Subcommittee of the
RIGHT TO KNOW ADVISORY COMMITTEE
Public Records Exceptions Subcommittee

Thursday, November 13, 11 1m

Location: State House, Room 209 (Hybrid Meeting)
Public access also available through the Maine Legislature's livestream:
https://legislature.maine.gov/Audio/#209

1. Introductions
2. Discussion of LD 1824
3. Discussion of 1 MRSA §402, sub-§3, ¶H
4. Discussion of remaining exceptions
5. Adjourn

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

Ref. # (previous ref. #)	Title	Description	Responding Agency/ Dept	Agency Proposed Action	Analyst Notes	Subcommittee Action
1	25 MRSA §1577, sub-§1	Title 25, section 1577, subsection 1, relating to the state DNA data base and the state DNA data bank	State Police, Dept of Public Safety	Maine State Police supports the continuation of this exception as written.	correct format for the confidential designation at sub-§1; however, the exceptions language at sub-§2 states that "the following persons or agencies may have access to DNA records." The drafting manual favors language allowing "disclosure" to certain entities.	Accept OPLA recommendation (4-0)
2 (5)	25 MRSA §2806-A, sub-§10	Title 25, section 2806-A, subsection 10, relating to complaints, charges or accusation of misconduct at the Maine Criminal Justice Academy.	Maine Criminal Justice Academy, Department of Public Safety	Maine Criminal Justice Academy supports the continuation of this exception as written.	No changes recommended	No changes (4-0)
3 (13)	26 MRSA §685, sub-§3	Title 26, section 685, subsection 3, relating to substance abuse testing by an employer	Employers, generally	N/A	exceptions language uses "release" instead of "disclosure"	Accept OPLA recommendation (4-0) but strike citation from future exceptions review
4 (28)	27 MRSA §10, sub-§6	Title 27, section 10, subsection 6, relating to personally identifiable information relating to parents and children participating in the Imagination Library of Maine Program	Maine State Library	The State Library does not recommend any changes.	No changes recommended	Subcommittee to review draft – "are confidential and may be disclosed only"
5 (34)	28-B MRSA §114	Title 28-B, section 114, relating to personal contact information of applicants for adult use cannabis establishment license and employees of those establishments	Department of Administrative and Financial Services; Office of Cannabis Policy	DAFS/OCP does not recommend any changes.	No changes recommended	Subcommittee to review draft – limiting language for addresses and emails

6 (35)	28-B MRSA §204, sub-§7	Title 28-B, section 204, subsection 7, relating to criminal history record check information for cannabis license applicants	Department of Administrative and Financial Services; Office of Cannabis Policy	DAFS/OCP does not recommend any changes.	No changes recommended	No changes (4-0)
7 (36)	28-B MRSA §511, sub-§4	Title 28-B, section 511, subsection 4, relating to record keeping, inspection of records, and audits of cannabis establishment licensee documents	Department of Administrative and Financial Services; Office of Cannabis Policy	OCP recommends that the committee define the term "business record" to clarify what records are covered by the exception in § 511. See proposed definition in response materials.	No changes recommended	No changes (4-0)
8 (37)	29-A MRSA §152, sub-§3	Title 29-A, section 152, subsection 3, relating to the Secretary of State's data processing information files concerning motor vehicles	Department of the Secretary of State, Bureau of Motor Vehicles	The SOS does not recommend any changes.	No changes recommended	No changes (4-0)
9 (38)	29-A MRSA §251, sub-§4	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	Department of the Secretary of State, Bureau of Motor Vehicles	The SOS does not recommend any changes.	No changes recommended	No changes (4-0)
10 (39)	29-A MRSA §253	Title 29-A, section 253, relating to motor vehicle records concerning certain nongovernmental vehicles	Department of the Secretary of State, Bureau of Motor Vehicles	Emailed 10.25	May not conform to drafting manual	Accept OPLA recommendation (4-0)
11 (40)	29-A MRSA §255, sub-§1	Title 29-A, section 255, subsection 1, relating to motor vehicle records when a protection order is in effect	Department of the Secretary of State, Bureau of Motor Vehicles	The SOS does not recommend any changes.	No changes recommended	No changes (4-0)
12 (41)	29-A MRSA §257	Title 29-A, section 257, relating to the Secretary of State's motor vehicle information technology system	Department of the Secretary of State,	REPEALED	REPEALED	No changes (4-0)

		REPEALED	Bureau of Motor Vehicles			
13 (42)	29-A MRSA §517, sub-§4	Title 29-A, section 517, subsection 4, relating to motor vehicle records concerning unmarked law enforcement vehicles	Department of the Secretary of State, Bureau of Motor Vehicles	The SOS does not recommend any changes.	No changes recommended	Review statutory history for next meeting
14 (43)	29-A MRSA §1258, sub-§7	Title 29-A, section 1258, subsection 7, relating to the competency of a person to operate a motor vehicle	Department of the Secretary of State, Bureau of Motor Vehicles	Emailed 10.25	No changes recommended	No changes (4-0)
15 (44)	29-A MRSA §1301, sub-§6-A	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	Department of the Secretary of State, Bureau of Motor Vehicles	The SOS does not recommend any changes.	Does not conform to drafting manual; SOS "may not disseminate" records	Accept OPLA recommendation (4-0)
16 (45)	29-A MRSA §1401, sub-§6	Title 29-A, section 1401, subsection 6, relating to driver's license digital images	Department of the Secretary of State, Bureau of Motor Vehicles	The SOS does not recommend any changes.	No changes recommended	No changes (4-0)
17 (46)	29-A MRSA §1410, sub-§5	Title 29-A, section 1410, subsection 5, relating to nondriver identification card digital images	Department of the Secretary of State, Bureau of Motor Vehicles	The SOS does not recommend any changes.	No changes recommended	No changes (4-0)
18 (47)	29-A MRSA §2117, sub-§1	Title 29-A, section 2117, subsection 1, relating to recorded images or audio produced by traffic surveillance cameras on a school bus	Department of the Secretary of State, Bureau of Motor Vehicles	Emailed 10.25	No changes recommended	No changes (4-0)
19 (49)	29-A MRSA §2251, sub-§7-A	Title 29-A, section 2251, subsection 7-A, relating to personally identifying accident report data contained in State Police accident report database	Department of Public Safety	Department of Public Safety supports the continuation of this exception as written	Does not conform to drafting manual; "may not disseminate" and "are not public records" in ¶B	Accept OPLA recommendation (4-0)

20 (50)	29-A MRSA §2601, sub-§3-A	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	State Police, Dept of Public Safety	Maine State Police supports the continuation of this exception as written	No changes recommended	
21 (51)	30-A MRSA §503, sub-§1	Title 30-A, section 503, subsection 1, relating to county personnel records	Maine County Commissioners Association	Emailed 10.8	No changes recommended	
22 (52)	30-A MRSA §503, sub-§1-A	Title 30-A, section 503, subsection 1-A, relating to county personnel records concerning the use of force	Maine County Commissioners Association	Emailed 10.8	No changes recommended	
23 (60)	32 MRSA §85, sub-§3	Title 32, section 85, subsection 3, relating to criminal history record information for an applicant seeking initial licensure by the Emergency Medical Services Board	Department of Public Safety	Maine EMS supports the continuation of this exception as written.	No changes recommended	
24 (61)	32 MRSA §91-B, sub-§1	Title 32, section 91-B, subsection 1, relating to quality assurance activities of an emergency medical services quality assurance committee	Department of Public Safety	Maine EMS supports the continuation of this exception as written.	No changes recommended	No changes (4-0)
25 (62)	32 MRSA §91-B, sub-§1, ¶A	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	Department of Public Safety	Maine EMS supports the continuation of this exception as written.	No changes recommended	No changes (4-0)
26 (63)	32 MRSA §91-B, sub-§1, ¶B	Title 32, section 91-B, subsection 1, paragraph B, relating to confidential information as part of application for credentialing by	Department of Public Safety	Maine EMS supports the continuation of this exception as written.	No changes recommended	No changes (4-0)

		Emergency Medical Services Board				
27 (64)	32 MRSA §91-B, sub-§1, ¶D	Title 32, section 91-B, subsection 1, paragraph D, relating to examination questions used for credentialing by Emergency Medical Services Board	Department of Public Safety	Maine EMS supports the continuation of this exception as written.	No changes recommended	No changes (4-0)
28 (65)	32 MRSA §91-B, sub-§1, ¶¶E-F	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	Department of Public Safety	Maine EMS supports the continuation of this exception as written.	No changes recommended	No changes (4-0)
29 (66)	32 MRSA §1092-A, sub-§§1-2	Title 32, section 1092-A, subsections 1 and 2, relating to privileged communications of dentists and dental hygienists' patients REPEALED	Dental Board	REPEALED	REPEALED	REPEALED
30 (70)	32 MRSA §2111, sub-§1, ¶F	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	No changes recommended	No changes (4-0)
31 (71)	32 MRSA §2571-A, sub-§1, ¶F	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	Board of Osteopathic Licensure	The BOL does not recommend any changes.	No changes recommended	No changes (4-0)
32 (72)	32 MRSA §2599	Title 32, section 2599, relating to medical staff reviews and hospital reviews - osteopathic physicians	Board of Osteopathic Licensure	The BOL does not recommend any changes.	No changes recommended	No changes (4-0)
33 (73)	32 MRSA §2600-A	Title 32, section 2600-A, relating to personal contact and health information of osteopathic	Board of Osteopathic Licensure	BOL recommends that personal email addresses be	No changes recommended	Accept suggested changes (4-0)

		physician applicants and licensees		specifically identified in this exception. Most healthcare professionals licensed by BOL have a personal and professional email. Many use their personal email address for communications from BOL and their professional address for communications with patients. This change was made to the identical section of the BOLIM statute in LD 1828.		
34 (74)	32 MRSA §2600-E	Title 32, section 2600-E, relating to the board's ability to redact applicant or licensee records for potential risks to personal safety	Board of Osteopathic Licensure	Emailed 10.29	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.	Accept OPLA recommendation (4-0)
35 (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	Bureau of Consumer Credit Protection	the Bureau of Consumer Credit Protection (BCCP) does not recommend changes to this public records exception.	Does not conform to drafting manual: "are confidential and are not subject to disclosure under Title 1, chapter 13."	Accept OPLA recommendation (4-0)
36 (81)	32 MRSA §6115, sub-§1	Title 32, section 6115, subsection 1, relating to financial information provided to the Superintendent of the Bureau of	Bureau of Consumer Credit Protection	REPEALED	REPEALED	REPEALED

		Consumer Credit Protection, Department of Professional and Financial Regulation concerning money transmitters REPEALED				
37 (95)	32 MRSA §16808	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.	Department of Health and Human Services	DHHS does not recommend any changes	Does not conform to drafting manual: "All records made available to agencies under this section are not public records for purposes of Title 1, chapter 13, subchapter 1."	Accept OPLA recommendation (4-0)

Reference #1

25 MRSA §1577, sub-§2

§1577. DNA records

2. ~~Access to records.~~ ~~The following persons or agencies may have access to DNA records:~~ **Permissible disclosure.** DNA records may be disclosed to the following persons or agencies:

A. Local, county, state and federal criminal justice and law enforcement agencies, including forensic laboratories serving the agencies, for identification purposes that further official criminal investigations;

B. The FBI for storage and maintenance of CODIS;

C. Medical examiners and coroners for the purpose of identifying remains; and

D. A person who has been identified and charged with a criminal offense or a juvenile crime as a result of a search of DNA records stored in the state DNA data base. ~~A~~ Disclosure to a person who has been identified and charged with a criminal offense or a juvenile crime ~~has access only~~ is limited to that person's records and any other records that person is entitled to under the Maine Rules of Evidence.

Reference #3 (13)

26 MRSA §685, sub-§3

3. Confidentiality. This subsection governs the use of information acquired by an employer in the testing process.

A. Unless the employee or applicant consents, all information acquired by an employer in the testing process is confidential and may not be ~~released~~ disclosed to any person other than the employee or applicant who is tested, any necessary personnel of the employer and a provider of rehabilitation or treatment services under subsection 2, paragraph C. This paragraph does not prevent:

(1) The ~~release~~ disclosure of this information when required or permitted by state or federal law, including ~~release~~ disclosure under section 683, subsection 8, paragraph D; or

(2) The use of this information in any grievance procedure, administrative hearing or civil action relating to the imposition of the test or the use of test results.

B. Notwithstanding any other law, the results of any substance use test required, requested or suggested by any employer may not be used in any criminal proceeding.

Reference #4 (28)

27 MRSA §10, sub-§6

6. Confidentiality. Any records containing the name, address or any other personally identifiable information relating to the parents and children participating in the program are confidential and may ~~not~~ be disclosed ~~other than~~ only:

A. In a de-identified, aggregate form for study, evaluation or audit of the program; and

B. With informed parental consent and for the purpose of expanding access to the program, to other state agencies, including, but not limited to, the Department of Corrections, the Department of Education and the Department of Health and Human Services

Reference #5 (34)

28-B MRSA §114

§114. Confidentiality

The home address, telephone number and e-mail address of the applicant, employees of the applicant and all natural persons having a direct or indirect financial interest in the applied-for license are confidential. However, if the personal residence address and telephone number have been provided as the public contact information, the personal residence address and telephone number are not confidential.

