidential if they were in the possession or custody of an agency or public official of the State or any of its political or administrative subdivisions are confidential if those records are in the possession of an association, the membership of which is composed

exclusively of one or more political or administrative subdivisions of the State; of boards, commissions, agencies or authorities of any such subdivisions; or of any combination of any of these entities; [PL 1991, c. 448, §1 (AMD).]

G. Materials related to the development of positions on legislation or materials that are related to insurance or insurance-like protection or services which are in the possession of an association, the membership of which is composed exclusively of one or more political or administrative subdivisions of the State; of boards, commissions, agencies or authorities of any such subdivisions; or of any combination of any of these entities; [PL 1991, c. 448, §1 (AMD).]

H. Medical records and reports of municipal ambulance and rescue units and other emergency medical service units, except that such records and reports must be available upon request to law enforcement officers investigating criminal conduct; [PL 1995, c. 608, §4 (AMD).]

I. Juvenile records and reports of municipal fire departments regarding the investigation and family background of a juvenile fire setter; [PL 1999, c. 96, §1 (AMD).]

J. Working papers, including records, drafts and interoffice and intraoffice memoranda, used or maintained by any advisory organization covered by subsection 2, paragraph F, or any member or staff of that organization during the existence of the advisory organization. Working papers are public records if distributed in a public meeting of the advisory organization; [PL 2019, c. 667, Pt. B, §2 (AMD).]

K. Personally identifying information concerning minors that is obtained or maintained by a municipality in providing recreational or nonmandatory educational programs or services. This paragraph does not apply to records governed by Title 20-A, section 6001 and does not supersede Title 20-A, section 6001-A; [PL 2019, c. 667, Pt. A, §2 (AMD).]

L. Records describing security plans, security procedures or risk assessments prepared specifically for the purpose of preventing or preparing for acts of terrorism, but only to the extent that release of information contained in the record could reasonably be expected to jeopardize the physical safety of government personnel or the public. Information contained in records covered by this paragraph may be disclosed to the Legislature or, in the case of a political or administrative subdivision, to municipal officials or board members under conditions that protect the information from further disclosure. For purposes of this paragraph, "terrorism" means conduct that is designed to cause serious bodily injury or substantial risk of bodily injury to multiple persons, substantial damage to multiple structures whether occupied or unoccupied or substantial physical damage sufficient to disrupt the normal functioning of a critical infrastructure; [PL 2003, c. 614, §1 (AMD).]

M. Records or information describing the architecture, design, access authentication, encryption or security of information technology infrastructure, systems and software, including records or information maintained to ensure government operations and technology continuity and to facilitate disaster recovery. Records or information covered by this paragraph may be disclosed to the Legislature or, in the case of a political or administrative subdivision, to municipal officials or board members under conditions that protect the information from further disclosure; [PL 2019, c. 667, Pt. A, §3 (AMD).]

N. Social security numbers; [PL 2011, c. 320, Pt. E, §1 (AMD).]

O. Personal contact information concerning public employees, except when that information is public pursuant to other law. For the purposes of this paragraph:

- (1) "Personal contact information" means personal address, telephone number, facsimile number, e-mail address, cellular telephone number, pager number and username, password and uniform resource locator for a personal social media account as defined in Title 26, section 615, subsection 4; and

(2) "Public employee" means an employee as defined in Title 14, section 8102, subsection 1, except that "public employee" does not include elected officials; [PL 2019, c. 667, Pt. B, §3 (AMD).]

P. Geographic information regarding recreational trails that are located on private land that are authorized voluntarily as such by the landowner with no public deed or guaranteed right of public access, unless the landowner authorizes the release of the information; [PL 2011, c. 149, §1 (AMD).]

REVISOR'S NOTE: (Paragraph P as enacted by PL 2009, c. 339, §3 is REALLOCATED TO TITLE 1, SECTION 402, SUBSECTION 3, PARAGRAPH Q)

Q. (REALLOCATED FROM T. 1, §402, sub-§3, ¶P) Security plans, staffing plans, security procedures, architectural drawings or risk assessments prepared for emergency events that are prepared for or by or kept in the custody of the Department of Corrections or a county jail if there is a reasonable possibility that public release or inspection of the records would endanger the life or physical safety of any individual or disclose security plans and procedures not generally known by the general public. Information contained in records covered by this paragraph may be disclosed to state and county officials if necessary to carry out the duties of the officials or the Department of Corrections under conditions that protect the information from further disclosure; [PL 2015, c. 335, §1 (AMD).]

R. [PL 2017, c. 163, §1 (RP).]

S. E-mail addresses obtained by a political subdivision of the State for the sole purpose of disseminating noninteractive notifications, updates and cancellations that are issued from the political subdivision or its elected officers to an individual or individuals that request or regularly accept these noninteractive communications; [PL 2015, c. 161, §1 (AMD).]

T. Records describing research for the development of processing techniques for fisheries, aquaculture and seafood processing or the design and operation of a depuration plant in the possession of the Department of Marine Resources; [PL 2017, c. 118, §1 (AMD).]

U. Records provided by a railroad company pursuant to Title 23, section 7311, subsection 5 and records describing hazardous materials transported by the railroad company in this State, the routes of hazardous materials shipments and the frequency of hazardous materials operations on those routes that are in the possession of a state or local emergency management entity or law enforcement agency, fire department or other first responder, except that records related to a train carrying hazardous materials that has derailed at any point from a main line train track or related to a discharge of hazardous materials transported by a railroad company that poses a threat to public health, safety and welfare are subject to public disclosure after that discharge. For the purposes of this paragraph, "hazardous material" has the same meaning as set forth in 49 Code of Federal Regulations, Section 105.5; and [PL 2023, c. 618, §1 (AMD).]

V. Participant application materials and other personal information obtained or maintained by a municipality or other public entity in administering a community well-being check program, except that a participant's personal information, including health information, may be made available to first responders only as necessary to implement the program. For the purposes of this paragraph, "community well-being check program" means a voluntary program that involves daily, or regular, contact with a participant and, when contact cannot be established, sends first responders to the participant's residence to check on the participant's well-being. [PL 2017, c. 118, §3 (NEW).]
[PL 2023, c. 618, §1 (AMD).]

3-A. Public records further defined. "Public records" also includes the following criminal justice agency records:

A. Records relating to prisoner furloughs to the extent they pertain to a prisoner's identity, public criminal history record information, as defined in Title 16, section 703, subsection 8, address of furlough and dates of furlough; [PL 2013, c. 267, Pt. B, §1 (AMD).]

B. Records relating to out-of-state adult probationer or parolee supervision to the extent they pertain to a probationer's or parolee's identity, public criminal history record information, as defined in Title 16, section 703, subsection 8, address of residence and dates of supervision; and [PL 2013, c. 267, Pt. B, §1 (AMD).]

C. Records to the extent they pertain to a prisoner's, adult probationer's or parolee's identity, public criminal history record information, as defined in Title 16, section 703, subsection 8, and current address or location, unless the Commissioner of Corrections determines that it would be detrimental to the welfare of a client to disclose the information. [PL 2013, c. 267, Pt. B, §1 (AMD).]
[PL 2013, c. 267, Pt. B, §1 (AMD).]

4. Public records of interscholastic athletic organizations. Any records or minutes of meetings under subsection 2, paragraph G are public records.
[PL 2009, c. 334, §4 (NEW).]

5. Public access officer. "Public access officer" means the person designated pursuant to section 413, subsection 1.
[PL 2011, c. 662, §3 (NEW).]

6. Reasonable office hours. "Reasonable office hours" includes all regular office hours of an agency or official.
[PL 2011, c. 662, §3 (NEW).]

SECTION HISTORY

PL 1973, c. 433, §1 (AMD). PL 1975, c. 243 (RPR). PL 1975, c. 483, §2 (AMD). PL 1975, c. 758 (RPR). PL 1977, c. 164, §§1,2 (AMD). PL 1977, c. 696, §9 (AMD). PL 1985, c. 695, §§1,2 (AMD). PL 1985, c. 779, §§1,2 (AMD). PL 1987, c. 20, §1 (AMD). PL 1987, c. 402, §A1 (AMD). PL 1987, c. 477, §1 (AMD). PL 1989, c. 358, §§1-4 (AMD). PL 1989, c. 443, §§1,2 (AMD). PL 1989, c. 878, §§A1,2 (AMD). PL 1991, c. 448, §§1,2 (AMD). PL 1991, c. 773, §§1,2 (AMD). PL 1991, c. 848, §1 (AMD). PL 1995, c. 608, §§1-5 (AMD). PL 1997, c. 714, §1 (AMD). PL 1999, c. 96, §§1-3 (AMD). PL 2001, c. 477, §1 (AMD). PL 2001, c. 675, §§1-3 (AMD). PL 2003, c. 20, §OO2 (AMD). PL 2003, c. 20, §OO4 (AFF). PL 2003, c. 392, §§1-3 (AMD). PL 2003, c. 614, §§1-3 (AMD). PL 2005, c. 381, §§1-3 (AMD). PL 2007, c. 597, §1 (AMD). RR 2009, c. 1, §§1-3 (COR). PL 2009, c. 176, §§1-3 (AMD). PL 2009, c. 334, §§1-4 (AMD). PL 2009, c. 339, §§1-3 (AMD). PL 2011, c. 149, §§1-3 (AMD). PL 2011, c. 264, §1 (AMD). PL 2011, c. 320, Pt. E, §1 (AMD). PL 2011, c. 662, §§2, 3 (AMD). PL 2013, c. 267, Pt. B, §1 (AMD). PL 2013, c. 339, §§1-3 (AMD). PL 2013, c. 518, §§1-3 (AMD). PL 2015, c. 161, §§1-3 (AMD). PL 2015, c. 335, §1 (AMD). PL 2017, c. 118, §§1-3 (AMD). PL 2017, c. 163, §1 (AMD). PL 2019, c. 667, Pt. A, §§1-3 (AMD). PL 2019, c. 667, Pt. B, §§1-4 (AMD). PL 2023, c. 618, §1 (AMD).