Reference #10 (39)

29-A MRSA §253

§253. Confidentiality of nongovernment vehicle records

Upon receiving a written request by an appropriate criminal justice official and showing cause that it is in the best interest of public safety, the Secretary of State may determine that records of a nongovernment vehicle ~~may be held~~ are confidential for a specific period of time, which may not exceed the expiration of the current registration.

Reference #15 (44)

29-A MRSA §1301 sub-§6-A

§1301. Application

6-A. Confidentiality. Except as required by 18 United States Code, Section 2721(b) or as needed to implement the federal National Voter Registration Act of 1993, the federal Help America Vote Act of 2002 or other federal election law, the Secretary of State may not ~~disseminate~~ disclose information collected under subsection 6. For every willful violation of this subsection, a person commits a civil violation for which a fine of not more than $500 may be adjudged.

Reference #19 (49)

29-A MRSA §2251, sub-§7-A

7-A. Accident report database; public dissemination of accident report data. Data contained in an accident report database maintained, administered or contributed to by the Department of Public Safety, Bureau of State Police must be treated as follows.

A. For purposes of this subsection, the following terms have the following meanings.

(1) "Data" means information existing in an electronic medium and contained in an accident report database.

(2) "Nonpersonally identifying accident report data" means any data in an accident report that are not personally identifying accident report data.

(3) "Personally identifying accident report data" means:

(a) An individual's name, residential and post office box mailing address, social security number, date of birth and driver's license number;

(b) A vehicle registration plate number;

(c) An insurance policy number;

(d) Information contained in any free text data field of an accident report; and

(e) Any other information contained in a data field of an accident report that may be used to identify a person.

B. Except as provided in paragraph B-1 and Title 16, section 805-A, subsection 1, paragraph F, ~~the Department of Public Safety, Bureau of State Police may not publicly disseminate~~ personally identifying accident report data that are contained in an accident report database maintained, administered or contributed to by the Bureau of State Police are confidential. ~~Such data are not public records for the purposes of Title 1, chapter 13.~~

B-1. The Department of Public Safety, Bureau of State Police may ~~disseminate~~ disclose a vehicle registration plate number contained in an accident report database maintained, administered or contributed to by the Bureau of State Police to a person only if that person provides the Bureau of State Police an affidavit stating that the person will not:

(1) Use a vehicle registration plate number to identify or contact a person; or

(2) Disseminate a vehicle registration plate number to another person.

C. ~~The Department of Public Safety, Bureau of State Police may publicly disseminate nonpersonally~~ Nonpersonally identifying accident report data that are contained in an accident report database maintained, administered or contributed to by the Bureau of State Police are not confidential. The cost of furnishing a copy of such data is not subject to the limitations of Title 1, section 408-A

Reference #33 (73)

33 MRSA §2600-A

§2600-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 ~~is~~ and email address 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 #34 (74)

32 MRSA §2600-E

§2600-E. Inspection or copying of record; procedure

1. Request for record; redaction. When the board receives a request to inspect or copy all or part of the record of an applicant or licensee, the board shall redact confidential information ~~that is not public~~ before making the record available for inspection or copying.

2. Notice and opportunity to review. When the board acknowledges a request to inspect or copy an applicant's or a licensee's record as required by Title 1, section 408-A, subsection 3, the board shall send a notice to the applicant or licensee at the applicant's or licensee's last address on file with the board explaining that the request has been made and that

the applicant or licensee may review the redacted record before it is made available for inspection or copying. The acknowledgment to the requester must include a description of the review process provided to the applicant or licensee pursuant to this section, including the fact that all or part of the record may be withheld if the board finds that disclosure of all or part of the redacted record creates a potential risk to the applicant's or licensee's personal safety or the personal safety of any 3rd party. The applicant or licensee has 10 business days from the date the board sends the notice to request the opportunity to review the redacted record. If the applicant or licensee so requests, the board shall send a copy of the redacted record to the applicant or licensee for review. The board shall make the redacted record available to the requester for inspection or copying 10 business days after sending the redacted record to the applicant or licensee for review unless the board receives a petition from the applicant or licensee under subsection 4.

3. Reasonable costs. Reasonable costs related to the review of a record by the applicant or licensee are considered part of the board's costs to make the redacted record available for inspection or copying under subsection 2 and may be charged to the requester.

4. Action based on personal safety. An applicant or licensee may petition the board to withhold the release of all or part of a record under subsection 2 based on the potential risk to the applicant's or licensee's personal safety or the personal safety of any 3rd party if the record is disclosed to the public. The applicant or licensee must petition the board to withhold all or part of the record within 10 business days after the board sends the applicant or licensee the redacted record. The petition must include an explanation of the potential safety risks and a list of items requested to be withheld. Within 60 days of receiving the petition, the board shall notify the applicant or licensee of its decision on the petition. If the applicant or licensee disagrees with the board's decision, the applicant or licensee may file a petition in Superior Court to enjoin the release of the record under subsection 5.

5. Injunction based on personal safety. An applicant or licensee may bring an action in Superior Court to enjoin the board from releasing all or part of a record under subsection 2 based on the potential risk to the applicant's or licensee's personal safety or the personal safety of any 3rd party if the record is disclosed to the public. The applicant or licensee must file the action within 10 business days after the board notifies the applicant or licensee under subsection 4 that the board will release all or part of the redacted record to the requester. The applicant or licensee shall immediately provide written notice to the board that the action has been filed, and the board may not make the record available for inspection or copying until the action is resolved.

6. Hearing. The hearing on an action filed under subsection 5 may be advanced on the docket and receive priority over other cases when the court determines that the interests of justice so require.

7. Application. This section does not apply to requests for records from other governmental licensing or disciplinary authorities or from any health care providers located

within or outside this State that are concerned with granting, limiting or denying an applicant's or licensee's employment or privileges.

Reference #35 (80)

32 MRSA §6080

§6080. Confidentiality

Information confidentiality and disclosure is governed by this section.

1. Confidentiality and prohibited disclosure. Except as otherwise provided in subsection 2, all information or reports obtained by the administrator from an applicant for a license, licensee or authorized delegate and all information contained in or related to an examination, investigation, operating report or condition report prepared by, on behalf of or for the use of the administrator, or financial statements, balance sheets or authorized delegate information, are confidential and are not subject to disclosure under Title 1, chapter 13 except as provided in this section.

2. Authorized disclosure. The administrator may disclose confidential information ~~not otherwise subject to disclosure under subsection 1~~ to representatives of state or federal agencies who certify in a record that they will maintain the confidentiality of the information or if the administrator finds that the release is reasonably necessary for the protection and interest of the public.

3. Licensees. This section does not prohibit the administrator from disclosing to the public a list of all licensees or the aggregated financial or transactional data concerning those licensees.

4. Public information. Information contained in the records of the bureau that is not confidential and may be made available to the public either on the bureau's publicly accessible website, upon receipt by the bureau of a written request, or in NMLS includes:

A. The name, business address, telephone number and unique identifier of a licensee;

B. The business address of a licensee's registered agent for service;

C. The name, business address and telephone number of each authorized delegate;

D. The terms of or a copy of a bond filed by a licensee, as long as confidential information, including but not limited to prices and fees for that bond, is redacted;

E. Copies of nonconfidential final orders of the bureau relating to a violation of this Act or rules implementing this Act; and

F. Imposition of an administrative fine or penalty under this Act.

Reference #37 (95)

32 MRSA §16808

§16808. Records

A broker-dealer or investment adviser shall provide access to or copies of records that are relevant to the suspected or attempted financial exploitation of an eligible adult to the Department of Health and Human Services and to a law enforcement agency as part of a referral to the department or to a law enforcement agency or upon request of the department or a law enforcement agency pursuant to an investigation. The records may include historical records and records relating to recent transactions that may constitute financial exploitation of an eligible adult. All records made available to agencies under this section are ~~not public records for purposes of Title 1, chapter 13, subchapter 1~~ confidential. Nothing in this section limits or otherwise impedes the authority of the administrator to access or examine the books and records of broker-dealers and investment advisers as otherwise provided by law.

1 MRSA §402, sub-§3, ¶H

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:

.....

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;

Legislative History

- PL 1991, ch. 448 – original language (same as current) – see legislative file
- PL 1995, ch. 608 – non substantive change ("and" removed at end of sentence) – attached

The statement of fact provided in the original bill (LD 1669) reads, " The purpose of this bill is to clarify current law to protect very sensitive information about clients of municipal emergency medical services and information concerning medical histories and other personal information on juveniles prepared by municipal fire departments. Currently, records of emergency medical service people are considered public records. These records contain personal information about users of emergency medical histories. This information includes but is not limited to medical histories, use of medication and allergies."

Notes

The original bill predates Maine law describing the requirements for treatment of confidential health information, which appears at 22 MRSA §1711-C. and was first enacted in 1997. This section provides that an individual's health care information is confidential and may only be disclosed for specified purposes. The state law aligns with the federal Health Insurance Portability and Act of 1996. EMS providers are subject to both state protections and the requirements of HIPAA to maintain the confidentiality of protected health information. The subcommittee could choose to cross reference 22 MRSA §1711-C.

LAWS

OF THE

STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND SEVENTEENTH LEGISLATURE

FIRST SPECIAL SESSION

November 28, 1995 to December 1, 1995

SECOND REGULAR SESSION

January 3, 1996 to April 4, 1996

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
JULY 4, 1996

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

J.S. McCarthy Company
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1995

territories and, therefore, have been designated by state public safety officials to assign and maintain physical addresses for the purpose of enhanced 9-1-1 services in the unorganized territories; and

Whereas, there is a question whether this function constitutes a "service" within the Maine Revised Statutes, Title 30-A, section 7501; and

Whereas, the process of physical addressing may take as much as 2 years to complete; 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. 30-A MRSA §7501, sub-§§6 and 7, as amended by PL 1989, c. 104, Pt. C, §§8 and 10, are further amended to read:

6. Other services. Any other service ~~which~~ that a municipality may provide for its inhabitants and ~~which~~ that is not provided by the State; ~~and~~

7. Law enforcement. Law enforcement.~~;~~ and

Sec. 2. 30-A MRSA §7501, sub-§8 is enacted to read:

8. Enhanced 9-1-1 service. Assigning and maintaining physical addresses specifically for the purpose of statewide enhanced 9-1-1 service. The county commissioners may enact an ordinance to establish the addressing standards and, pursuant to that ordinance, may assign road names to existing and proposed roads and property numbers to existing and proposed year-round and seasonal dwellings or structures and may install signs designating road names.

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

Effective April 2, 1996.

CHAPTER 608

S.P. 739 - L.D. 1847

An Act to Amend the Freedom of Access Laws to Include Advisory Boards and Commissions in the Definition of Public Proceedings

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

Sec. 1. 1 MRSA §402, sub-§2, ¶D, as amended by PL 1991, c. 848, §1, is further amended to read:

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; ~~and~~

Sec. 2. 1 MRSA §402, sub-§2, ¶E, as enacted by PL 1991, c. 848, §1, is amended to read:

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.~~;~~ and

Sec. 3. 1 MRSA §402, sub-§2, ¶F is enacted to read:

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.

Sec. 4. 1 MRSA §402, sub-§3, ¶¶H and I, as enacted by PL 1991, c. 448, §2, are amended to read:

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; ~~and~~

I. Juvenile records and reports of municipal fire departments regarding the investigation and family background of a juvenile fire setter.~~;~~ and

Sec. 5. 1 MRSA §402, sub-§3, ¶J is enacted 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. 6. Application. This Act applies to all laws, resolves and Executive Orders effective after the effective date of this Act.

See title page for effective date.

CHAPTER 609

S.P. 764 - L.D. 1876

An Act Concerning the Salmon Aquaculture Monitoring and Research Fund

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

Whereas, the Salmon Aquaculture Monitoring and Research Fund provides valuable services to an essential component of the State's marine resource economy; and

Whereas, the Salmon Aquaculture Monitoring and Research Fund will be repealed on July 1, 1996 unless legislative action is taken to extend the fund; 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 §12004-I, sub-§57-B is enacted to read:

57-B. Marine Resources	Maine Salmon Aquaculture Advisory Council	Not Autho-rized	12 MRSA §6080

Sec. 2. 12 MRSA §6078, as amended by PL 1993, c. 562, §2 and as repealed by PL 1995, c. 176, §1 and affected by §3, is repealed and the following enacted in its place:

§6078. Salmon Aquaculture Monitoring, Research and Development Fund

1. Fund established. All income received by the commissioner under this section must be deposited with the Treasurer of State, to be credited to the Salmon Aquaculture Monitoring, Research and Development Fund, referred to in this section as the "fund," which is established as a nonlapsing fund. Any interest earned on this money must also be credited to the fund.