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VII. RECOMMENDATIONS

The Advisory Committee makes the following recommendations.

Amend certain existing public records exceptions as recommended by the Public Records Exceptions Subcommittee

The following recommendations were made in 2018 and included in LD 1511, which did not pass, so they are recommended again.

- Title 1, section 402, subsection 3, paragraph C-1, relating to information contained in a communication between a constituent and an elected official if the information is of a personal nature as specified in the paragraph, is an individual's social security number, or would be confidential if it were in the possession of a public agency or official (amend to remove the listing of Social Security numbers as to what is confidential in communications with constituents because SSNs are already not public records)
- Title 1, section 402, subsection 3, paragraph K, relating to personally identifying information concerning minors that is obtained or maintained by a municipality in providing recreational or nonmandatory educational programs or services, if the municipality has enacted an ordinance that specifies the circumstances in which the information will be withheld from disclosure (amend to delete requirement that a municipality adopt an ordinance in order to protect personally identifying information about minors that is obtained and maintained in the process of providing recreational or nonmandatory recreational programs or services)
- Title 1, section 402, subsection 3, paragraph M, relating to architecture, design, access authentication, encryption and security of information technology infrastructure and systems (amend to add "including records or information maintained to ensure government operations and technology continuity and disaster recovery"; ¶M provides a public records exception for records and information about public agency technology infrastructure, systems and software)
- Title 3, section 997, subsection 1 and subsection 3, relating to program evaluation reports transmitted by OPEGA to the GOC prior to the report's formal presentation and to papers, physical and electronic records and correspondence and other supporting materials comprising the working papers in the possession of OPEGA or other entity charged with the preparation of a program evaluation report (amend to remove duplicative language from draft provided; OPEGA confidentiality of working papers)
- Title 5, section 4572, subsection 2, relating to medical information or history of an applicant in an employment discrimination complaint (amend to clarify terminology about medical and disability information; Maine Human Rights Act description of unlawful employment discrimination against a qualified individual with a disability)
- Title 5, section 4573, subsection 2, relating to records of mental or physical disability (amend to clarify terminology about describing physical or mental disabilities; Maine

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-NINTH LEGISLATURE

FIRST SPECIAL SESSION
August 26, 2019

SECOND REGULAR SESSION
January 8, 2020 to March 17, 2020

THE GENERAL EFFECTIVE DATE FOR
FIRST SPECIAL SESSION
NON-EMERGENCY LAWS IS
NOVEMBER 25, 2019

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
JUNE 16, 2020

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH THE MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

Augusta, Maine
2020

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.

Effective March 18, 2020.

CHAPTER 667

H.P. 1498 - L.D. 2103

**An Act To Implement the
Recommendations of the Right
To Know Advisory Committee
Regarding Public Records
Exceptions**

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

PART A

Sec. A-1. 1 MRSA §402, sub-§3, ¶C-1, as enacted by PL 2011, c. 264, §1, is amended to read:

C-1. Information contained in a communication between a constituent and an elected official if the information:

- (1) Is of a personal nature, consisting of:
 - (a) An individual's medical information of any kind, including information pertaining to diagnosis or treatment of mental or emotional disorders;
 - (b) Credit or financial information;
 - (c) Information pertaining to the personal history, general character or conduct of the constituent or any member of the constituent's immediate family; or
 - (d) Complaints, charges of misconduct, replies to complaints or charges of misconduct or memoranda or other materials pertaining to disciplinary action; or
 - (e) ~~An individual's social security number; or~~
- (2) Would be confidential if it were in the possession of another public agency or official;

Sec. A-2. 1 MRSA §402, sub-§3, ¶K, as amended by PL 2003, c. 392, §1, is further amended to read:

K. Personally identifying information concerning minors that is obtained or maintained by a municipality in providing recreational or nonmandatory educational programs or services, ~~if the municipality has enacted an ordinance that specifies the circumstances in which the information will be withheld from disclosure.~~ This paragraph does not apply to records governed by Title 20-A, section 6001 and does not supersede Title 20-A, section 6001-A;

Sec. A-3. 1 MRSA §402, sub-§3, ¶M, as amended by PL 2011, c. 662, §2, is further amended to read:

M. Records or information describing the architecture, design, access authentication, encryption or security of information technology infrastructure, systems and software, including records or information maintained to ensure government operations and technology continuity and to facilitate disaster recovery. Records or information covered by this paragraph may be disclosed to the Legislature or, in the case of a political or administrative subdivision, to municipal officials or board members under conditions that protect the information from further disclosure;

Sec. A-4. 3 MRSA §997, sub-§1, as enacted by PL 2001, c. 702, §2, is amended to read:

1. Review and response. Prior to the presentation of a program evaluation under this chapter to the committee by the office, the director of the evaluated state agency or other entity must have an opportunity to review a draft of the program evaluation report. Within 15 calendar days of receipt of the draft report, the director of the evaluated state agency or other entity may provide to the office comments on the draft report. If provided to the office by the comment deadline, the comments must be included in the final report when it is presented to the committee. Failure by the director of an evaluated agency or other entity to submit its comments on the draft report by the comment deadline may not delay the submission of a report to the committee or its release to the public.

All documents, writings, drafts, electronic communications and information transmitted pursuant to this subsection are confidential and may not be released to the public ~~prior to the time the office issues its program evaluation report pursuant to subsection 3.~~ A person violating the provisions of this subsection regarding confidentiality is guilty of a Class E crime.

Sec. A-5. 3 MRSA §997, sub-§3, as enacted by PL 2001, c. 702, §2, is amended to read:

3. Confidentiality. ~~The director shall issue program evaluation reports, favorable or unfavorable, of any state agency or other entity, and these reports are public records, except that, prior to the release of a program evaluation report pursuant to subsection 2 or the point at which a program evaluation is no longer being actively pursued, all papers, physical and electronic records and correspondence and other supporting materials comprising the working Working papers in the possession of the director or other entity charged with the preparation of a program evaluation report an entity with which the director has contracted for the conduct of program evaluations pursuant to section 995, subsection 2 are confidential and exempt from disclosure pursuant to Title 1, chapter 13, including disclosure to the~~

Legislative Council or an agent or representative of the Legislative Council. All other records or materials in the possession of the director or ~~other entity charged with the preparation of a program evaluation report under this chapter~~ an entity with which the director has contracted for the conduct of program evaluations pursuant to section 995, subsection 2 that would otherwise be confidential or exempt from disclosure are exempt from disclosure pursuant to the provisions of Title 1, chapter 13. ~~Prior to the release of a program evaluation report pursuant to subsection 2 or the point at which a program evaluation is no longer being actively pursued, all papers, physical and electronic records and correspondence and other supporting materials comprising the working papers in the possession of the director or other entity charged with the preparation of a program evaluation report are confidential and may not be released or disclosed by the director to the Legislative Council or an agent or representative of the Legislative Council.~~ This subsection may not be construed to prohibit or prevent public access to the records of a state agency or other entity in the possession of the director that would otherwise be subject to disclosure pursuant to the provisions of Title 1, chapter 13. The director shall refer requests for access to those records directly to the state agency or other entity that is the official custodian of the requested records, which shall respond to the request for public records.

Sec. A-6. 3 MRSA §997, sub-§5, as enacted by PL 2001, c. 702, §2, is amended to read:

5. Confidentiality of working papers Disclosure to agency or entity subject to program evaluation. Except as provided in this subsection, working papers are confidential pursuant to subsection 3 and may not be disclosed to any person. Prior to the release of the final program evaluation report, the director has sole discretion to disclose working papers to the state agency or other entity subject to the program evaluation when disclosure will not prejudice the program evaluation. After release of the final program evaluation report, working papers may be released as necessary to the state agency or other entity that was subject to the program evaluation under this chapter.

Sec. A-7. 5 MRSA §4572, sub-§2, ¶C, as enacted by PL 1995, c. 393, §13, is amended by amending subparagraph (2) to read:

(2) ~~Information obtained regarding the Any medical condition or and disability information and history of the applicant is collected and maintained on separate forms and in separate medical files and is treated as a confidential medical record, except that:~~

(a) Supervisors and managers may be informed regarding necessary restrictions on the work or duties of the employee and necessary accommodations;

(b) First aid and safety personnel may be informed, when appropriate, if the disability might require emergency treatment; and

(c) Government officials investigating compliance with this Act are provided relevant information on request; and

Sec. A-8. 5 MRSA §4572, sub-§2, ¶E, as enacted by PL 1995, c. 393, §13, is amended to read:

E. A covered entity may conduct voluntary medical examinations, including voluntary medical histories and disability information and history, that are part of an employee health or wellness program available to employees at that work site. A covered entity may make inquiries into the ability of an employee to perform job-related functions. Information obtained under this paragraph regarding the medical condition or and disability information and history of an employee is subject to the requirements of paragraph C, subparagraphs (2) and (3).

Sec. A-9. 5 MRSA §4573, sub-§2, as amended by PL 1995, c. 393, §16, is further amended to read:

2. Records. After employment or admission to membership, to make a record of such features of an individual as are needed in good faith for the purpose of identifying them the individual, provided the record is intended and used in good faith solely for identification, and not for the purpose of discrimination in violation of this Act. Records of features regarding physical or mental disability that are collected must be collected and maintained on separate forms and in separate files and be treated as confidential records;

PART B

Sec. B-1. 1 MRSA §402, sub-§3, ¶E, as repealed and replaced by PL 1989, c. 878, Pt. A, §2 and amended by PL 2003, c. 20, Pt. OO, §2 and affected by §4, is further amended to read:

E. Records, working papers, interoffice and intraoffice memoranda used by or prepared for faculty and administrative committees of the Maine Maritime Academy, the Maine Community College System and the University of Maine System when the subject matter is confidential or otherwise protected from disclosure by statute, other law, legal precedent or privilege recognized by the courts of this State. The provisions of this paragraph do not apply to the boards of trustees and the committees and subcommittees of those boards, which are referred to in subsection 2, paragraph B;

Sec. B-2. 1 MRSA §402, sub-§3, ¶J, as amended by PL 2001, c. 675, §1, is further amended to read:

J. Working papers, including records, drafts and interoffice and intraoffice memoranda, used or

maintained by any advisory organization covered by subsection 2, paragraph F, or any member or staff of that organization during the existence of the advisory organization. Working papers are public records if distributed by a member or in a public meeting of the advisory organization;

Sec. B-3. 1 MRSA §402, sub-§3, ¶O, as corrected by RR 2009, c. 1, §1, is amended by amending subparagraph (1) to read:

(1) "Personal contact information" means ~~home~~ personal address, ~~home~~ telephone number, ~~home~~ facsimile number, ~~home~~ e-mail address ~~and personal~~, cellular telephone number ~~and personal~~, pager number ~~and username~~, password and uniform resource locator for a personal social media account as defined in Title 26, section 615, subsection 4; and

Sec. B-4. 1 MRSA §402, sub-§3, ¶U, as amended by PL 2017, c. 118, §2, is further amended to read:

U. Records provided by a railroad company describing hazardous materials transported by the railroad company in this State, the routes of hazardous materials shipments and the frequency of hazardous materials operations on those routes that are in the possession of a state or local emergency management entity or law enforcement agency, a fire department or other first responder, except that records related to a discharge of hazardous materials transported by a railroad company that poses a threat to public health, safety and welfare are subject to public disclosure after that discharge. For the purposes of this paragraph, "hazardous material" has the same meaning as set forth in 49 Code of Federal Regulations, Section 105.5; and

Sec. B-5. 5 MRSA §244-E, sub-§3, as enacted by PL 2009, c. 567, §1, is amended to read:

3. Coordination with Office of Program Evaluation and Government Accountability and Attorney General; disclosure to state agencies. The State Auditor may disclose information that is confidential under this section to the Director of the Office of Program Evaluation and Government Accountability and the Attorney General to ensure appropriate agency referral or coordination between agencies to respond appropriately to all complaints made under this section. The State Auditor may disclose information that is confidential under this section related to a complaint alleging fraud, waste, inefficiency or abuse to a department or agency that is the subject of a complaint to ensure that the department or agency can respond appropriately to the complaint. The department or agency shall maintain as confidential any information related to a complaint furnished by the State Auditor.

Sec. B-6. 7 MRSA §2992-A, sub-§1, ¶C, as amended by PL 2007, c. 597, §9 and PL 2011, c. 657,

Pt. W, §6, is further amended by amending subparagraph (2) to read:

(2) All meetings and records of the board are subject to the provisions of Title 1, chapter 13, subchapter 1, except that, by majority vote of those members present recorded in a public session, records and meetings of the board may be closed to the public when public disclosure of the subject matter of the records or meetings would adversely affect the competitive position of the milk industry of the State ~~or segments of that industry.~~ The Commissioner of Agriculture, Conservation and Forestry and those members of the Legislature appointed to serve on the joint standing committee of the Legislature having jurisdiction over agricultural, conservation and forestry matters have access to all material designated confidential by the board;

Sec. B-7. 7 MRSA §2998-B, sub-§1, ¶C, as amended by PL 2007, c. 597, §10 and PL 2011, c. 657, Pt. W, §6, is further amended by amending subparagraph (2) to read:

(2) All meetings and records of the council are subject to the provisions of Title 1, chapter 13, subchapter 1, except that, by majority vote of those members present recorded in a public session, records and meetings of the council may be closed to the public when public disclosure of the subject matter of the records or meetings would adversely affect the competitive position of the milk industry of the State ~~or segments of that industry.~~ The Commissioner of Agriculture, Conservation and Forestry and those members of the Legislature appointed to serve on the joint standing committee of the Legislature having jurisdiction over agricultural, conservation and forestry matters have access to all material designated confidential by the council;

Sec. B-8. Public records exceptions and confidential records; drafting templates. The Office of Policy and Legal Analysis, in consultation with the Office of the Revisor of Statutes and the Right To Know Advisory Committee, shall examine inconsistencies in statutory language related to the designation as confidential or not subject to public disclosure of information and records received or prepared for use in connection with the transaction of public or governmental business or containing information relating to the transaction of public or governmental business and shall recommend standardized language for use in drafting statutes to clearly delineate what information is confidential and the circumstances under which that information may appropriately be released. On or before September 1, 2021, the Office of Policy and Legal

Analysis shall submit a report with its recommendations to the Right To Know Advisory Committee.

See title page for effective date.

CHAPTER 668
H.P. 1501 - L.D. 2105

**An Act To Protect Consumers
from Surprise Emergency
Medical Bills**

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, it is critically important that this legislation take effect before the expiration of the 90-day period; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 22 MRSA §1718-D, as enacted by PL 2017, c. 218, §1 and affected by §3, is amended to read:

§1718-D. Prohibition on balance billing for surprise bills and bills for out-of-network emergency services; disputes of bills for uninsured patients and persons covered under self-insured health benefit plans

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

A. "Enrollee" has the same meaning as in Title 24-A, section 4301-A, subsection 5.

B. "Health plan" has the same meaning as in Title 24-A, section 4301-A, subsection 7.

B-1. "Knowingly elected to obtain the services from an out-of-network provider" means that an enrollee chose the services of a specific provider, with full knowledge that the provider is an out-of-network provider with respect to the enrollee's health plan, under circumstances that indicate that the enrollee had and was informed of the opportunity to receive services from a network provider but instead selected the out-of-network provider. The disclosure by a provider of network status does not render an enrollee's decision to proceed with treatment from that provider a choice made knowingly pursuant to this paragraph.

C. "Provider" has the same meaning as in Title 24-A, section 4301-A, subsection 16.

D. "Surprise bill" has the same meaning as in Title 24-A, section 4303-C, subsection 1.

E. "Visit" means any interaction between an enrollee and one or more providers for the purpose of assessing the health status of an enrollee or providing one or more health care services between the time an enrollee enters a facility and the time an enrollee is discharged.

2. Prohibition on balance billing. An out-of-network provider reimbursed for a surprise bill or a bill for covered emergency services under Title 24-A, section 4303-C, subsection 2, paragraph B or, if there is a dispute, under Title 24-A, section 4303-E may not bill an enrollee for health care services beyond the applicable coinsurance, copayment, deductible or other out-of-pocket cost expense that would be imposed for the health care services if the services were rendered by a network provider under the enrollee's health plan. For an enrollee subject to coinsurance, the out-of-network provider shall calculate the coinsurance amount based on the median network rate for that health care service under the enrollee's health plan. An out-of-network provider is also subject to the following with respect to any overpayment made by an enrollee.

A. If an out-of-network provider provides health care services covered under an enrollee's health plan and the out-of-network provider receives payment from the enrollee for health care services for which the enrollee is not responsible pursuant to this subsection, the out-of-network provider shall reimburse the enrollee within 30 calendar days after the earlier of the date that the provider received notice of the overpayment and the date the provider became aware of the overpayment.

B. An out-of-network provider that fails to reimburse an enrollee for an overpayment as required by paragraph A shall pay interest on the overpayment at the rate of 10% per annum beginning on the earlier of the date the provider received notice of the overpayment and the date the provider became aware of the overpayment. An enrollee is not required to request the accrued interest from the out-of-network provider in order to receive interest with the reimbursement amount.

3. Uninsured patients; disputes of bills. An uninsured patient who has received a bill for emergency services from a provider for one or more emergency health care services rendered during a single visit totaling \$750 or more may dispute the bill and request resolution of the dispute using the process under Title 24-A, section 4303-E. The independent dispute resolution entity contracted to resolve the dispute over the surprise bill shall select either the out-of-network provider's fee or the uninsured patient's proposed payment amount in

[PL 2009, c. 334, §§1-3 (AMD).]