3. Production fee assessed. A person producing salmon in aquacultural facilities subject to section 6072 shall pay to the commissioner a fee of 1¢ per pound of whole fish harvested. The person shall pay the fee within 30 days of harvest. Timely payment of the fee is a condition of any lease granted under section 6072 for the production of salmon in net-pen aquacultural facilities. The commissioner may assess a late payment charge on any overdue payments computed at the annual interest rate established by the State Tax Assessor under Title 36, section 186. The commissioner may establish by rule any procedural requirements for collection of the fee including without limitation monthly reporting of harvest amounts and reporting forms. Failure to pay the fee is a civil violation punishable by a civil penalty not to exceed $1,000.

4. Expenditures; purpose. The commissioner may make expenditures from the fund to develop effective and cost-efficient water quality licensing and monitoring criteria, analyze and evaluate monitoring data and process lease applications. In developing a program of expenditures, the commissioner shall consult with the Maine Salmon Aquaculture Advisory Council established under Title 5, section 12004-I, subsection 57-B. The commissioner may contract for services privately or under memoranda of agreement with other state agencies.

7. Additional revenues. The commissioner may expend annual revenues in excess of the operating expenses of a program under subsection 4 to address matters that the commissioner determines are of an emergency nature to the State's salmon aquaculture industry, to address matters that the commissioner determines are of long-term interest to the State's salmon aquaculture industry or to rebate revenues to all those persons who paid fees under subsection 3. A rebate must be in the same proportion to the total of all rebates as the recipient's fees for that period are to the total of all fees levied for that period. The commissioner shall consult with the Maine Salmon Aquaculture Advisory Council established under Title 5, section 12004-I, subsection 57-B when determining expenditures under this subsection.

8. Reports. On or before February 1st of each year, the commissioner shall report to the joint standing committee of the Legislature having jurisdiction over marine resource matters on all expenditures made from the fund in the previous fiscal year and on all work accomplished and planned. The committee

LAWS

OF THE

STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND FIFTEENTH LEGISLATURE

FIRST REGULAR SESSION

December 5, 1990 to July 10, 1991

Chapters 1 - 590

THE GENERAL EFFECTIVE DATE FOR
NON-EMERGENCY LAWS IS
OCTOBER 9, 1991

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

J.S. McCarthy Company
Augusta, Maine
1991

PUBLIC LAWS

OF THE

STATE OF MAINE

AS PASSED AT THE

FIRST REGULAR SESSION

of the

ONE HUNDRED AND FIFTEENTH LEGISLATURE

1991

CHAPTER 447

S.P. 541 - L.D. 1439

An Act Concerning Health Insurance for Retired Teachers

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

Sec. 1. 20-A MRSA §13451, sub-§1, as repealed and replaced by PL 1989, c. 878, Pt. A, §46, is amended to read:

1. Access to a group plan. The group accident and sickness and health insurance plan that is in effect for active teachers in a public school system or school unit must be made available to all teachers eligible under subsection 2, who retired under the Maine State Retirement System when they left that system ~~and who choose to participate in the new plan~~ or school unit. The rate for the insurance coverage ~~shall~~ must be the same as the rate provided for active teachers in that school system or school unit.

Sec. 2. 20-A MRSA §13451, sub-§3, as amended by PL 1989, c. 875, Pt. E, §25 and affected by §26 and as repealed and replaced by c. 878, Pt. A, §46, is repealed and the following enacted in its place:

3. Payment by State. The State through the Maine State Retirement System shall pay 25% of the retired teacher members' share of this insurance.

Sec. 3. 20-A MRSA §13451, sub-§3-A is enacted to read:

3-A. School units that change plans. If a school unit changes its group health insurance plan or provider, the school unit at the time that it transfers active teachers to the new plan or provider shall also transfer all retired teachers from that school unit to the new plan or provider and shall inform each retired teacher in writing that, unless the school receives written notice from an individual retired teacher to the contrary, each retired teacher will be transferred automatically to the new plan or provider. The school unit shall also provide each retired teacher a description of the benefits and costs of the new plan or provider. A retired teacher may decline to participate with the new plan or provider upon written notice to the school unit. If any retired teacher so elects, there shall be no obligation or responsibility on the part of the replaced group plan or provider beyond conversion or continuity options provided for in Title 24, chapter 19 or Title 24-A, chapters 35 and 36. If any retired teacher declines to participate with the new plan or provider, there is no obligation or responsibility on the part of the replaced group plan or provider.

Sec. 4. 20-A MRSA §13451, sub-§5, as enacted by PL 1989, c. 878, Pt. A, §46, is repealed.

See title page for effective date.

CHAPTER 448

H.P. 1144 - L.D. 1669

An Act to Exempt Certain Medical and Juvenile Records from the Freedom of Access Law

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

Sec. 1. 1 MRSA §402, sub-§3, ¶¶F and G, as enacted by PL 1989, c. 358, §4, are amended to read:

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; ~~and~~

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.~~;~~

Sec. 2. 1 MRSA §402, sub-§3, ¶¶H and I are enacted to read:

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; and

I. Juvenile records and reports of municipal fire departments regarding the investigation and family background of a juvenile fire setter.

See title page for effective date.

CHAPTER 449

H.P. 1264 - L.D. 1833

An Act to Amend the Liquor Laws

History and Final Disposition

LD 1669 / HP1144

An Act to Exempt Certain Medical and Juvenile Records from the Freedom of Access Law. Presented by Rep. Gwadosky of Fairfield; Co-sponsored by Rep. Jacques of Waterville. Judiciary Hearing 05/06/91. OTP-AM Accepted 06/05/91. Amended by: CA H-463. Final Disposition: Enacted, Approved 06/20/91, PUBLIC LAWS, Chapter 448.

Original Bill

LD 1669 (115th Legis. 1991)

Analyst's Summary of Bill and Enacted Law

LD 1669 / PL 1991, c. 448

Committee Materials

Joint Standing Committee on Judiciary

- (Available on request—please include the following citation: cf115-LD-1669.pdf)

New Drafts and Amendments

Amendment CA (H-463) (LD 1669 1991) (Passed)

Floor Proceedings and Debate

HOUSE, April 24, 1991 (H557-573)
- p. H-561

SENATE, April 25, 1991 (S572-601)
- p. S-574

HOUSE, May 30, 1991 (H876-901)
- p. H-882 (Amendment(s) H-463)

HOUSE, June 4, 1991 (H902-939)
- p. H-921 (Amendment(s) H-463)

SENATE, June 5, 1991 (S997-1040)
- p. S-1003 (Amendment(s) H-463)

SENATE, June 6, 1991 (S1041-1081)
- p. S-1054 (Amendment(s) H-463)

HOUSE, June 10, 1991 (H1017-1087)
- p. H-1062 (Amendment(s) H-463)

SENATE, June 10, 1991 (S1082-1148)
- p. S-1143 (Amendment(s) H-463)

Enacted Law or Resolve

PL 1991, c. 448

To obtain items available on request, or to report errors or omissions in this history, please contact:

Maine State Law and Legislative Reference Library

STATE OF MAINE
115TH LEGISLATURE

FIRST REGULAR SESSION
AND
FIRST SPECIAL SESSION

BILL SUMMARIES
JOINT STANDING COMMITTEE
ON
JUDICIARY

AUGUST 1991

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ONE HUNDRED AND FIFTEENTH LEGISLATURE
FIRST REGULAR SESSION
AND
FIRST SPECIAL SESSION

JOINT STANDING COMMITTEE
BILL SUMMARIES

AUGUST 1991

This document is a compilation of the bill summaries prepared by this office for the Joint Standing Committees and Joint Select Committees of the Maine Legislature. The volume is organized alphabetically by committee; within each committee, the summaries are arranged by LD number. A subject index is provided at the beginning of each committee's summaries.

All adopted amendments are listed, by paper number (e.g., H - 584 or S - 222), together with the sponsor for floor amendments. Final action on each bill is listed to the right of the title. Various types of final action are abbreviated as follows:

PUBLIC XXX	*Chapter # of enacted Public Law*
P&S XXX	*Chapter # of enacted Private & Special Law*
RESOLVE XXX	*Chapter # of enacted Resolve*
CON RES XXX	*Chapter # of Constitutional Resolution passed by both Houses*
EMERGENCY	*Enacted law takes effect sooner than 90 days*
CARRIED OVER	*Bill carried over to 2nd Session*
FAILED EMERGENCY ENACTMENT	*Bill failed to get 2/3 vote*
ONTP	*Ought Not to Pass report accepted*
LVWD	*Leave to Withdraw report accepted*
INDEF PP	*Bill Indefinitely Postponed*
DIED BETWEEN BODIES	*House & Senate disagree; bill died*
VETO SUSTAINED	*Legislature failed to override Governor's Veto*
UNSIGNED	*Not signed by Governor within 10 days*
DIED ON ADJOURNMENT	*Action incomplete when 1st session ended*

These summaries were prepared by the analyst or analysts assigned to the committee. But, this document was produced by the efforts of all the office staff, including secretaries: Charlene Raymond and Valarie Parlin, and especially Laurette Knox who coordinated preparation of the overall document.

If you have any suggestions or comments on these summaries, please let us know.

than defining those terms within the criminal penalty section. In addition, the bill would reduce the culpable mental state required for a conviction of a hazardous waste crime from "knowingly" to "recklessly." The bill would also amend the definition of "environmental clean-up expense".

LD 1663 An Act to Preserve the Confidentiality of Communications by Interpreters for the Deaf — PUBLIC 406

SPONSOR(S)	COMMITTEE REPORT	AMENDMENTS ADOPTED
FARNSWORTH	OTP-AM	H-510
GILL		
TREAT		
RICHARDS		

SUMMARY

The bill provides an interpreter who facilitates communications involving people who are deaf or hearing impaired with a privilege to refuse to disclose any communications the interpreter witnessed while interpreting. Additionally, the client of interpreting services, who may be either a deaf or hearing person, may assert the privilege against the interpreter and thereby prevent disclosure by the interpreter.

Committee Amendment "A" (H-510) replaces the bill. The amendment provides definitions of "confidential communication," "client" and "privileged interpreter." The amendment provides that a privileged interpreter may not disclose any aspect of a confidential communication facilitated by the interpreter, unless all clients privy to that communication consent to the waiver. The amendment also provides that a court, in the exercise of sound discretion, may order disclosure when it determines the disclosure necessary to the proper administration of justice.

LD 1669 An Act to Exempt Certain Medical and Juvenile Records from the Freedom of Access Law — PUBLIC 448

SPONSOR(S)	COMMITTEE REPORT	AMENDMENTS ADOPTED
GWADOSKY	OTP-AM	H-463
JACQUES		

SUMMARY

The bill excludes from the definition of public records medical records and reports of municipal ambulance and rescue units and other emergency medical service units. It also excludes juvenile records and reports of municipal fire departments regarding the investigation and family background of a juvenile fire setter.

Committee Amendment "A" (H-463) ensures that law enforcement officers will have timely access to information held by municipal ambulance and rescue units and other emergency service units when the law enforcement officers are investigating criminal conduct.

L.D. 1669

(Filing No. H-463)

STATE OF MAINE
HOUSE OF REPRESENTATIVES
115TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 1144, L.D. 1669, Bill, "An Act to Exempt Certain Medical and Juvenile Records from the Freedom of Access Law"

Amend the bill in section 2 by striking out all of paragraph H and inserting in its place the following:

'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; and'

STATEMENT OF FACT

This amendment ensures that law enforcement officers will have timely access to information held by municipal ambulance and rescue units and other emergency medical service units when the law enforcement officers are investigating criminal conduct.

Reported by the Committee on Judiciary
Reproduced and distributed under the direction of the Clerk of the House
(5/29/91) (Filing No. H-463)

COMMITTEE ON:

JUDICIARY

LD#: 1669

TITLE: "An Act to Exempt Certain Medical and Juvenile Records from the Freedom of Access Law."

HEARING DATE: 5/6/91

WORK SESSION DATE: 5/16/91
5/21/91

REPORTED OUT DATE: 5/29/91

COMMITTEE REPORT: OTP /Reconsider/ OTP-A

115th MAINE LEGISLATURE

FIRST REGULAR SESSION-1991

Legislative Document **No. 1669**

H.P. 1144 House of Representatives, April 24, 1991

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27. Reference to the Committee on Judiciary suggested and ordered printed.

Ed Pert

EDWIN H. PERT, Clerk

Presented by Representative GWADOSKY of Fairfield.
Cosponsored by Representative JACQUES of Waterville.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND NINETY-ONE

An Act to Exempt Certain Medical and Juvenile Records from the Freedom of Access Law.

(AFTER DEADLINE)

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

Sec. 1. 1 MRSA §402, sub-§3, ¶¶F and G, as enacted by PL 1989, c. 358, §4, are amended to read:

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; and

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.;

Sec. 2. 1 MRSA §402, sub-§3, ¶¶H and I are enacted to read:

H. Medical records and reports of municipal ambulance and rescue units and other emergency medical service units; and

I. Juvenile records and reports of municipal fire departments regarding the investigation and family background of a juvenile fire setter.