3. Public records. The term "public records" means any written, printed or graphic matter or any mechanical or electronic data compilation from which information can be obtained, directly or after translation into a form susceptible of visual or aural comprehension, that is in the possession or custody of an agency or public official of this State or any of its political subdivisions, or is in the possession or custody of an association, the membership of which is composed exclusively of one or more of any of these entities, and has been received or prepared for use in connection with the transaction of public or governmental business or contains information relating to the transaction of public or governmental business, except:

A. Records that have been designated confidential by statute; [PL 1975, c. 758 (NEW).]

B. Records that would be within the scope of a privilege against discovery or use as evidence recognized by the courts of this State in civil or criminal trials if the records or inspection thereof were sought in the course of a court proceeding; [PL 1975, c. 758 (NEW).]

C. Legislative papers and reports until signed and publicly distributed in accordance with legislative rules, and records, working papers, drafts and interoffice and intraoffice memoranda used or maintained by any Legislator, legislative agency or legislative employee to prepare proposed Senate or House papers or reports for consideration by the Legislature or any of its committees during the legislative session or sessions in which the papers or reports are prepared or considered or to which the paper or report is carried over; [PL 1991, c. 773, §2 (AMD).]

C-1. Information contained in a communication between a constituent and an elected official if the information:

(1) Is of a personal nature, consisting of:

(a) An individual's medical information of any kind, including information pertaining to diagnosis or treatment of mental or emotional disorders;

(b) Credit or financial information;

(c) Information pertaining to the personal history, general character or conduct of the constituent or any member of the constituent's immediate family; or

(d) Complaints, charges of misconduct, replies to complaints or charges of misconduct or memoranda or other materials pertaining to disciplinary action; or

(2) Would be confidential if it were in the possession of another public agency or official; [PL 2019, c. 667, Pt. A, §1 (AMD).]

D. Material prepared for and used specifically and exclusively in preparation for negotiations, including the development of bargaining proposals to be made and the analysis of proposals received, by a public employer in collective bargaining with its employees and their designated representatives; [PL 1989, c. 358, §4 (AMD).]

E. Records, working papers, interoffice and intraoffice memoranda used by or prepared for faculty and administrative committees of the Maine Maritime Academy, the Maine Community College System and the University of Maine System when the subject matter is confidential or otherwise protected from disclosure by statute, other law, legal precedent or privilege recognized by the courts of this State. The provisions of this paragraph do not apply to the boards of trustees and the committees and subcommittees of those boards, which are referred to in subsection 2, paragraph B; [PL 2019, c. 667, Pt. B, §1 (AMD).]

F. Records that would be confidential if they were in the possession or custody of an agency or public official of the State or any of its political or administrative subdivisions are confidential if those records are in the possession of an association, the membership of which is composed

§402. Definitions

1. Conditional approval. Approval of an application or granting of a license, certificate or any other type of permit upon conditions not otherwise specifically required by the statute, ordinance or regulation pursuant to which the approval or granting is issued.

[PL 1975, c. 758 (NEW).]

1-A. Legislative subcommittee. "Legislative subcommittee" means 3 or more Legislators from a legislative committee appointed for the purpose of conducting legislative business on behalf of the committee.

[PL 1991, c. 773, §1 (NEW).]

2. Public proceedings. The term "public proceedings" as used in this subchapter means the transactions of any functions affecting any or all citizens of the State by any of the following:

A. The Legislature of Maine and its committees and subcommittees; [PL 1975, c. 758 (NEW).]

B. Any board or commission of any state agency or authority, the Board of Trustees of the University of Maine System and any of its committees and subcommittees, the Board of Trustees of the Maine Maritime Academy and any of its committees and subcommittees, the Board of Trustees of the Maine Community College System and any of its committees and subcommittees; [PL 1989, c. 878, Pt. A, §1 (RPR); PL 2003, c. 20, Pt. OO, §2 (AMD); PL 2003, c. 20, Pt. OO, §4 (AFF).]

C. Any board, commission, agency or authority of any county, municipality, school district or any regional or other political or administrative subdivision; [PL 1991, c. 848, §1 (AMD).]

D. The full membership meetings of any association, the membership of which is composed exclusively of counties, municipalities, school administrative units or other political or administrative subdivisions; of boards, commissions, agencies or authorities of any such subdivisions; or of any combination of any of these entities; [PL 1995, c. 608, §1 (AMD).]

E. The board of directors of a nonprofit, nonstock private corporation that provides statewide noncommercial public broadcasting services and any of its committees and subcommittees; [PL 2009, c. 334, §1 (AMD).]

F. Any advisory organization, including any authority, board, commission, committee, council, task force or similar organization of an advisory nature, established, authorized or organized by law or resolve or by Executive Order issued by the Governor and not otherwise covered by this subsection, unless the law, resolve or Executive Order establishing, authorizing or organizing the advisory organization specifically exempts the organization from the application of this subchapter; and [PL 2009, c. 334, §2 (AMD).]

G. The committee meetings, subcommittee meetings and full membership meetings of any association that:

(1) Promotes, organizes or regulates statewide interscholastic activities in public schools or in both public and private schools; and

(2) Receives its funding from the public and private school members, either through membership dues or fees collected from those schools based on the number of participants of those schools in interscholastic activities.

This paragraph applies to only those meetings pertaining to interscholastic sports and does not apply to any meeting or any portion of any meeting the subject of which is limited to personnel issues, allegations of interscholastic athletic rule violations by member schools, administrators, coaches or student athletes or the eligibility of an individual student athlete or coach. [PL 2009, c. 334, §3 (NEW).]

exclusively of one or more political or administrative subdivisions of the State; of boards, commissions, agencies or authorities of any such subdivisions; or of any combination of any of these entities; [PL 1991, c. 448, §1 (AMD).]

G. Materials related to the development of positions on legislation or materials that are related to insurance or insurance-like protection or services which are in the possession of an association, the membership of which is composed exclusively of one or more political or administrative subdivisions of the State; of boards, commissions, agencies or authorities of any such subdivisions; or of any combination of any of these entities; [PL 1991, c. 448, §1 (AMD).]

H. Medical records and reports of municipal ambulance and rescue units and other emergency medical service units, except that such records and reports must be available upon request to law enforcement officers investigating criminal conduct; [PL 1995, c. 608, §4 (AMD).]

I. Juvenile records and reports of municipal fire departments regarding the investigation and family background of a juvenile fire setter; [PL 1999, c. 96, §1 (AMD).]

J. Working papers, including records, drafts and interoffice and intraoffice memoranda, used or maintained by any advisory organization covered by subsection 2, paragraph F, or any member or staff of that organization during the existence of the advisory organization. Working papers are public records if distributed in a public meeting of the advisory organization; [PL 2019, c. 667, Pt. B, §2 (AMD).]

K. Personally identifying information concerning minors that is obtained or maintained by a municipality in providing recreational or nonmandatory educational programs or services. This paragraph does not apply to records governed by Title 20-A, section 6001 and does not supersede Title 20-A, section 6001-A; [PL 2019, c. 667, Pt. A, §2 (AMD).]

L. Records describing security plans, security procedures or risk assessments prepared specifically for the purpose of preventing or preparing for acts of terrorism, but only to the extent that release of information contained in the record could reasonably be expected to jeopardize the physical safety of government personnel or the public. Information contained in records covered by this paragraph may be disclosed to the Legislature or, in the case of a political or administrative subdivision, to municipal officials or board members under conditions that protect the information from further disclosure. For purposes of this paragraph, "terrorism" means conduct that is designed to cause serious bodily injury or substantial risk of bodily injury to multiple persons, substantial damage to multiple structures whether occupied or unoccupied or substantial physical damage sufficient to disrupt the normal functioning of a critical infrastructure; [PL 2003, c. 614, §1 (AMD).]

M. Records or information describing the architecture, design, access authentication, encryption or security of information technology infrastructure, systems and software, including records or information maintained to ensure government operations and technology continuity and to facilitate disaster recovery. Records or information covered by this paragraph may be disclosed to the Legislature or, in the case of a political or administrative subdivision, to municipal officials or board members under conditions that protect the information from further disclosure; [PL 2019, c. 667, Pt. A, §3 (AMD).]

N. Social security numbers; [PL 2011, c. 320, Pt. E, §1 (AMD).]

O. Personal contact information concerning public employees, except when that information is public pursuant to other law. For the purposes of this paragraph:

- (1) "Personal contact information" means personal address, telephone number, facsimile number, e-mail address, cellular telephone number, pager number and username, password and uniform resource locator for a personal social media account as defined in Title 26, section 615, subsection 4; and

(2) "Public employee" means an employee as defined in Title 14, section 8102, subsection 1, except that "public employee" does not include elected officials; [PL 2019, c. 667, Pt. B, §3 (AMD).]

P. Geographic information regarding recreational trails that are located on private land that are authorized voluntarily as such by the landowner with no public deed or guaranteed right of public access, unless the landowner authorizes the release of the information; [PL 2011, c. 149, §1 (AMD).]

REVISOR'S NOTE: (Paragraph P as enacted by PL 2009, c. 339, §3 is REALLOCATED TO TITLE 1, SECTION 402, SUBSECTION 3, PARAGRAPH Q)

Q. (REALLOCATED FROM T. 1, §402, sub-§3, ¶P) Security plans, staffing plans, security procedures, architectural drawings or risk assessments prepared for emergency events that are prepared for or by or kept in the custody of the Department of Corrections or a county jail if there is a reasonable possibility that public release or inspection of the records would endanger the life or physical safety of any individual or disclose security plans and procedures not generally known by the general public. Information contained in records covered by this paragraph may be disclosed to state and county officials if necessary to carry out the duties of the officials or the Department of Corrections under conditions that protect the information from further disclosure; [PL 2015, c. 335, §1 (AMD).]