STATEMENT OF FACT

The purpose of this bill is to clarify current law to protect very sensitive information about clients of municipal emergency medical services and information concerning medical histories and other personal information on juveniles prepared by municipal fire departments. Currently, records of emergency medical service people are considered public records. These records contain personal information about users of emergency medical services. This information includes but is not limited to medical histories, use of medication and allergies.

The law regarding records and reports of municipal fire department personnel in connection with juvenile fire setters is also very vague. Currently, the names of juveniles participating in arson rehabilitation programs, the medical histories of these

juveniles and their families, medications used by juveniles and their families and other personal information is considered public information. This policy discourages juvenile arsonists from participating in educational and rehabilitation programs.

This bill seeks to establish as confidential the reports and records of municipal emergency medical service units and records and reports on juveniles prepared by municipal fire departments.

STATE OF MAINE
115TH LEGISLATURE

LEGISLATIVE NOTICES

Judiciary Committee

Monday, May 6, 1991 - 1 p.m.
Room 438, State House

Committee PH - 289-1327

(L.D. 1541) Bill "An Act to Clarify the Maine Juvenile Code" (S.P. 588) !(Presented by Senator HOLLOWAY of Lincoln) (Cosponsored by Representative OTT of York and Senator COLLINS of Aroostook) (Submitted by the Department of Corrections pursuant to Joint Rule 24.)

(L.D. 1683) Bill "An Act Concerning Children in Need of Social Services" (S.P. 635) !(Presented by Senator BOST of Penobscot) (Cosponsored by Representative ANTHONY of South Portland, Representative CHONKO of Topsham and Senator BRANNIGAN of Cumberland)

(L.D. 1713) Bill "An Act to Safeguard Money Held for Minors" (H.P. 1172) !(Presented by Representative MITCHELL of Vassalboro) (Cosponsored by Senator GAUVREAU of Androscoggin and Representative STEVENS of Bangor)

(L.D. 1663) Bill "An Act to Preserve the Confidentiality of Communications by Interpreters for the Deaf" (H.P. 1138) !(Presented by Representative FARNSWORTH of Hallowell) (Cosponsored by Senator GILL of Cumberland, Representative TREAT of Gardiner and Representative RICHARDS of Hampden)

(L.D. 1669) Bill "An Act to Exempt Certain Medical and Juvenile Records from the Freedom of Access Law" (H.P. 1144) !(Presented by Representative GWADOSKY of Fairfield) (Cosponsored by Representative JACQUES of Waterville) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.)

Contact: Susan M Pinette 289-1327
State House Station 115
Augusta, ME 04333

To appear in your paper on Sunday, May 5, 1991

114th LEGISLATURE

COMMITTEE ON Judiciary LD 1669

	NAME	TOWN/AFFILIATION	FAVOR	OPPOSE	NEITH
1.	Rep. QUADOSKY	SPONSOR	X		
2.	CHASE	WATERVILLE RESCUE	X		
3.	DAVID LAFOUNTAIN	WATERVILLE FIRE DEPT	X		
4.	Gordon Scott	ME PRESS ASS'n			X
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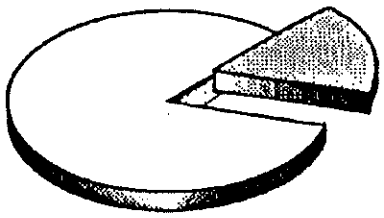
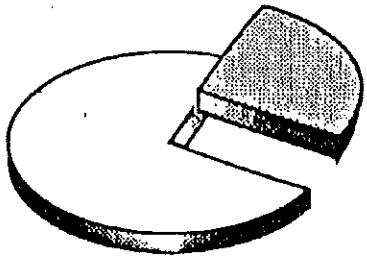
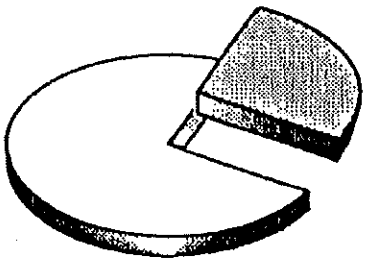
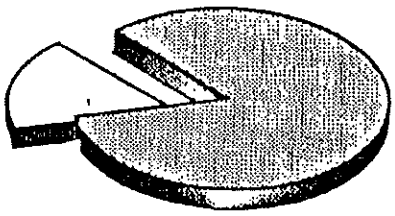
KIDS and FIRES

of every . . . 100 people — in the U.S. —  — 16 are children

of every . . . 100 people — who die in fires in the U.S. —  — 23 are children

of every . . . 100 children — who die in fires in the U.S. —  — 24 are killed because of children playing with fire

of every . . . 100 people — who die in child-set fires in the U.S. —  — 85 are children

Furnished by the U.S. Fire Administration and the National Fire Information Council 1-90

CITY OF BREWER
Brewer, Maine 04412-2010

Fire Department
Public Safety Building
122 South Main Street

Bruce F. Kigas
Fire Chief
(207) 989-7002

May 1, 1991

Dave Lafountain
Waterville Fire Department
Waterville, ME

Dear Dave,

Please pass on my support of L.D. 1669 "An Act to Exempt Certain Medical and Juvenile Records from the Freedom of Access Law", at the legislative hearing on May 6 th. In our juvenile firesetting program, the Brewer Fire Department deals with many firesetting children who have extensive history of problems, including past abuse and other delicate issues. For us to sort out the child's feelings and design a program to help them, we need to be aware of such facts. Our ability to promise confidentiality in these matters is extreemely important to the success of our program.

Our only motive in conducting the juvenile firesetter program is to help the child. Public discussion of the child's firesetting or other problem behaviors would certainly not be in the best interest of that child.

Sincerely,

Capt Larry Willis
Public Education Officer
Brewer Fire Department

BEHAVIOR	NEVER	SOMETIMES	FREQUENTLY
Constipation	A1	A1	A2
Diarrhea	A1	A1	A2
Convulsions or "spells"	A1	A2	A2
Stomach aches	A1	A1	A2
Sleep of waking problems	A1	A2	A2
Self-imposed diets	A1	A1	A2
Stuttering	A1	A2	A2
Sleep walking	A1	A2	A2
Accidents	A1	A2	A2
Vomiting	A1	A1	A2
Aches and pains	A1	A1	A2
Excessive weight loss	A1	A2	A2
Losses appetite	A1	A1	A2
Excessive overweight	A1	A1	A2
Need for security	A1	A1–	A2
Need for affection	A2	A1	A2
Knows good moral behavior	A2	A1	A1
Feels good about self	A2	A1	A1
Comfortable with own body	A2	A1	A1
Likes overall looks	A2	A1	A1
Destroys own property	A1	A2	A2
Disobeys	A1	A1	A2
Long history of severe behavioral difficulties	A1	A2	A2
Expresses anger by damaging the property of others	A1	A2	A2-3
Temper tantrums	A1	A1	A2
Easily led by peers	A1	A1	A2
Cruelty to children	A1	A2	A2-3
Fighting with peers	A1	A1	A2
Withdrawing from peers	A1	A1	A2
He/she is a poor loser	A1	A1-2	A2
Doesn't socialize with peers	A1	A2	A2
Shows off	A1	A1	A2
He/she is good at sports	A2	A1	A1
Sexual activity with others	A1	A1	A2
Shows appropriate peer affection	A2	A1	A1
If boy, shows clear preference for male activities; if female, shows clear preference for female activities	A2	A1	A1
He/she is alone a lot	A1	A1	A2

Lying	A1	A1	A2
Excessive and controlled anger	A1	A2	A2
Violence	A1	A2	A2
Stealing	A1	A2	A2
Cruelty to animals	A1	A2	A2-3
Is in a gang	A1	A2	A2
Was in cult	A1	A2	A2
Uses drugs or alcohol	A1	A2	A2
Has been in trouble with police	A1	A2	A2
Unusual fantasies	A1	A2	A3
Strange thought patterns	A1	A2	A3
Speech bizarre, illogical, or irrational	A1	A3	A3
Out of touch with reality	A1	A3	A3
Strange quality about adolescent	A1	A2	A3

Instructions for Scoring the Interview Schedules

The information contained in the Interview Schedules and the Parent Questionnaire can be scored to obtain a numerical rating as to the severity of firesetting behavior and related problems. The formal scoring of the Interview Schedules and Parent Questionnaire is usually completed at the conclusion of the interview. However, during the interview, it is possible to quickly evaluate the severity of the current problems by paying attention to the number and type of scores obtained on individual questions. Once the formal scoring procedures have been completed, determination can be made as to whether adolescents are at little, definite or extreme risk for involvement in future firesetting behavior. Once these risk levels have been established, recommendations can be presented as to how to help firesetting adolescents and their families.

Procedures

There are three separate forms which must be scored. They are the Adolescent Interview Schedule, the Family Interview Schedule and the Parent Questionnaire. Once these forms are scored, the scores are transferred to the Category Profile Sheet (This sheet follows these Instructions). There are three major steps to be completed in scoring these forms. The following paragraphs describe each of these three steps.

1. Review the Adolescent and Family Interview Schedules and the Parent Questionnaire to make sure all questions have been answered and assigned either a A1, 2, or 3; or a P1, 2, or 3. Answers that relate to adolescent behavior are classified as A1, 2, or 3, while answers that relate to the parent are classified as P1, 2, or 3.

   Most of the answers are assigned a score; however, sometimes the interviewer will have the option of scoring the response as either a 1, 2, or 3, depending on the content of the answer. Remembering that a 3 score indicates a serious problem, you will

PARENT QUESTIONNAIRE

ADOLESCENTS 14-18

PARENT(s): Please fill out this form as soon as possible. Circle the answer "never," "sometimes," or "frequently," that best describes your adolescent for every question. Ask any questions you have. We want to know if the adolescent exhibits the following behaviors. When marking the form consider all parts of the adolescent's life (at home, at school, etc.) where these behaviors might be present.

BEHAVIOR	NEVER	SOMETIMES	FREQUENTLY
Lack of concentration	A1	A1	A2
Learning problems (home or school)	A1	A2	A2
Behavior problems in school	A1	A2	A2
Unresponsive to school authorities	A1	A2	A2
Impulsive (acts before he/she thinks)	A1	A1	A2
Impatient	A1	A1	A2
Truancy	A1	A2	A2
Runs away from home or school	A1	A2	A2
Fighting with siblings	A1	A1	A2
Family discord	P1	P2	P2
Father or mother absent	P1	P2	P2
Family has moved (with adolescent)	P1	P1	P2
He/she has seen a therapist	A1	A2	A2
Other family member has seen a therapist	P1	P2	P2
Parent has serious health problem	P1	P2	P2
Marriage is unhappy	P1	P2	P2
Mother's discipline is effective	P2	P1	P1
Father's discipline is effective	P2	P1	P1
Makes attempts at age appropriate independence from parents	A2	A1	A1
Shows age appropriate interest in having own family in the future	A2	A1	A1
Shows age appropriate interest in future jobs/career	A2	A1	A1

21. DId the child panic when the fire got out of control? yes (C-1) no (C-2)

22. Did the child attempt to get help? yes (C-1) no (C-2)

23. Was anyone with the child when the fire was set? yes no

If yes who

address:

Additional Observations Regarding Child's Home and Parents:

(Don't ask Parents *All* the following questions. Most questions are based on information or observations)

24. Was outside of residence sloppy? _____ yes (P-2) _____ no

25. Was inside of residence sloppy? _____ yes (P-2) _____ no

26. Does parent(s) appear indifferent toward child _____ Mother (P-2) _____ Father (P-2)

27. Does parent(s) appear hostile towards child? _____ Mother (P-2) _____ Father (P-2)

28. Does child appear neglected? _____ yes (P-2) _____ no

29. Does child appear abused? _____ yes (P-3) _____ no

30. Is there an indication that fire was precipitated by family difficultiesor family arguments?
_____ yes (P-2 or P-3) _____ no

31. Is there an indication that the fire was started after the child became angry at another person or himself?
_____ yes (C-2) _____ no

32. Is there an indication that the fire was set primarily to destroy something or someone?
_____ yes (C -3 or C-2) _____ no

33. Is there an indication that the fire was set primarily because the child was told that he could not play with fire?
_____ yes (C-1 or C-2) _____ no

34. Is there an indication that the child perceives magical qualities to fire? _____ yes (C -1 or C-2) _____ no

35. Does the child deny interest in fire if information to the contrary is available? _____ yes (C-2) _____ no

36. Does the fire appear to be a "cry for help" from the child? _____ yes(C-2) _____ no

37. Does it appear as positive or funny to the child? _____ yes (C-3) _____ no

39. Does the fire appear to bolster the child's feelings of power or self-confidence? _____ yes (C-2) _____ no

40. Does _____ mother (P-2) _____ father (P-2) appear indifferent or unconcerned to the present situation?

PARENT QUESTIONAIRE

Parent (s): Please fill out this form *as soon as possible.* Make a check mark under the answer - never, sometimes, or frequently - that best describes your child for every question. Ask any questions you have. We want to know if the child exhibits the following behavior. When marking the form consider all parts of the child's life (at home, at school, etc.) where these behaviors might be present.

Behavior	Never	Sometimes	Frequently
Hyperactivity	C1	C1	C2
Lack of concentration	C1	C1	C2
Learning problems (home or school)	C1	C2	C2
Behavior problems in school	C1	C2	C2
Impulsive (acts before he thinks)	C1	C1	C2
Impatient	C1	C1	C2
Accidents	C1	C1	C2
Convulsions or spells	C1	C2	C2
Wets during day	C1	C2	C2
Extreme mood swings	C1	C1	C2-3
Need for security	C2	C1	C2
Need for affection	C2	C1	C2
Depression	C1	C2	C2-3
Unusual movements-tics	C1	C2	C2
Stuttering	C1	C2	C2
Bed wetting (after 3ys)	C1	C2	C2
Soiling (after 3 yrs)	C1	C2	C2
Lying	C1	C1	C2
Excessive & uncontrolled anger	C1	C2	C2
Violence	C1	C2	C2
Stealing	C1	C2	C2
Truancy	C1	C2	C2
Cruelty to animals	C1	C2	C2-3
Cruelty to children	C1	C2	C2-3
Fighting with peers	C1	C1	C2
Fighting with siblings	C1	C1	C2
Destroys toys of others	C1	C2	C2
Destroys own toys	C1	C1	C2
Runs away from home-school	C1	C2	C2
Disobeys	C1	C1	C2
Long history of severe behavioral difficulties	C1	C2	C2
Child is a poor loser	C1	C2	C2
Child expresses anger by hurting other's things	C1	C2	C2-3
Child expresses anger by hurting self or something he likes	C1	C2-3	C3
Child has been in trouble with the police	C1	C2	C2
Easily led by peers	C1	C1	C2
Jealousy	C1	C1	C2
Temper tantrums	C1	C1	C2
Doesn't play with other children	C1	C1	C2
Shows off	C1	C1	C2

Behavior	Never	Sometimes	Frequently
Severe depressions or withdrawal	C1	C2	C3
Child is good in sports	C2	C1	C1
Shyness	C1	C1	C2
Extreme goodness	C1	C1	C2
Sexual activity with others	C1	C2	C2
Stomach aches	C1	C2	C2
Nightmares	C1	C2	C2
Other sleep or waking problems	C1	C2	C2
Anxiety	C1	C1	C2
Fantasizing	C1	C1	C2
Poor or no eye contact	C1	C2	C3
Child has twitches	C1	C2	C2
Crying	C2	C1	C2
Nail bitting	C1	C1	C2
Vomiting	C1	C1	C2
Thumb sucking	C1	C1	C2
Aches & pains	C1	C1	C2
Chewing odd things	C1	C1	C2
Constipation	C1	C1	C2
Diarrhea	C1	C1	C2
Masturbation	C1	C1	C2
Curiosity about fire	C1	C1	C2-3
Plays with fire	C1	C1	C2-3
Panicked when fire got out of control	C2	C2	C1
Fires set some distance from child's home	C2	C2	C1
Child proud or boastful regarding his firesetting	C1	C2	C2
Stares at fires for long periods of time	C1	C2	C3
Daydreams or talks about fire	C1	C2	C2-3
Unusual look on child's face as he frequently stares at fires	C1	C2-3	C3
Family discord	P1	P2	P2
Family or mother absent	P1	P2	P2
Family has moved with child	P1	P2	P2
Child has seen a therapist	C1	C2	C2
Other family member has seen a therapist	P1	P2	P2
Parent has serious health problem	P1	P2	P2
Marriage is unhappy	P1	P2	P2
Mother's discipline is effective	P2	P1	P1
Father's discipline is effective	P2	P1	P1
Unusual fantasies	C1	C2	C3
Strange thought patterns	C1	C2	C3
Speech bizarre, illogical or irrational	C1	C3	C3
Out of touch with reality	C1	C3	C3
Strange quality about the child	C1	C2	C3
Self-imposed diets	C1	C1	C2
Sleep walking	C1	C2	C2
Phobias	C1	C2	C2
Fears	C1	C1	C2
Child plays alone	C1	C1	C2

FA 83 / December 1988

PREADOLESCENT FIRESETTER HANDBOOK

AGES 0-7

FEDERAL EMERGENCY MANAGEMENT AGENCY
United States Fire Administration

Contents

RUN REPORT # 373817 | Mo. | Day | Year | M T W Th F S Sun | SERVICE NAME | SERVICE NO. | VEHICLE NO. | ALS ☐ Performed ☐ Back-up Called | SERVICE RUN NO.

NAME | BILLING INFORMATION

STREET OR R.F.D.

CITY/TOWN | STATE | ZIP

AGE / DATE OF BIRTH | ☐ Male ☐ Female | PHONE

INCIDENT LOCATION: | ADDRESS | CITY/TOWN

TRANSPORTED TO: | TREATING / FAMILY PHYSICIAN | IN CHARGE | CREW LICENSE NUMBERS

TRANSPORTATION / COMMUNICATION PROBLEMS | DRIVER

TYPE ILLNESS/INJURY
- ☐ Major Trauma
  - ☐ Major Head Trauma
- ☐ Major Spinal Trauma
  - ☐ Burn
- ☐ Cardiac
  - ☐ Poisoning
- ☐ Respiratory
  - ☐ Behavioral
- ☐ Neonate
- ☐ Other:
- ☐ Soft Tissue Injury/Fx/Disloc. ☐ Seizure
- ☐ Diabetic Emergency ☐ CVA

AID FIRST GIVEN BY
- ☐ Bystander/ Relative
- ☐ Police
- ☐ Fire
- ☐ Bystander Medical Personnel

AID GIVEN BEFORE AMB/RESCUE ARRIVED
- ☐ None
- ☐ Cleared Airway
- ☐ CPR: Time _____
- ☐ Controlled Bleeding
- ☐ Immobilization
- ☐ Treatment for Shock
- ☐ Gave Medications
- ☐ Moved/Walked Patient
- ☐ Burn Care
- ☐ Other:

AMBULANCE REQUESTED BY:
- ☐ Citizen Direct
- ☐ Fire
- ☐ Police
  - ☐ Special Access
- ☐ Other

TYPE OF RUN
- ☐ Emergency Transport
- ☐ Routine Transfer
- ☐ Emergency Transfer
- ☐ No Transport
- ☐ Refused Transport

POLICE NOTIFIED: ☐ Yes ☐ No

TIME		ODOMETER
	Call Received	
	Enroute	
	At Scene	
	From Scene	
	At Destination	
	In Service	

☐ ON MEDICATIONS: ☐ ALLERGIES:

CHIEF COMPLAINT

TIME	PULSE	RESP	BP	PUPILLARY RESPONSE	SKIN	VERBAL RESPONSE	MOTOR RESPONSE	EYE OPENING RESPONSE	CAPILLARY REFILL
						☐ Appropriate ☐ Disoriented ☐ Nonsense ☐ Unintelligible ☐ None	☐ Commands ☐ Pain: hand ☐ Pain: body ☐ Pain: flex ☐ Pain: rigid ☐ None	☐ Spontaneous ☐ Voice Command ☐ Painful Stimulus ☐ None	☐ Normal ☐ Delayed ☐ None

373817

☐ MVA ☐ Concern AOB/ETOH SEAT BELTS: ☐ Used ☐ Not Used ☐ Not Applicable MUTUAL AID: Assisted/Assisted By Service # _____

PATIENT'S SUSPECTED PROBLEM: TIME ONSET _____

BASIC LIFE SUPPORT

HOSPITAL NOTIFIED: ☐ Yes ☐ No Time _____

✓	AIRWAY MAINTENANCE	✓	TRAUMA
	Cleared Manually		Extrication
	Artificial Respiration		Cervical Immobilization
	CPR-Time:		Long Board
	Suction ☐ Nasal		Restraints
	Oxygen—L.P. Min.		Traction Splinting
	Oropharyngeal Airway ☐ Mask		General Splinting
	CIRCULATION		Cold Application
	Controlled Hemorrhaging		MAST Inflated
			OB Care
			Psychological First Aid

ADVANCED LIFE SUPPORT

MEDICAL CONTROL ☐ Written Order/Protocol ☐ Verbal Order/Protocol

☐ CARDIAC MONITOR ☐ TELEMETRY

IV Total Attempts
- ☐ SUC LIC.# _____
- ☐ UNSUC LIC.# _____

EOA Total Attempts
- ☐ SUC LIC.# _____
- ☐ UNSUC LIC.# _____

ET Total Attempts
- ☐ SUC LIC.# _____
- ☐ UNSUC LIC.# _____

LIC #	EKG RHYTHM	TIME	MEDS / DEFIB / C-VERT	DOSE W/S	ROUTE

NAME OF E.D. TREATING PHYSICIAN SIGNATURE OF CREW MEMBER IN CHARGE

1/91

COPY 1 HOSPITAL

373817 | Month | Day | Year | EMERGENCY DEPARTMENT REPORT | Name of Hospital

Type Illness/Injury (1) ☐ Trauma (2) ☐ Head (3) ☐ Spinal (4) ☐ Burn (5) ☐ Cardiac (6) ☐ Poisoning (7) ☐ Respiratory (8) ☐ Behavioral (9) ☐ Neonate (0) ☐ Other

E.D. Record Number | In-Patient Record Number

TIME	PULSE	RESP	BP	PUPILLARY RESPONSE	SKIN	VERBAL RESPONSE	MOTOR RESPONSE	EYE OPENING RESPONSE	CAPILLARY REFILL
						(1) ☐ Appropriate (2) ☐ Disoriented (3) ☐ Nonsense (4) ☐ Unintelligible (5) ☐ None	(1) ☐ Commands (2) ☐ Pain: hand (3) ☐ Pain: body (4) ☐ Pain: flex (5) ☐ Pain: rigid (6) ☐ None	(1) ☐ Spontaneous (2) ☐ Voice Command (3) ☐ Painful Stimulus (4) ☐ None	(1) ☐ Normal (2) ☐ Delayed (3) ☐ None

TREATMENT: (1) ☐ None (2) ☐ Medical (3) ☐ Surgical (4) ☐ Psychological (5) ☐ Other

Patient Disposition | Indications for Transfer (As Stated in Protocol)

RE: LD 1669

An Act to Exempt Certain Medical and Juvenile Records from the Freedom of Access Law.

Statement by: Jay Bradshaw, Assistant Director, Maine Emergency Medical Services in support of this bill.

Emergency Medical System (EMS) Services are called upon to respond to a variety of emergencies every day. All one has to do is follow the news to get an idea of the diverse nature of these emergencies. When EMS providers respond to these emergencies they are required to complete a report detailing the nature of the emergency, pertinent past medical history, vital signs, and document care rendered. This requirement comes from the State EMS Rules and the requirement makes sense.

A copy of that report stays with the patient and becomes part of the patient's hospital record. This is done because the EMS providers at the scene are often the first medical people that will come in contact with the patient. There are also times when, tragically, the EMS providers are the last person to speak with a patient.

In addition to the medical necessity for good documentation, there is also a very real legal need for an accurate record of what took place during these calls. If the performance of an EMS provider was called into question, the run report becomes an invaluable document that plays heavily in determining what was done and why.

It is more than simply unfortunate that these patient records are considered public records if the EMS service is a municipal one. The same document held by a private service is not publicly accessible and is carefully guarded to protect the patient's right to privacy.

The taxpayers in a community do have the right to know how and where tax dollars are being spent, but should that entitle them full access to otherwise confidential documents? We think not.

Changing the public access laws as described in this bill make sense and are long overdue. This is clearly a step in the right direction - for both municipal services and the patients who need them.

Thank you.

MAINE EMS
YOUR LIFE SUPPORT TEAM

May 6, 1991

To: Member of the Committee on Judiciary

From: Jay Bradshaw, Assistant Director, EMS

RE: LD 1669

==========

I regret that last minute scheduling changes have made it impossible for me to personally attend this afternoon's hearing.

I hope you will please read and consider the attached testimony.

I will be available for the work session on this bill.

enclosure (1)

MAINE EMERGENCY MEDICAL SERVICES
353 WATER STREET
AUGUSTA, MAINE 04330
207-289-3953
FAX 207-289-6251

MAINE STATE POLICE
36 HOSPITAL STREET
AUGUSTA, MAINE 04330

May 9, 1991

Members of the Joint Standing
Committee on Judiciary
State House Station # 115
Augusta, Maine 04333

Re: L.D. No. 1669 An Act to Exempt Certain Medical and Juvenile Records from the Freedom of Access Law

Dear Sir/Madame:

As Commander of the Criminal Investigation Division of the Bureau of State Police, I would like the Committee to be aware of concerns the Bureau of State Police have with LD 1669, An Act to Exempt Certain Medical and Juvenile Records from the Freedom of Access Law.