R. [PL 2017, c. 163, §1 (RP).]

S. E-mail addresses obtained by a political subdivision of the State for the sole purpose of disseminating noninteractive notifications, updates and cancellations that are issued from the political subdivision or its elected officers to an individual or individuals that request or regularly accept these noninteractive communications; [PL 2015, c. 161, §1 (AMD).]

T. Records describing research for the development of processing techniques for fisheries, aquaculture and seafood processing or the design and operation of a depuration plant in the possession of the Department of Marine Resources; [PL 2017, c. 118, §1 (AMD).]

U. Records provided by a railroad company pursuant to Title 23, section 7311, subsection 5 and records describing hazardous materials transported by the railroad company in this State, the routes of hazardous materials shipments and the frequency of hazardous materials operations on those routes that are in the possession of a state or local emergency management entity or law enforcement agency, fire department or other first responder, except that records related to a train carrying hazardous materials that has derailed at any point from a main line train track or related to a discharge of hazardous materials transported by a railroad company that poses a threat to public health, safety and welfare are subject to public disclosure after that discharge. For the purposes of this paragraph, "hazardous material" has the same meaning as set forth in 49 Code of Federal Regulations, Section 105.5; and [PL 2023, c. 618, §1 (AMD).]

V. Participant application materials and other personal information obtained or maintained by a municipality or other public entity in administering a community well-being check program, except that a participant's personal information, including health information, may be made available to first responders only as necessary to implement the program. For the purposes of this paragraph, "community well-being check program" means a voluntary program that involves daily, or regular, contact with a participant and, when contact cannot be established, sends first responders to the participant's residence to check on the participant's well-being. [PL 2017, c. 118, §3 (NEW).]
[PL 2023, c. 618, §1 (AMD).]

3-A. Public records further defined. "Public records" also includes the following criminal justice agency records:

A. Records relating to prisoner furloughs to the extent they pertain to a prisoner's identity, public criminal history record information, as defined in Title 16, section 703, subsection 8, address of furlough and dates of furlough; [PL 2013, c. 267, Pt. B, §1 (AMD).]

B. Records relating to out-of-state adult probationer or parolee supervision to the extent they pertain to a probationer's or parolee's identity, public criminal history record information, as defined in Title 16, section 703, subsection 8, address of residence and dates of supervision; and [PL 2013, c. 267, Pt. B, §1 (AMD).]

C. Records to the extent they pertain to a prisoner's, adult probationer's or parolee's identity, public criminal history record information, as defined in Title 16, section 703, subsection 8, and current address or location, unless the Commissioner of Corrections determines that it would be detrimental to the welfare of a client to disclose the information. [PL 2013, c. 267, Pt. B, §1 (AMD).]
[PL 2013, c. 267, Pt. B, §1 (AMD).]

4. Public records of interscholastic athletic organizations. Any records or minutes of meetings under subsection 2, paragraph G are public records.
[PL 2009, c. 334, §4 (NEW).]

5. Public access officer. "Public access officer" means the person designated pursuant to section 413, subsection 1.
[PL 2011, c. 662, §3 (NEW).]

6. Reasonable office hours. "Reasonable office hours" includes all regular office hours of an agency or official.
[PL 2011, c. 662, §3 (NEW).]

SECTION HISTORY

PL 1973, c. 433, §1 (AMD). PL 1975, c. 243 (RPR). PL 1975, c. 483, §2 (AMD). PL 1975, c. 758 (RPR). PL 1977, c. 164, §§1,2 (AMD). PL 1977, c. 696, §9 (AMD). PL 1985, c. 695, §§1,2 (AMD). PL 1985, c. 779, §§1,2 (AMD). PL 1987, c. 20, §1 (AMD). PL 1987, c. 402, §A1 (AMD). PL 1987, c. 477, §1 (AMD). PL 1989, c. 358, §§1-4 (AMD). PL 1989, c. 443, §§1,2 (AMD). PL 1989, c. 878, §§A1,2 (AMD). PL 1991, c. 448, §§1,2 (AMD). PL 1991, c. 773, §§1,2 (AMD). PL 1991, c. 848, §1 (AMD). PL 1995, c. 608, §§1-5 (AMD). PL 1997, c. 714, §1 (AMD). PL 1999, c. 96, §§1-3 (AMD). PL 2001, c. 477, §1 (AMD). PL 2001, c. 675, §§1-3 (AMD). PL 2003, c. 20, §OO2 (AMD). PL 2003, c. 20, §OO4 (AFF). PL 2003, c. 392, §§1-3 (AMD). PL 2003, c. 614, §§1-3 (AMD). PL 2005, c. 381, §§1-3 (AMD). PL 2007, c. 597, §1 (AMD). RR 2009, c. 1, §§1-3 (COR). PL 2009, c. 176, §§1-3 (AMD). PL 2009, c. 334, §§1-4 (AMD). PL 2009, c. 339, §§1-3 (AMD). PL 2011, c. 149, §§1-3 (AMD). PL 2011, c. 264, §1 (AMD). PL 2011, c. 320, Pt. E, §1 (AMD). PL 2011, c. 662, §§2, 3 (AMD). PL 2013, c. 267, Pt. B, §1 (AMD). PL 2013, c. 339, §§1-3 (AMD). PL 2013, c. 518, §§1-3 (AMD). PL 2015, c. 161, §§1-3 (AMD). PL 2015, c. 335, §1 (AMD). PL 2017, c. 118, §§1-3 (AMD). PL 2017, c. 163, §1 (AMD). PL 2019, c. 667, Pt. A, §§1-3 (AMD). PL 2019, c. 667, Pt. B, §§1-4 (AMD). PL 2023, c. 618, §1 (AMD).

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13TH RT RAC Key at (2019)

Public records exceptions reviewed in 2017-2018 for which no statutory change is recommended, including those recommended for further review in 2019

The following public records exceptions should be retained without change:

- Title 1, section 402, subsection 3, paragraph A: Records that have been designated confidential by statute
- Title 1, section 402, subsection 3, paragraph B: Records that would be within the scope of a privilege against discovery or use as evidence recognized by the courts of this State in civil or criminal trials if the records or inspection thereof were sought in the course of a court proceeding
- Title 1, section 402, subsection 3, paragraph C: Legislative papers and reports until signed and publicly distributed in accordance with legislative rules, and records, working papers, drafts and interoffice and intraoffice memoranda used or maintained by any Legislator, legislative agency or legislative employee to prepare proposed Senate or House papers or reports for consideration by the Legislature or any of its committees during the legislative session or sessions in which the papers or reports are prepared or considered or to which the paper or report is carried over
- Title 1, section 402, subsection 3, paragraph D: Material prepared for and used specifically and exclusively in preparation for negotiations, including the development of bargaining proposals to be made and the analysis of proposals received, by a public employer in collective bargaining with its employees and their designated representatives
- Title 1, section 402, subsection 3, paragraph F, relating to records that would be confidential if they were in the possession or custody of an agency or public official of the State or any of its political or administrative subdivisions and are in the possession of an association, the membership of which is composed exclusively of one or more political or administrative subdivisions of the State; of boards, commissions, agencies or authorities of any such subdivisions; or of any combination of any of these entities
- Title 1, section 402, subsection 3, paragraph G, relating to materials related to the development of positions on legislation or materials that are related to insurance or insurance-like protection or services which are in the possession of an association, the membership of which is composed exclusively of one or more political or administrative subdivisions of the State; of boards, commissions, agencies or authorities of any such subdivisions; or of any combination of any of these entities
- Title 1, section 402, subsection 3, paragraph H, relating to medical records and reports of municipal ambulance and rescue units and other emergency medical service units
- Title 1, section 402, subsection 3, paragraph I, relating to juvenile records and reports of municipal fire departments regarding the investigation and family background of a juvenile fire setter
- Title 1, section 402, subsection 3, paragraph L, relating to records describing security plans, security procedures or risk assessments prepared specifically for the purpose of preventing or preparing for acts of terrorism

§2425-A. Registry identification cards and registration certificates

This section governs registry identification cards and registration certificates, except that registration of manufacturing facilities and persons authorized to engage in cannabis extraction is governed by section 2423-F and registration of cannabis testing facilities is governed by section 2423-A, subsection 10. [PL 2017, c. 452, §12 (NEW); PL 2021, c. 669, §5 (REV).]

1. Voluntary registration.

[PL 2023, c. 679, Pt. A, §9 (RP).]

2. Required registration. A caregiver, other than a caregiver operating under section 2423-A, subsection 3, paragraph C, and an officer or director or assistant of a dispensary or a caregiver, other than a caregiver operating under section 2423-A, subsection 3, paragraph C, shall obtain a registry identification card in accordance with subsections 3, 4 and 5. A long-term care facility designated by a qualifying patient pursuant to section 2423-A, subsection 1, paragraph F-1, subparagraph (2) and a dispensary shall obtain a registration certificate in accordance with subsections 6, 7 and 8.

[PL 2017, c. 452, §12 (NEW).]

3. Application for registry identification card; qualifications. The department shall register and issue a registry identification card to an applicant who submits a complete application that meets the requirements of this subsection.

The department shall conduct a criminal history record check for any applicant for a registry identification card, except that an assistant is not required to submit to a criminal history record check. The criminal history record check is valid for 2 years from the date it was conducted, regardless of the person's employment status. Except as provided in subsection 3-A, the department may not issue a registry identification card to an applicant who is not permitted under this chapter to have a disqualifying drug offense.

An application must include, as applicable:

A. The fee required pursuant to subsection 10; and [PL 2023, c. 679, Pt. A, §11 (AMD).]

B. A statement that the requirements of section 2423-B have been met if the qualifying patient applying for the registry identification card has not attained 18 years of age and the qualifying patient's parent, guardian or person having legal custody of the patient consents in writing to:

(1) The qualifying patient's medical use of cannabis;

(2) Serving as one of the qualifying patient's caregivers; and

(3) Controlling the acquisition of the cannabis plants or harvested cannabis and the dosage and the frequency of the medical use of cannabis by the qualifying patient. [PL 2017, c. 452, §12 (NEW); PL 2021, c. 669, §5 (REV).]

[PL 2023, c. 679, Pt. A, §§10, 11 (AMD).]

3-A. Criminal history record check for caregivers administering medical cannabis on school grounds. The department shall request a criminal history record check for a caregiver designated under section 2423-A, subsection 1, paragraph F-1, subparagraph (4), except for a caregiver who is a parent, a legal guardian or a person having legal custody of the qualifying patient. The department may not issue a registry identification card to an applicant who is not permitted to have a disqualifying drug offense or who would be denied an approval, credential, certification, authorization or renewal under Title 20-A, section 6103 or 13011 based on that criminal history record check.

The criminal history record check requested under this subsection must include criminal history record information obtained from the Maine Criminal Justice Information System established in Title 16, section 631 and the Federal Bureau of Investigation. The following provisions apply.

- A. The criminal history record information obtained from the Maine Criminal Justice Information System must include a record of public criminal history record information as defined in Title 16, section 703, subsection 8. [PL 2017, c. 452, §12 (NEW).]
- B. The criminal history record information obtained from the Federal Bureau of Investigation must include other state and national criminal history record information. [PL 2017, c. 452, §12 (NEW).]
- C. A person subject to a criminal history record check under this section shall submit to having fingerprints taken. The State Police, upon payment of the fee, shall take or cause to be taken the person's fingerprints and shall forward the fingerprints to the State Bureau of Identification so that the bureau can conduct state and national criminal history record checks. Except for the portion of the payment, if any, that constitutes the processing fee charged by the Federal Bureau of Investigation, all money received by the State Police for purposes of this paragraph must be paid over to the Treasurer of State. The money must be applied to the expenses of administration incurred by the Department of Public Safety. [PL 2017, c. 452, §12 (NEW).]
- D. The subject of a Federal Bureau of Investigation criminal history record check may obtain a copy of the criminal history record check by following the procedures outlined in 28 Code of Federal Regulations, Sections 16.32 and 16.33. The subject of a state criminal history record check may inspect and review the criminal history record information pursuant to Title 16, section 709. [PL 2017, c. 452, §12 (NEW).]
- E. State and federal criminal history record information may be used by the department for the purpose of screening a person in accordance with this chapter. [PL 2019, c. 331, §19 (AMD).]
- F. Information obtained pursuant to this subsection is confidential. The results of criminal history record checks received by the department are for official use only and may not be disseminated to any other person. [PL 2019, c. 331, §19 (AMD).]
- G. If a person is no longer subject to this chapter that person may request in writing that the State Bureau of Identification remove the person's fingerprints from the bureau's fingerprint file. In response to a written request, the bureau shall remove the person's fingerprints from the fingerprint file and provide written confirmation of that removal. [PL 2017, c. 452, §12 (NEW).]

The department, with the Department of Public Safety, Bureau of State Police, State Bureau of Identification, shall adopt rules to implement this subsection. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A, except that, beginning July 1, 2021, rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

[PL 2021, c. 387, §8 (AMD); PL 2021, c. 669, §5 (REV).]

4. Issuance or denial of registry identification cards. The department shall verify the information contained in an application for a registry identification card or for renewal of a card submitted pursuant to subsection 3 and shall approve or deny a complete application in accordance with this subsection within 30 days of receipt.

- A. Within 5 business days of approving a complete application, the department shall issue a registry identification card to the applicant. [PL 2021, c. 662, §22 (AMD).]
- B. The department may deny an application for a card or for renewal of a card only if:
- (1) The applicant did not provide the information required pursuant to subsection 3;
 - (2) The department determines that the applicant does not qualify; or
 - (3) The department determines that the information provided by the applicant was falsified.
- [PL 2017, c. 452, §12 (NEW).]

C. The department shall notify the applicant and, if the applicant is an officer or director or assistant of a registered dispensary, the registered dispensary, in writing of the reason for denying the registry identification card. [PL 2017, c. 452, §12 (NEW).]

An applicant whose application is denied pursuant to this subsection may request an administrative hearing in accordance with Title 5, chapter 375, subchapter 4.

In the case of a caregiver's application for renewal of a registry identification card, upon receipt of a timely filed, complete application submitted by the caregiver, the department shall provide the caregiver with a written statement acknowledging receipt of the application that authorizes the caregiver to continue operating under the caregiver's current card until the application is approved and a renewed card is issued by the department, the application is denied and the current card expires, 90 days elapse from the date of the written statement or the current card is suspended or revoked in accordance with this chapter, whichever occurs first. If the department fails to issue or deny a renewal of a registry identification card within 90 days of providing the written statement acknowledging receipt of the application, the renewal is deemed granted and a copy of the application for renewal of the registry identification card is deemed a valid registry identification card.

If the department fails to issue or deny a valid registry identification card in response to a complete application for a card submitted pursuant to subsection 3 within 45 days of its submission, the registry identification card is deemed granted and a copy of the application for a registry identification card is deemed a valid registry identification card.

[PL 2021, c. 662, §22 (AMD).]

5. Requirements for issuance of registry identification cards. The following provisions apply to the issuance of registry identification cards.

A. A registry identification card expires 2 years after the date of issuance, regardless of the person's employment status, except that a caregiver's registry identification card expires one year after the date of issuance. The card must contain:

- (1) The name of the cardholder;
- (2) The date of issuance and expiration date;
- (3) A randomly generated unique identification number to the cardholder;
- (4) A clear designation showing whether the cardholder is allowed under this chapter to cultivate cannabis plants; and
- (5) A photograph of the cardholder, if required by the department. [PL 2023, c. 679, Pt. A, §12 (AMD).]

B. If a caregiver is organized as a legal business entity pursuant to section 2423-A, subsection 2, paragraph Q, the caregiver may obtain a registry identification card in the name of the business entity if the caregiver submits evidence of the business entity's registration with the Secretary of State and evidence that the business entity is in good standing with the Secretary of State. [PL 2017, c. 452, §12 (NEW).]

C. Registry identification cards issued to an officer or director of a registered dispensary must also contain:

- (1) The legal name of the registered dispensary with which the officer or director is affiliated;
- (2) The address and date of birth of the officer or director; and
- (3) A photograph of the officer or director if required by the department. [PL 2021, c. 662, §23 (AMD).]

C-1. Registry identification cards issued to an assistant of a registered caregiver or registered dispensary must also contain:

- (1) The address and date of birth of the assistant; and
- (2) A photograph of the assistant if required by the department. [PL 2021, c. 662, §24 (NEW).]

D. The registry identification card of an officer or director of a registered dispensary expires 10 days after notification is given to the department by the registered dispensary that the person has ceased to work at the dispensary. [PL 2021, c. 662, §25 (AMD).]
[PL 2023, c. 679, Pt. A, §12 (AMD).]

5-A. Issuance of single registry identification card to caregiver or dispensary assistant. The department shall issue a single registry identification card pursuant to this section authorizing a person to be an assistant of one or more registered caregivers or registered dispensaries and who satisfies all applicable requirements under this section for issuance of a registry identification card. A single registry identification card issued to a person in accordance with this subsection authorizes the person to assist one or more registered caregivers or registered dispensaries in accordance with this chapter and may not associate the person with or restrict the person to assisting a specific caregiver or dispensary.
[PL 2021, c. 662, §26 (NEW).]

6. Application for registration certificate; qualifications. The department shall register and issue a registration certificate to an applicant who submits a complete application that meets the requirements of this subsection. An application must include, as applicable:

- A. The annual fee required pursuant to subsection 10; [PL 2017, c. 452, §12 (NEW).]
- B. Evidence of the applicant's registration with the Secretary of State and evidence that the applicant is in good standing with the Secretary of State; and [PL 2017, c. 452, §12 (NEW).]
- C. The name, address and date of birth of each officer or director of the applicant. [PL 2017, c. 452, §12 (NEW).]
[PL 2017, c. 452, §12 (NEW).]

7. Issuance or denial of registration certificate. The department shall verify the information contained in an application for a registration certificate or for renewal of a certificate submitted pursuant to subsection 6 and shall approve or deny a complete application in accordance with this subsection within 30 days of receipt.

- A. Within 10 days of approving a complete application, the department shall issue a registration certificate to the applicant. [PL 2021, c. 662, §27 (AMD).]
- B. The department may deny an application for a certificate or for renewal of a certificate only if:
 - (1) The applicant did not provide the information required pursuant to subsection 6;
 - (2) The department determines that the applicant does not qualify; or
 - (3) The department determines that the information provided by the applicant was falsified.
[PL 2017, c. 452, §12 (NEW).]
- C. The department shall notify the applicant in writing of the reason for denying the registration certificate. [PL 2017, c. 452, §12 (NEW).]