The Criminal Investigation Division has been designated by the Attorney General's Office as the primary investigative agency of all homicides in the State except in Portland and Bangor and Sec. 2. -- 1 M.R.S.A. Sec. 402(3) Par. H, could well present a hinderance in these types of investigations. In many homicides, as well as other major violent crimes, municipal ambulances, rescue units, or other emergency medical service units are often involved in treating or transporting injured parties involved in these events. The very nature of the first responder service provided by these organizations often dictates they are at the scene of these serious violent incidents before any police agency. The records and observations may well be the most pure, accurate, unbiased, and timely of any made during an entire investigation. The experience and training of these service providers is outstanding and we often call upon them to provide us with their written records as well as interview them for specific details of times, physical evidence observed, any disturbances in a crime scene, or remarks made by victims, witnesses, or suspects. I'm sure you can appreciate how important it may be for an investigation to have quick and easy access to what may be urgent information needed to bring a situation to a rapid conclusion.

The worse case scenario I can imagine is a homicide victim making a dying declaration in an ambulance en route to a hospital and an investigator unable to determine the name of the accused until a grand jury subpoena is issued or a search warrant executed for the records of the medical service unit. The information provided by emergency medical service personnel may well be used as part of probable cause in an affidavit for a search or arrest warrant in situations where time may be critical.

The Bureau of State Police recognizes the confidential nature of the records kept by various hospitals and other medical institutions and we go about gathering those records in the appropriate manner. We are, however, concerned about rapid access to information, the lack of which may impede the progress of an investigation, apprehension of a violent suspect, or gathering critical evidence at a crime scene. Section 2 sub-section I, of this proposal involving "juvenile records and reports of municipal fire departments regarding the investigation and family background of juvenile fire setters" are not a concern and if necessary we would go about gathering these records, if declared confidential under existing guidelines.

If there is further information that I may provide the Committee or sponsors, I would be willing to make myself available at any convenient time.

Respectfully,

Capt. Charles N. Love

CAPTAIN CHARLES N. LOVE
Maine State Police
Criminal Investigation Division

CNL/dp

cc: Rep. Gwadowsky of Fairfield
Rep. Jacques of Waterville

L.D. 1669

(Filing No. H-)

STATE OF MAINE
HOUSE OF REPRESENTATIVES
115TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT " " to H.P. 1144, L.D. 1669, Bill, "An Act to Exempt Certain Medical and Juvenile Records from the Freedom of Access Law"

Amend the bill in section 2 by striking out all of paragraph H and inserting in its place the following:

'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; and'

STATEMENT OF FACT

This amendment ensures that law enforcement officers will have timely access to information held by municipal ambulance and rescue units and other emergency medical service units when the law enforcement officers are investigating criminal conduct.

AMENDMENT TO L.D. 1669

Sec. 2. 1 M.R.S.A. § 402, sub-§ 3, ¶¶H and I are enacted to read:

H. Medical records and reports of municipal ambulance and rescue units and other emergency medical service units, except that such records and reports shall be available upon request to law enforcement officers investigating criminal conduct.

I. Juvenile records and reports of municipal fire departments regarding the investigation and family background of a juvenile fire setter.

1669

Committee: JUDICIARY

Date: 5/16/91

Question: OTP

Motion by: Rep. PARADIS (Rep. COTÉ)

SENATORS	Yea	Nay	Absent	Abstained
1. Senator Gauvreau	X			
2. Senator Berube	X			
3. Senator Holloway	X			
REPRESENTATIVES				
1. Representative Paradis	X			
2. Representative Cote	X			
3. Representative Stevens	X			
4. Representative Anthony	X			
5. Representative Farnsworth	X			
6. Representative Cathcart	X			
7. Representative Ketterer	X			
8. Representative Hanley	X			
9. Representative Richards	X			
10. Representative Ott	X			

VOTING SHEET

Committee: JUDICIARY

Date: 5/21

Question: Reconsider 1st vote

Motion by: Sen. B (Rep P)

	Yea	Nay	Absent	Abstained
SENATORS				
1. Senator Gauvreau	X			
2. Senator Berube	X			
3. Senator Holloway	X			
REPRESENTATIVES				
1. Representative Paradis	X			
2. Representative Cote	X			
3. Representative Stevens	X			
4. Representative Anthony			X	
5. Representative Farnsworth	X			
6. Representative Cathcart	X			
7. Representative Ketterer			X	
8. Representative Hanley	X			
9. Representative Richards			X	
10. Representative Ott	X			

Committee: JUDICIARY

Date: 5/21/91

Question: OTP-A

Motion by: Rep PARADIS (Rep. COTE)

SENATORS	Yea	Nay	Absent	Abstained
1. Senator Gauvreau	X			
2. Senator Berube	X			
3. Senator Holloway	X			
REPRESENTATIVES				
1. Representative Paradis	X			
2. Representative Cote	X			
3. Representative Stevens	X			
4. Representative Anthony			X	
5. Representative Farnsworth	X			
6. Representative Cathcart	X			
7. Representative Ketterer			X	
8. Representative Hanley	X			
9. Representative Richards			X	
10. Representative Ott	X			

HOUSE REPORT

THE COMMITTEE ON

JUDICIARY

to which was referred the Bill

"An Act to Exempt Certain Medical and Juvenile Records from the Freedom of Access Law."

5/29/91

H.P. 1144 L.D. 1669

have had the same under consideration, and ask leave to report that the same

Ought to Pass as Amended by

Committee Amendment " ".

This form to be used ONLY in reporting House Bills

Rep. Paradis
Augusta

For the Committee.

Town

§1711-C. Confidentiality of health care information

(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)

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

A. "Authorized representative of an individual" or "authorized representative" means an individual's legal guardian; agent pursuant to Title 18-C, section 5-803; agent pursuant to Title 18-C, Article 5, Part 9; or other authorized representative or, after death, that person's personal representative or a person identified in subsection 3-B. For a minor who has not consented to health care treatment in accordance with the provisions of state law, "authorized representative" means the minor's parent, legal guardian or guardian ad litem. [PL 2017, c. 402, Pt. C, §44 (AMD); PL 2019, c. 417, Pt. B, §14 (AFF).]

A-1. "Authorization to disclose" means authorization to disclose health care information in accordance with subsection 3, 3-A or 3-B. [PL 1999, c. 512, Pt. A, §5 (NEW); PL 1999, c. 512, Pt. A, §7 (AFF).]

A-2. "Aiding and assisting legally protected health care activity" has the same meaning as in Title 14, section 9002, subsection 1. [PL 2023, c. 648, Pt. F, §1 (NEW).]

B. "Disclosure" means the release, transfer of or provision of access to health care information in any manner obtained as a result of a professional health care relationship between the individual and the health care practitioner or facility to a person or entity other than the individual. [PL 1999, c. 512, Pt. A, §5 (AMD); PL 1999, c. 512, Pt. A, §7 (AFF); PL 1999, c. 790, Pt. A, §§58, 60 (AFF).]

B-1. "Gender-affirming health care services" has the same meaning as in Title 14, section 9002, subsection 4. [PL 2023, c. 648, Pt. F, §2 (NEW).]

C. "Health care" means preventative, diagnostic, therapeutic, rehabilitative, maintenance or palliative care, services, treatment, procedures or counseling, including appropriate assistance with disease or symptom management and maintenance, that affects an individual's physical, mental or behavioral condition, including individual cells or their components or genetic information, or the structure or function of the human body or any part of the human body. Health care includes prescribing, dispensing or furnishing to an individual drugs, biologicals, medical devices or health care equipment and supplies; providing hospice services to an individual; and the banking of blood, sperm, organs or any other tissue. [PL 1999, c. 512, Pt. A, §5 (AMD); PL 1999, c. 512, Pt. A, §7 (AFF); PL 1999, c. 790, Pt. A, §§58, 60 (AFF).]

D. "Health care facility" or "facility" means a facility, institution or entity licensed pursuant to this Title that offers health care to persons in this State, including a home health care provider, hospice program and a pharmacy licensed pursuant to Title 32. For the purposes of this section, "health care facility" does not include a state mental health institute, the Elizabeth Levinson Center, the Aroostook Residential Center or Freeport Towne Square. [PL 1997, c. 793, Pt. A, §8 (NEW); PL 1997, c. 793, Pt. A, §10 (AFF).]

E. "Health care information" means information that directly identifies the individual and that relates to an individual's physical, mental or behavioral condition, personal or family medical history or medical treatment or the health care provided to that individual. "Health care information" does not include information that protects the anonymity of the individual by means of encryption or encoding of individual identifiers or information pertaining to or derived from federally sponsored, authorized or regulated research governed by 21 Code of Federal Regulations, Parts 50 and 56 and 45 Code of Federal Regulations, Part 46, to the extent that such information is used in a manner that protects the identification of individuals. The Board of Directors of the Maine

Health Data Organization shall adopt rules to define health care information that directly identifies an individual. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

"Health care information" does not include information that is created or received by a member of the clergy or other person using spiritual means alone for healing as provided in Title 32, sections 2103 and 3270. [PL 1999, c. 512, Pt. A, §5 (AMD); PL 1999, c. 512, Pt. A, §7 (AFF); PL 1999, c. 790, Pt. A, §§58, 60 (AFF).]

F. "Health care practitioner" means a person licensed by this State to provide or otherwise lawfully providing health care or a partnership or corporation made up of those persons or an officer, employee, agent or contractor of that person acting in the course and scope of employment, agency or contract related to or supportive of the provision of health care to individuals. [PL 1999, c. 512, Pt. A, §5 (AMD); PL 1999, c. 512, Pt. A, §7 (AFF); PL 1999, c. 790, Pt. A, §§58, 60 (AFF).]

G. "Individual" means a natural person who is the subject of the health care information under consideration and, in the context of disclosure of health care information, includes the individual's authorized representative. [PL 1997, c. 793, Pt. A, §8 (NEW); PL 1997, c. 793, Pt. A, §10 (AFF).]

G-1. "Legally protected health care activity" has the same meaning as in Title 14, section 9002, subsection 8. [PL 2023, c. 648, Pt. F, §3 (NEW).]

G-2. "Reproductive health care services" has the same meaning as in Title 14, section 9002, subsection 9. [PL 2023, c. 648, Pt. F, §4 (NEW).]

H. "Third party" or "3rd party" means a person other than the individual to whom the health care information relates. [PL 1997, c. 793, Pt. A, §8 (NEW); PL 1997, c. 793, Pt. A, §10 (AFF).] [PL 2023, c. 648, Pt. F, §§1-4 (AMD).]

2. Confidentiality of health information; disclosure. An individual's health care information is confidential and may not be disclosed other than to the individual by the health care practitioner or facility except as provided in subsection 3, 3-A, 3-B, 6 or 11. Nothing in this section prohibits a health care practitioner or health care facility from adhering to applicable ethical or professional standards provided that these standards do not decrease the protection of confidentiality granted by this section. [PL 1999, c. 512, Pt. A, §5 (AMD); PL 1999, c. 512, Pt. A, §7 (AFF); PL 1999, c. 790, Pt. A, §§58, 60 (AFF).]

3. Written authorization to disclose. A health care practitioner or facility may disclose health care information pursuant to a written authorization signed by an individual for the specific purpose stated in the authorization. A written authorization to disclose health care information must be retained with the individual's health care information. A written authorization to disclose is valid whether it is in an original, facsimile or electronic form. A written authorization to disclose must contain the following elements:

A. The name and signature of the individual and the date of signature. If the authorization is in electronic form, a unique identifier of the individual and the date the individual authenticated the electronic authorization must be stated in place of the individual's signature and date of signature; [PL 1997, c. 793, Pt. A, §8 (NEW); PL 1997, c. 793, Pt. A, §10 (AFF).]

B. The types of persons authorized to disclose health care information and the nature of the health care information to be disclosed; [PL 1997, c. 793, Pt. A, §8 (NEW); PL 1997, c. 793, Pt. A, §10 (AFF).]

C. The identity or description of the 3rd party to whom the information is to be disclosed; [PL 1997, c. 793, Pt. A, §8 (NEW); PL 1997, c. 793, Pt. A, §10 (AFF).]

D. The specific purpose or purposes of the disclosure and whether any subsequent disclosures may be made pursuant to the same authorization. An authorization to disclose health care information related to substance use disorder treatment or care subject to the requirements of 42 United States Code, Section 290dd-2 (Supplement 1998) is governed by the provisions of that law; [PL 2017, c. 407, Pt. A, §72 (AMD).]

E. The duration of the authorization; [PL 1997, c. 793, Pt. A, §8 (NEW); PL 1997, c. 793, Pt. A, §10 (AFF).]

F. A statement that the individual may refuse authorization to disclose all or some health care information but that refusal may result in improper diagnosis or treatment, denial of coverage or a claim for health benefits or other insurance or other adverse consequences; [PL 1997, c. 793, Pt. A, §8 (NEW); PL 1997, c. 793, Pt. A, §10 (AFF).]