An applicant whose application is denied pursuant to this subsection may request an administrative hearing in accordance with Title 5, chapter 375, subchapter 4.

In the case of a registered dispensary's application for renewal of a registration certificate, upon receipt of a timely filed, complete application submitted by the dispensary, the department shall provide the

dispensary with a written statement acknowledging receipt of the application that authorizes the dispensary to continue operating under the dispensary's current certificate until the application is approved and a renewed certificate is issued by the department, the application is denied and the current certificate expires, 90 days elapse from the date of the written statement or the current certificate is suspended or revoked in accordance with this chapter, whichever occurs first. If the department fails to issue or deny a renewal of a registration certificate within 90 days of providing the written statement acknowledging receipt of the application, the renewal is deemed granted and a copy of the application for renewal of the registration certificate is deemed a valid registration certificate.

If the department fails to issue or deny a registration certificate in response to a complete application for a certificate submitted pursuant to subsection 6 within 45 days of its submission, the registration certificate is deemed granted and a copy of the application for a registration certificate is deemed a valid registration certificate.

[PL 2021, c. 662, §27 (AMD).]

8. Requirements for issuance of registration certificates. A registration certificate expires one year after the date of issuance. The certificate must contain:

A. The name of the certificate holder; [PL 2017, c. 452, §12 (NEW).]

B. The date of issuance and expiration date of the registration certificate; [PL 2017, c. 452, §12 (NEW).]

C. A random identification number that is unique to the certificate holder; [PL 2017, c. 452, §12 (NEW).]

D. The physical address of the certificate holder and, if the certificate holder is a dispensary, the physical address of one additional location, if any, where cannabis plants will be cultivated; and [PL 2019, c. 331, §20 (AMD); PL 2021, c. 669, §5 (REV).]

E. A clear designation showing whether the certificate holder is allowed under this chapter to cultivate cannabis plants. [PL 2017, c. 452, §12 (NEW); PL 2021, c. 669, §5 (REV).]

[PL 2019, c. 331, §20 (AMD); PL 2021, c. 669, §5 (REV).]

9. Drug testing. The department may not require an assistant of a caregiver, dispensary, manufacturing facility or cannabis testing facility who is an applicant for a registry identification card to submit to a drug test as a condition of receiving a registry identification card. This subsection does not prevent a caregiver, dispensary, manufacturing facility or cannabis testing facility from requiring drug testing of its assistants as a condition of employment.

[PL 2017, c. 452, §12 (NEW); PL 2021, c. 669, §5 (REV).]

10. Fees. The department shall adopt rules to establish fees in accordance with this subsection. The application and renewal fees must generate revenues sufficient to offset all expenses of implementing and administering this chapter. The department may accept donations from private sources to offset the expenses of implementing and administering this chapter and shall, if those donations are received, reduce application and renewal fees accordingly. The fees and donations must be credited to the Medical Use of Cannabis Fund pursuant to section 2430. Rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

A. There is no annual registration fee for a qualifying patient or visiting qualifying patient or a caregiver who is not required to register pursuant to section 2423-A, subsection 3, paragraph C. There is no annual registration fee for a caregiver who does not cultivate cannabis plants for a qualifying patient. [PL 2017, c. 452, §12 (NEW); PL 2021, c. 669, §5 (REV).]

B. There is an annual registration fee for a caregiver who cultivates cannabis plants on behalf of a qualifying patient pursuant to section 2423-A, subsection 2, paragraph B.

(1) For a caregiver registering based upon plant count, the fee may not be less than \$50 or more than \$240 for each group of up to 6 mature cannabis plants cultivated by the caregiver. The caregiver shall notify the department of the number of cannabis plants the caregiver cultivates.

(2) For a caregiver registering based upon plant canopy, the fee may not be less than \$50 or more than \$1,500 for a total mature plant canopy of 500 square feet or less. [PL 2021, c. 662, §28 (AMD); PL 2021, c. 669, §5 (REV).]

C. There is an annual registration fee for a dispensary, which may not be less than \$5,000 or more than \$12,000. There is a fee to change the location of a registered dispensary or the location at which a registered dispensary cultivates cannabis plants, which may not be less than \$3,000 or more than \$4,000. [PL 2017, c. 452, §12 (NEW); PL 2021, c. 669, §5 (REV).]

D. There is an annual registration fee for a tier 1 manufacturing facility, which may not be less than \$50 or more than \$150. [PL 2017, c. 452, §12 (NEW).]

E. There is an annual registration fee for a tier 2 manufacturing facility, which may not be less than \$150 or more than \$250. [PL 2017, c. 452, §12 (NEW).]

F. There is an annual registration fee to engage in cannabis extraction under section 2423-F, subsection 3, which may not be less than \$250 or more than \$350. [PL 2017, c. 452, §12 (NEW); PL 2021, c. 669, §5 (REV).]

G. There is an annual registration fee for a cannabis testing facility, which may not be less than \$250 or more than \$1,000, except that there is no fee if the testing facility is licensed in accordance with Title 28-B, chapter 1. [PL 2017, c. 452, §12 (NEW); PL 2021, c. 669, §5 (REV).]

H. There is an annual registration fee for an officer or director or assistant of a registered caregiver or registered dispensary, which may not be less than \$20 or more than \$50. [PL 2017, c. 452, §12 (NEW).]

I. There is a fee to replace a registry identification card that has been lost, stolen or destroyed or a card that contains information that is no longer accurate, which may not be less than \$10 or more than \$20. Replacement of a registry identification card does not extend the expiration date. [PL 2017, c. 452, §12 (NEW).]

J. There is a fee for a criminal history record check for a caregiver or an officer or director of a registered dispensary, cannabis testing facility or manufacturing facility, which may not be less than \$31 or more than \$60. The fee must be paid by the caregiver or by the registered dispensary, cannabis testing facility or manufacturing facility for an officer or director of the registered dispensary, cannabis testing facility or manufacturing facility. [PL 2023, c. 679, Pt. A, §13 (AMD).]

[PL 2023, c. 679, Pt. A, §13 (AMD).]

11. Notification of change in status or loss of registry identification card or registration certificate. This subsection governs notification of a change in status or the loss of a registry identification card or registration certificate.

A. If a cardholder loses the cardholder's registry identification card, the cardholder shall notify the department within 10 days of losing the card and submit the fee required by subsection 10, paragraph I. Within 5 days after such notification, the department shall issue a replacement registry identification card. [PL 2017, c. 452, §12 (NEW).]

B. If the information appearing on the cardholder's registry identification card is inaccurate or changes, the cardholder shall notify the department of the inaccuracy or change and submit the fee required by subsection 10, paragraph I. Within 5 days after such notification, the department shall issue a replacement registry identification card. A cardholder who fails to notify the department as

required under this paragraph commits a civil violation for which a fine of not more than \$150 may be adjudged. [PL 2017, c. 452, §12 (NEW).]

C. A registered dispensary shall notify the department in writing of the name, address and date of birth of an officer or director or assistant who ceases to work at the dispensary or cannabis testing facility and of any new officer or director or assistant before the officer or director or assistant begins working at the dispensary or cannabis testing facility. [PL 2017, c. 452, §12 (NEW); PL 2021, c. 669, §5 (REV).]

D. A registered dispensary shall notify the department in writing if the dispensary changes the physical location of the dispensary or the location at which the dispensary cultivates cannabis plants. [PL 2017, c. 452, §12 (NEW); PL 2021, c. 669, §5 (REV).]
[PL 2017, c. 452, §12 (NEW); PL 2021, c. 669, §5 (REV).]

11-A. Temporary appointee. Notwithstanding any provision of this chapter to the contrary, in cases of death, disability, bankruptcy, judicial dissolution or other exceptional circumstances, unless a court appoints a temporary appointee, the office may approve a temporary appointee to take possession of, operate, manage, control or wind down a registrant's operations. Under such circumstances:

A. A temporary appointee must be otherwise qualified under the provisions of this chapter to be a registered caregiver or an officer or director; [PL 2023, c. 679, Pt. A, §14 (NEW).]

B. A temporary appointee may not transfer cannabis or cannabis products for medical use without a valid registry identification card; and [PL 2023, c. 679, Pt. A, §14 (NEW).]

C. The registrant shall submit a plan of temporary appointment, on forms made available by the office, as soon as practicable but no later than 60 days after a qualifying event. [PL 2023, c. 679, Pt. A, §14 (NEW).]

For purposes of this subsection, "temporary appointee" means a court-appointed receiver, personal representative, executor, administrator, guardian, conservator, trustee or similarly situated person or person approved by the office pursuant to this section.
[PL 2023, c. 679, Pt. A, §14 (NEW).]

12. Confidentiality.

[PL 2023, c. 637, §1 (RP).]

13. Reporting requirements.

[PL 2023, c. 365, §9 (RP).]

14. Confidentiality. This subsection governs confidentiality.

A. For purposes of this subsection, "personal contact information" has the same meaning as in Title 1, section 402, subsection 3, paragraph O, subparagraph (1) and "caregiver exempt from registration" means a caregiver who is not required to register pursuant to section 2423-A, subsection 3, paragraph C. [PL 2023, c. 637, §2 (NEW).]