G. A statement that the authorization may be revoked at any time by the individual by executing a written revocation, subject to the right of any person who acted in reliance on the authorization prior to receiving notice of revocation, instructions on how to revoke an authorization and a statement that revocation may be the basis for denial of health benefits or other insurance coverage or benefits; and [PL 1997, c. 793, Pt. A, §8 (NEW); PL 1997, c. 793, Pt. A, §10 (AFF).]

H. A statement that the individual is entitled to a copy of the authorization form. [PL 1997, c. 793, Pt. A, §8 (NEW); PL 1997, c. 793, Pt. A, §10 (AFF).]

[PL 2017, c. 407, Pt. A, §72 (AMD).]

3-A. Oral authorization to disclose. When it is not practical to obtain written authorization under subsection 3 from an individual or person acting pursuant to subsection 3-B or when a person chooses to give oral authorization to disclose, a health care practitioner or facility may disclose health care information pursuant to oral authorization. A health care practitioner or facility shall record with the individual's health care information receipt of oral authorization to disclose, including the name of the authorizing person, the date, the information and purposes for which disclosure is authorized and the identity or description of the 3rd party to whom the information is to be disclosed.

[PL 1999, c. 512, Pt. A, §5 (NEW); PL 1999, c. 512, Pt. A, §7 (AFF); PL 1999, c. 790, Pt. A, §§58, 60 (AFF).]

3-B. Authorization to disclose provided by a 3rd party. When an individual or an authorized representative is unable to provide authorization to disclose under subsection 3 or 3-A, a health care practitioner or facility may disclose health care information pursuant to authorization to disclose that meets the requirements of subsection 3 or 3-A given by a 3rd party listed in this subsection. A health care practitioner or facility may determine not to obtain authorization from a person listed in this subsection when the practitioner or facility determines it would not be in the best interest of the individual to do so. In making this decision, the health care practitioner or facility shall respect the safety of the individual and shall consider any indicators, suspicion or substantiation of abuse. Persons who may authorize disclosure under this subsection include:

A. The spouse of the individual; [PL 1999, c. 512, Pt. A, §5 (NEW); PL 1999, c. 512, Pt. A, §7 (AFF); PL 1999, c. 790, Pt. A, §§58, 60 (AFF).]

B. A parent of the individual; [PL 1999, c. 512, Pt. A, §5 (NEW); PL 1999, c. 512, Pt. A, §7 (AFF); PL 1999, c. 790, Pt. A, §§58, 60 (AFF).]

C. An adult who is a child, grandchild or sibling of the individual; [PL 1999, c. 512, Pt. A, §5 (NEW); PL 1999, c. 512, Pt. A, §7 (AFF); PL 1999, c. 790, Pt. A, §§58, 60 (AFF).]

D. An adult who is a sibling of the individual's parent or that sibling's spouse or a child of a sibling of the individual or a child of a sibling of the individual's spouse, related by blood or adoption; [RR 2021, c. 2, Pt. B, §106 (COR).]

E. An adult related to the individual, by blood or adoption, who is familiar with the individual's personal values; and [PL 1999, c. 512, Pt. A, §5 (NEW); PL 1999, c. 512, Pt. A, §7 (AFF); PL 1999, c. 790, Pt. A, §§58, 60 (AFF).]

F. An adult who has exhibited special concern for the individual and who is familiar with the individual's personal values. [PL 1999, c. 512, Pt. A, §5 (NEW); PL 1999, c. 512, Pt. A, §7 (AFF); PL 1999, c. 790, Pt. A, §§58, 60 (AFF).]

[RR 2021, c. 2, Pt. B, §106 (COR).]

4. Duration of authorization to disclose. An authorization to disclose may not extend longer than 30 months, except that the duration of an authorization for the purposes of insurance coverage under Title 24, 24-A or 39-A is governed by the provisions of Title 24, 24-A or 39-A, respectively. [PL 1999, c. 512, Pt. A, §5 (AMD); PL 1999, c. 512, Pt. A, §7 (AFF); PL 1999, c. 790, Pt. A, §§58, 60 (AFF).]

5. Revocation of authorization to disclose. A person who may authorize disclosure may revoke authorization to disclose at any time, subject to the rights of any person who acted in reliance on the authorization prior to receiving notice of revocation. A written revocation of authorization must be signed and dated. If the revocation is in electronic form, a unique identifier of the individual and the date the individual authenticated the electronic authorization must be stated in place of the individual's signature and date of signature. A health care practitioner or facility shall record receipt of oral revocation of authorization, including the name of the person revoking authorization and the date. A revocation of authorization must be retained with the authorization and the individual's health care information.

[PL 1999, c. 512, Pt. A, §5 (AMD); PL 1999, c. 512, Pt. A, §7 (AFF); PL 1999, c. 790, Pt. A, §§58, 60 (AFF).]

6. Disclosure without authorization to disclose. A health care practitioner or facility may disclose, or when required by law must disclose, health care information without authorization to disclose under the circumstances stated in this subsection or as provided in subsection 11. Disclosure may be made without authorization as follows:

A. To another health care practitioner or facility for diagnosis, treatment or care of individuals or to complete the responsibilities of a health care practitioner or facility that provided diagnosis, treatment or care of individuals, as provided in this paragraph.

(1) For a disclosure within the office, practice or organizational affiliate of the health care practitioner or facility, no authorization is required.

(2) For a disclosure outside of the office, practice or organizational affiliate of the health care practitioner or facility, authorization is not required, except that in nonemergency circumstances authorization is required for health care information derived from mental health services provided by:

(a) A clinical nurse specialist licensed under the provisions of Title 32, chapter 31;

(b) A psychologist licensed under the provisions of Title 32, chapter 56;

(c) A social worker licensed under the provisions of Title 32, chapter 83;

(d) A counseling professional licensed under the provisions of Title 32, chapter 119; or

(e) A physician specializing in psychiatry licensed under the provisions of Title 32, chapter 36 or 48.

This subparagraph does not prohibit the disclosure of health care information between a licensed pharmacist and a health care practitioner or facility providing mental health services for the purpose of dispensing medication to an individual.

This subparagraph does not prohibit the disclosure without authorization of health care information covered under this section to a state-designated statewide health information exchange that satisfies the requirement in subsection 18, paragraph C of providing a general opt-out provision to an individual at all times and that provides and maintains an individual protection mechanism by which an individual may choose to opt in to allow the state-designated statewide health information exchange to disclose that individual's health care information covered under Title 34-B, section 1207.

This subparagraph does not prohibit the disclosure without authorization of health care information covered under this paragraph to a health care practitioner or health care facility, or to a payor or person engaged in payment for health care, for purposes of care management or coordination of care. Disclosure of psychotherapy notes is governed by 45 Code of Federal Regulations, Section 164.508(a)(2). A person who has made a disclosure under this subparagraph shall make a reasonable effort to notify the individual or the authorized representative of the individual of the disclosure; [PL 2013, c. 326, §1 (AMD).]

B. To an agent, employee, independent contractor or successor in interest of the health care practitioner or facility including a state-designated statewide health information exchange that makes health care information available electronically to health care practitioners and facilities or to a member of a quality assurance, utilization review or peer review team to the extent necessary to carry out the usual and customary activities relating to the delivery of health care and for the practitioner's or facility's lawful purposes in diagnosing, treating or caring for individuals, including billing and collection, risk management, quality assurance, utilization review and peer review. Disclosure for a purpose listed in this paragraph is not a disclosure for the purpose of marketing or sales; [PL 2011, c. 347, §7 (AMD).]

C. To a family or household member unless expressly prohibited by the individual or a person acting pursuant to subsection 3-B; [PL 1999, c. 512, Pt. A, §5 (AMD); PL 1999, c. 512, Pt. A, §7 (AFF); PL 1999, c. 790, Pt. A, §§58, 60 (AFF).]

D. To appropriate persons when a health care practitioner or facility that is providing or has provided diagnosis, treatment or care to the individual in good faith believes that disclosure is made to avert a serious threat to health or safety and meets the conditions, as applicable, described in 45 Code of Federal Regulations, Section 164.512(j) (2012). A disclosure pursuant to this paragraph must protect the confidentiality of the health care information consistent with sound professional judgment; [PL 2013, c. 289, §1 (AMD).]

E. To federal, state or local governmental entities in order to protect the public health and welfare when reporting is required or authorized by law, to report a suspected crime against the health care practitioner or facility or to report information that the health care facility's officials or health care practitioner in good faith believes constitutes evidence of criminal conduct that occurred on the premises of the health care facility or health care practitioner; [PL 2011, c. 572, §1 (AMD).]

E-1. To federal, state or local governmental entities if the health care practitioner or facility that is providing diagnosis, treatment or care to an individual has determined in the exercise of sound professional judgment that the following requirements, as applicable, are satisfied:

(1) With regard to a disclosure for public health activities, for law enforcement purposes or that pertains to victims of abuse, neglect or domestic violence, the provisions of 45 Code of Federal Regulations, Section 164.512(b), (c) or (f) (2012) must be met; and

(2) With regard to a disclosure that pertains to a victim of domestic violence or a victim of sexual assault, the provisions of 45 Code of Federal Regulations, Section 164.512(c)(1)(iii)(A) (2012) and Section 164.512(c)(1)(iii)(B) (2012) must be met. [PL 2013, c. 289, §2 (NEW).]

E-2. To federal, state or local governmental entities if the health care practitioner or facility that is providing diagnosis, treatment or care to an individual has determined in the exercise of sound professional judgment that the disclosure is required by section 1727; [RR 2015, c. 1, §17 (COR).]

F. [PL 1999, c. 512, Pt. A, §5 (RP); PL 1999, c. 512, Pt. A, §7 (AFF); PL 1999, c. 790, Pt. A, §§58, 60 (AFF).]

F-1. As directed by order of a court or as authorized or required by statute; [PL 1999, c. 512, Pt. A, §5 (NEW); PL 1999, c. 512, Pt. A, §7 (AFF); PL 1999, c. 790, Pt. A, §§58, 60 (AFF).]

F-2. To a governmental entity pursuant to a lawful subpoena requesting health care information to which the governmental entity is entitled according to statute or rules of court; [PL 1999, c. 512, Pt. A, §5 (NEW); PL 1999, c. 512, Pt. A, §7 (AFF); PL 1999, c. 790, Pt. A, §§58, 60 (AFF).]

F-3. **(TEXT EFFECTIVE ON CONTINGENCY: See PL 2013, c. 528, §12)** To the Maine Health Data Organization as required by and for use in accordance with chapter 1683. Health care information, including protected health information, as defined in 45 Code of Federal Regulations, Section 160.103 (2013), submitted to the Maine Health Data Organization must be protected by means of encryption; [PL 2013, c. 528, §1 (NEW); PL 2013, c. 528, §12 (AFF).]

G. To a person when necessary to conduct scientific research approved by an institutional review board or by the board of a nonprofit health research organization or when necessary for a clinical trial sponsored, authorized or regulated by the federal Food and Drug Administration. A person conducting research or a clinical trial may not identify any individual patient in any report arising from the research or clinical trial. For the purposes of this paragraph, "institutional review board" means any board, committee or other group formally designated by a health care facility and authorized under federal law to review, approve or conduct periodic review of research programs. Health care information disclosed pursuant to this paragraph that identifies an individual must be returned to the health care practitioner or facility from which it was obtained or must be destroyed when it is no longer required for the research or clinical trial. Disclosure for a purpose listed in this paragraph is not a disclosure for the purpose of marketing or sales; [PL 1999, c. 512, Pt. A, §5 (AMD); PL 1999, c. 512, Pt. A, §7 (AFF); PL 1999, c. 790, Pt. A, §§58, 60 (AFF).]

H. To a person engaged in the assessment, evaluation or investigation of the provision of or payment for health care or the practices of a health care practitioner or facility or to an agent, employee or contractor of such a person, pursuant to statutory or professional standards or requirements. Disclosure for a purpose listed in this paragraph is not a disclosure for the purpose of marketing or sales; [PL 1997, c. 793, Pt. A, §8 (NEW); PL 1997, c. 793, Pt. A, §10 (AFF).]

I. To a person engaged in the regulation, accreditation, licensure or certification of a health care practitioner or facility or to an agent, employee or contractor of such a person, pursuant to standards or requirements for regulation, accreditation, licensure or certification; [PL 1997, c. 793, Pt. A, §8 (NEW); PL 1997, c. 793, Pt. A, §10 (AFF).]

J. To a person engaged in the review of the provision of health care by a health care practitioner or facility or payment for such health care under Title 24, 24-A or 39-A or under a public program for the payment of health care or professional liability insurance for a health care practitioner or facility or to an agent, employee or contractor of such a person; [PL 1999, c. 512, Pt. A, §5 (AMD); PL 1999, c. 512, Pt. A, §7 (AFF); PL 1999, c. 790, Pt. A, §§58, 60 (AFF).]