B. Information that identifies a qualifying patient, a visiting qualifying patient or a registered patient under this chapter is confidential and may not be disclosed by the department, except:

- (1) With the written consent of the patient; or
- (2) Pursuant to a court order or a subpoena. [PL 2023, c. 637, §2 (NEW).]

C. Information that identifies a caregiver exempt from registration is confidential and may not be disclosed by the department, except:

- (1) With the written consent of the caregiver; or

(2) Pursuant to a court order or a subpoena or as provided in paragraph F. [PL 2023, c. 637, §2 (NEW).]

D. Except as provided in this paragraph and in paragraphs B and C, applications, supporting information and other information regarding a registered caregiver, including any address where the registered caregiver cultivates, manufactures, tests, packages, stores or sells cannabis plants or harvested cannabis under this chapter, are not confidential. The personal contact information of a registered caregiver or of an applicant for registration as a registered caregiver is confidential and may not be disclosed by the department, except:

- (1) With the written consent of the registered caregiver or applicant for registration as a registered caregiver;
- (2) Pursuant to a court order or a subpoena;
- (3) As provided in paragraph F; or
- (4) If a registered caregiver resides at the same address where the registered caregiver cultivates, manufactures, tests, packages, stores or sells cannabis plants or harvested cannabis under this chapter, the department may disclose that address to a state, county or municipal employee responsible for the administration of this chapter or of rules, ordinances or warrant articles authorized under this chapter, including, but not limited to, law enforcement officers and code enforcement officers. Any information received by a state, county or municipal employee under this subparagraph is confidential and may not be further disclosed or disseminated, except as otherwise provided by law. [PL 2023, c. 637, §2 (NEW).]

E. Except as provided in this paragraph and in paragraphs B and C, applications, supporting information and other information regarding a dispensary, manufacturing facility, cannabis testing facility and an assistant, officer or director of a registered caregiver, dispensary, manufacturing facility or cannabis testing facility under this chapter are not confidential. The personal contact information of a cardholder who is an assistant, officer or director of a registered caregiver, dispensary, manufacturing facility or cannabis testing facility and an applicant for a registry identification card as an assistant, officer or director of a registered caregiver, dispensary, manufacturing facility or cannabis testing facility or registration certificate for a dispensary, manufacturing facility or cannabis testing facility is confidential and may not be disclosed by the department, except:

- (1) With the written consent of the cardholder or applicant; or
- (2) Pursuant to a court order or a subpoena. [PL 2023, c. 637, §2 (NEW).]

F. Notwithstanding any provision of this subsection to the contrary, the department may, when necessary to protect the public from a threat to public health or safety, notify the public of the following:

- (1) The identity of a caregiver exempt from registration, a registered caregiver, a dispensary, a manufacturing facility or a cannabis testing facility associated with the threat to public health or safety and that person's status as a caregiver exempt from registration, registered caregiver, dispensary, manufacturing facility or cannabis testing facility; and
- (2) The location where any cannabis plants or harvested cannabis associated with the threat to public health or safety were cultivated, manufactured, tested, packaged, stored or sold. [PL 2023, c. 637, §2 (NEW).]

G. Notwithstanding any provision of this subsection to the contrary, the department shall comply with Title 36, section 175. Information provided by the department pursuant to this paragraph may be used by the department's Bureau of Revenue Services only for the administration and enforcement of taxes imposed under Title 36. [PL 2023, c. 637, §2 (NEW).]

H. A final written decision of the department pursuant to section 2430-I imposing an administrative penalty; ordering forfeiture and destruction of cannabis plants, cannabis or cannabis products; or suspending or revoking a registry identification card or registration certificate is not confidential. [PL 2023, c. 637, §2 (NEW).]

I. A caregiver, dispensary, manufacturing facility or cannabis testing facility or an officer, director or assistant of a caregiver, dispensary, manufacturing facility or cannabis testing facility may not be required to disclose to a law enforcement officer information that could reasonably identify an individual's identity without a warrant requiring the disclosure. [PL 2023, c. 637, §2 (NEW).]

J. A person who accompanies a patient to obtain cannabis plants or harvested cannabis may not be required to disclose to a law enforcement officer information that could reasonably identify an individual patient's identity without a warrant requiring the disclosure. [PL 2023, c. 637, §2 (NEW).]

[PL 2023, c. 637, §2 (NEW).]

SECTION HISTORY

PL 2017, c. 452, §12 (NEW). PL 2019, c. 331, §§19, 20 (AMD). PL 2021, c. 251, §4 (AMD). PL 2021, c. 367, §§11, 12 (AMD). PL 2021, c. 387, §§8-10 (AMD). PL 2021, c. 662, §§22-30 (AMD). PL 2021, c. 669, §5 (REV). PL 2023, c. 365, §§4-9 (AMD). PL 2023, c. 637, §§1, 2 (AMD). PL 2023, c. 679, Pt. A, §§9-14 (AMD).

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18th RTKAC report (2024)

- Title 22, section 1816, subsection 2, paragraph B, relating to survey findings of health care accrediting organization, including deficiencies and work plans, of hospitals reported to DHHS
- Title 22, section 1828, relating to Medicaid and licensing of hospitals, nursing homes and other medical facilities and entities
- Title 22, section 2140, subsection 17, relating to information collected by DHHS regarding compliance with Maine Death with Dignity Act
- Title 22, section 2153-A, subsection 1, relating to information provided to the Department of Agriculture by the US Department of Agriculture, Food Safety and Inspection Service
- Title 22, section 2153-A, subsection 2, relating to information provided to the Department of Agriculture by the US Food and Drug Administration
- Title 22, section 2425-A, subsection 12, relating to applications and supporting information submitted by patients, caregivers and providers under the Maine Medical Use of Marijuana Act
- Title 22, section 2706, subsection 4, relating to prohibition on release of vital records in violation of section; recipient must have “direct and legitimate interest” or meet other criteria
- Title 22, section 2706-A, subsection 6, relating to adoption contact files
- Title 22, section 2769, subsection 4, relating to adoption contact preference form and medical history form
- Title 22, section 3022, subsections 8, 12, 13 and 14, relating to medical examiner information
- Title 22, section 3034, subsection 2, relating to the Chief Medical Examiner missing persons files
- Title 22, section 3109, subsection 2-A, relating to personal information of TANF participants surveyed by DHHS
- Title 22, section 3174-X, subsection 6, relating to records of the Medicaid ombudsman program
- Title 22, section 3188, subsection 4, relating to the Maine Managed Care Insurance Plan Demonstration for uninsured individuals
- Title 22, section 3192, subsection 13, relating to Community Health Access Program medical data
- Title 22, section 3292, relating to use of confidential information for personnel and licensure actions
- Title 22, section 3293, relating to confidential information provided to state employees and Bureau of Human Resources
- Title 22, section 3295, relating to confidential information provided in unemployment compensation proceedings related to state employment
- Title 22, section 3474, subsection 1, relating to adult protective records
- Title 22, section 3762, subsection 3, relating to TANF recipients
- Title 22, section 4007, subsection 1-A, relating to a protected person’s current or intended address or location in the context of child protection proceeding
- Title 22, section 4008, subsection 1, relating to child protective records

**PUBLIC RECORDS EXCEPTIONS REVIEWED IN 2023:
TITLE 22 EXCEPTIONS RECOMMENDED TO BE CONTINUED
WITHOUT CHANGE**

The following public records exceptions reviewed in Title 22 should remain in law as written:

- Title 22, section 17, subsection 7, relating to records of child support obligors
- Title 22, section 42, subsection 5, relating to DHHS records containing personally identifying medical information
- Title 22, section 261, subsection 7, relating to records created or maintained by the Maternal and Infant Death Review Panel
- Title 22, section 264, subsection 8, relating to records held by the coordinator of the Aging and Disability Mortality Review Panel
- Title 22, section 664, subsection 1, relating to State Nuclear Safety Program facility licensee books and records
- Title 22, section 666, subsection 3, relating to the State Nuclear Safety Program concerning the identity of a person providing information about unsafe activities, conduct or operation or license violation
- Title 22, section 811, subsection 6, relating to hearings regarding testing or admission concerning communicable diseases
- Title 22, section 815, subsection 1, relating to communicable disease information
- Title 22, section 824, relating to persons having or suspected of having communicable diseases
- Title 22, section 832, subsection 3, relating to hearings for consent to test for the source of exposure for a blood-borne pathogen
- Title 22, section 1064, relating to immunization information system
- Title 22, section 1233, relating to syphilis reports based on blood tests of pregnant women
- Title 22, section 1317-C, subsection 3, relating to information regarding the screening of children for lead poisoning or the source of lead exposure
- Title 22, section 1413, relating to information that directly or indirectly identifies individuals included in amyotrophic lateral sclerosis (ALS) registry
- Title 22, section 1494, relating to occupational disease reporting
- Title 22, section 1596, relating to abortion and miscarriage reporting
- Title 22, section 1597-A, subsection 6, relating to a petition for a court order consenting to an abortion for a minor
- Title 22, section 1711-C, subsection 2, relating to hospital records concerning health care information pertaining to an individual
- Title 22, section 1714-E, subsection 5, relating to department records regarding determination of credible allegation of MaineCare fraud
- Title 22, section 1717, subsection 15, relating to personally identifying information or health information created or obtained in connection with DHHS licensing or quality assurance activities