K. To attorneys for the health care practitioner or facility that is disclosing the health care information or to a person as required in the context of legal proceedings or in disclosure to a court or governmental entity, as determined by the practitioner or facility to be required for the practitioner's or facility's own legal representation; [PL 1999, c. 512, Pt. A, §5 (AMD); PL 1999, c. 512, Pt. A, §7 (AFF); PL 1999, c. 790, Pt. A, §§58, 60 (AFF).]

L. To a person outside the office of the health care practitioner or facility engaged in payment activities, including but not limited to submission to payors for the purposes of billing, payment, claims management, medical data processing, determination of coverage or adjudication of health benefit or subrogation claims, review of health care services with respect to coverage or justification of charges or other administrative services. Payment activities also include but are not limited to:

(1) Activities necessary to determine responsibility for coverage;

(2) Activities undertaken to obtain payment for health care provided to an individual; and

(3) Quality assessment and utilization review activities, including precertification and preauthorization of services and operations or services audits relating to diagnosis, treatment or care rendered to individuals by the health care practitioner or facility and covered by a health plan or other payor; [PL 1999, c. 512, Pt. A, §5 (NEW); PL 1999, c. 512, Pt. A, §7 (AFF); PL 1999, c. 790, Pt. A, §§58, 60 (AFF).]

M. To schools, educational institutions, youth camps licensed under section 2495, correctional facilities, health care practitioners and facilities, providers of emergency services or a branch of federal or state military forces, information regarding immunization of an individual; [PL 2009, c. 211, Pt. B, §17 (AMD).]

N. To a person when disclosure is needed to set or confirm the date and time of an appointment or test or to make arrangements for the individual to receive those services; [PL 1999, c. 512, Pt. A, §5 (NEW); PL 1999, c. 512, Pt. A, §7 (AFF); PL 1999, c. 790, Pt. A, §§58, 60 (AFF).]

O. To a person when disclosure is needed to obtain or convey information about prescription medication or supplies or to provide medication or supplies under a prescription; [PL 1999, c. 512, Pt. A, §5 (NEW); PL 1999, c. 512, Pt. A, §7 (AFF); PL 1999, c. 790, Pt. A, §§58, 60 (AFF).]

P. To a person representing emergency services, health care and relief agencies, corrections facilities or a branch of federal or state military forces, of brief confirmation of general health status; [PL 1999, c. 512, Pt. A, §5 (NEW); PL 1999, c. 512, Pt. A, §7 (AFF); PL 1999, c. 790, Pt. A, §§58, 60 (AFF).]

Q. To a member of the clergy, of information about the presence of an individual in a health care facility, including the person's room number, place of residence and religious affiliation unless expressly prohibited by the individual or a person acting pursuant to subsection 3-B; [PL 1999, c. 512, Pt. A, §5 (NEW); PL 1999, c. 512, Pt. A, §7 (AFF); PL 1999, c. 790, Pt. A, §§58, 60 (AFF).]

R. To a member of the media who asks a health care facility about an individual by name, of brief confirmation of general health status unless expressly prohibited by the individual or a person acting pursuant to subsection 3-B; [PL 2015, c. 370, §4 (AMD).]

S. To a member of the public who asks a health care facility about an individual by name, of the room number of the individual and brief confirmation of general health status unless expressly prohibited by the individual or a person acting pursuant to subsection 3-B; [PL 2017, c. 203, §2 (AMD).]

T. To a lay caregiver designated by an individual pursuant to section 1711-G; [PL 2021, c. 398, Pt. MMMM, §3 (AMD).]

U. To a panel coordinator of the maternal, fetal and infant mortality review panel pursuant to section 261, subsection 4, paragraph B-1 for the purposes of reviewing health care information of a deceased person and a mother of a child who died within one year of birth, including fetal deaths after 28 weeks of gestation. For purposes of this paragraph, "panel coordinator" has the same

meaning as in section 261, subsection 1, paragraph E and "deceased person" has the same meaning as in section 261, subsection 1, paragraph B; [PL 2025, c. 332, §1 (AMD).]

V. To a panel coordinator of the Aging and Disability Mortality Review Panel pursuant to section 264, subsection 5, paragraph B, subparagraph (4) for the purposes of reviewing health care information of an adult receiving services who is deceased, in accordance with section 264, subsection 5, paragraph A. For purposes of this paragraph, "panel coordinator" has the same meaning as in section 264, subsection 2, paragraph B; and [PL 2025, c. 332, §2 (AMD).]

W. To the medical director of the Office of Child and Family Services or a child and adolescent psychiatric consultant or nurse consultant employed by the Office of Child and Family Services, or to case aide staff when acting under the direction of the medical director or a child and adolescent psychiatric consultant or nurse consultant employed by the Office of Child and Family Services, for the exclusive purpose of coordinating health care of an individual who has not attained 18 years of age and is in the department's custody pursuant to chapter 1071. The department shall request records directly from the individual's providers. Disclosure under this paragraph may include allowing access to health information from a state-designated statewide health information exchange. Information accessed through a state-designated statewide health information exchange may be used only for understanding and providing continuity of treatment with regard to any current health conditions, medications and immediate medical needs of the individual. [PL 2025, c. 332, §3 (NEW).]

[PL 2025, c. 332, §§1-3 (AMD).]

7. Confidentiality policies. A health care practitioner, facility or state-designated statewide health information exchange shall develop and implement policies, standards and procedures to protect the confidentiality, security and integrity of health care information to ensure that information is not negligently, inappropriately or unlawfully disclosed. The policies of health care facilities must provide that an individual being admitted for inpatient care be given notice of the right of the individual to control the disclosure of health care information. The policies must provide that routine admission forms include clear written notice of the individual's ability to direct that that individual's name be removed from the directory listing of persons cared for at the facility and notice that removal may result in the inability of the facility to direct visitors and telephone calls to the individual.

[PL 2011, c. 373, §1 (AMD).]

8. Prohibited disclosure. Disclosure of health care information is prohibited as follows.

A. A health care practitioner, facility or state-designated statewide health information exchange may not disclose health care information for the purpose of marketing or sales without written or oral authorization for the disclosure. [PL 2023, c. 648, Pt. F, §5 (NEW).]

B. Notwithstanding any provision of this section to the contrary and except as provided in paragraph C, a health care practitioner, facility or state-designated statewide health information exchange may not disclose any of the following in a civil or administrative action or proceeding or in response to a subpoena issued in a civil or administrative action or proceeding unless authorized in writing by the individual or the individual's authorized representative or pursuant to a court order issued by a court of competent jurisdiction in this State upon a showing of good cause, as long as the court order limits the use and disclosure of records and includes sanctions for misuse of records or sets forth other methods to ensure confidentiality:

(1) Any communication about reproductive health care services or gender-affirming health care services made to the health care practitioner, facility or state-designated statewide health information exchange from the individual or anyone acting on behalf of the individual, including an authorized representative of the individual; and

(2) Any information obtained through a personal examination of an individual relating to reproductive health care services or gender-affirming health care services. [PL 2023, c. 648, Pt. F, §5 (NEW).]

C. Paragraph B does not apply if:

(1) The communication or information to be disclosed relates to an individual who is a plaintiff in a medical malpractice action and the health care practitioner, facility or state-designated statewide health information exchange from which the communication or information is requested is a defendant in the medical malpractice action;

(2) The communication or information to be disclosed is requested by a professional licensing board that licenses health care practitioners in this State and the request relates to and is made in connection with a complaint investigation. This subparagraph does not apply if the complaint is based solely on an allegation that a licensee of the board provided reproductive health care services or gender-affirming health care services that are legally protected health care activity or aiding and assisting legally protected health care activity within the licensee's scope of practice; or

(3) The communication or information to be disclosed is requested by the United States Department of Justice, a law enforcement agency of this State or a political subdivision of this State or any other federal agency or agency of this State that pursuant to statute is responsible for investigating abuse, neglect or exploitation and the request is made in connection with an investigation of abuse, neglect or exploitation of a child pursuant to the Child and Family Services and Child Protection Act or of an incapacitated or dependent adult pursuant to the Adult Protective Services Act. [PL 2023, c. 648, Pt. F, §5 (NEW).]

D. This subsection may not be construed to impede the lawful disclosure of information to another health care practitioner or facility for diagnosis, treatment or care of individuals or to complete the responsibilities of a health care practitioner or facility that provides diagnosis, treatment or care of individuals or to impede the lawful disclosure of information to an insurer or payor related to the treatment provided by a health care practitioner or facility or to the payment or operations of a health care practitioner or facility. [PL 2023, c. 648, Pt. F, §5 (NEW).]

[PL 2023, c. 648, Pt. F, §5 (RPR).]

9. Disclosures of corrections or clarifications to health care information. A health care practitioner or facility shall provide to a 3rd party a copy of an addition submitted by an individual to the individual's health care information if:

A. The health care practitioner or facility provided a copy of the original health care record to the 3rd party on or after February 1, 2000; [PL 1999, c. 512, Pt. A, §5 (AMD); PL 1999, c. 512, Pt. A, §7 (AFF); PL 1999, c. 790, Pt. A, §§58, 60 (AFF).]

B. The correction or clarification was submitted by the individual pursuant to section 1711 or 1711-B and relates to diagnosis, treatment or care; [PL 1999, c. 512, Pt. A, §5 (AMD); PL 1999, c. 512, Pt. A, §7 (AFF); PL 1999, c. 790, Pt. A, §§58, 60 (AFF).]

C. The individual requests that a copy be sent to the 3rd party and provides an authorization that meets the requirements of subsection 3, 3-A or 3-B; and [PL 1999, c. 512, Pt. A, §5 (AMD); PL 1999, c. 512, Pt. A, §7 (AFF); PL 1999, c. 790, Pt. A, §§58, 60 (AFF).]

D. If requested by the health care practitioner or facility, the individual pays to the health care practitioner or facility all reasonable costs requested by that practitioner or facility. [PL 1997, c. 793, Pt. A, §8 (NEW); PL 1997, c. 793, Pt. A, §10 (AFF).]

[PL 1999, c. 512, Pt. A, §5 (AMD); PL 1999, c. 512, Pt. A, §7 (AFF); PL 1999, c. 790, Pt. A, §§58, 60 (AFF).]

10. Requirements for disclosures. Except as otherwise provided by law, disclosures of health care information pursuant to this section are subject to the professional judgment of the health care practitioner and to the following requirements.

A. A health care practitioner or facility that discloses health care information pursuant to subsection 3, 3-A or 3-B may not disclose information in excess of the information requested in the authorization. [PL 1999, c. 512, Pt. A, §5 (AMD); PL 1999, c. 512, Pt. A, §7 (AFF); PL 1999, c. 790, Pt. A, §§58, 60 (AFF).]

B. A health care practitioner or facility that discloses health care information pursuant to subsections 3, 3-A, 3-B or 6 may not disclose information in excess of the information reasonably required for the purpose for which it is disclosed. [PL 1999, c. 512, Pt. A, §5 (AMD); PL 1999, c. 512, Pt. A, §7 (AFF); PL 1999, c. 790, Pt. A, §§58, 60 (AFF).]

C. If a health care practitioner or facility believes that release of health care information to the individual would be detrimental to the health of the individual, the health care practitioner or facility shall advise the individual and make copies of the records available to the individual's authorized representative upon receipt of a written authorization. [PL 1997, c. 793, Pt. A, §8 (NEW); PL 1997, c. 793, Pt. A, §10 (AFF).]

D. If a health care practitioner or facility discloses partial or incomplete health care information, as compared to the request or directive to disclose under subsection 3, 3-A, 3-B or 6, the disclosure must expressly indicate that the information disclosed is partial or incomplete. [PL 1999, c. 512, Pt. A, §5 (AMD); PL 1999, c. 512, Pt. A, §7 (AFF); PL 1999, c. 790, Pt. A, §§58, 60 (AFF).]
[PL 1999, c. 512, Pt. A, §5 (AMD); PL 1999, c. 512, Pt. A, §7 (AFF); PL 1999, c. 790, Pt. A, §§58, 60 (AFF).]

11. Health care information subject to other laws, rules and regulations. Health care information that is subject to the provisions of 42 United States Code, Section 290dd-2 (Supplement 1998); chapters 710-B and 711; Title 5, section 200-E; Title 5, chapter 501; Title 24 or 24-A; Title 34-B, section 1207; Title 39-A; or other provisions of state or federal law, rule or regulation is governed solely by those provisions.
[PL 2009, c. 387, §2 (AMD).]

12. Minors. If a minor has consented to health care in accordance with the laws of this State, authorization to disclose health care information pursuant to this section must be given by the minor unless otherwise provided by law.
[PL 1997, c. 793, Pt. A, §8 (NEW); PL 1997, c. 793, Pt. A, §10 (AFF).]

13. Enforcement. This section may be enforced within 2 years of the date a disclosure in violation of this section was or should reasonably have been discovered.

A. When the Attorney General has reason to believe that a person has intentionally violated a provision of this section, the Attorney General may bring an action to enjoin unlawful disclosure of health care information. [PL 1997, c. 793, Pt. A, §8 (NEW); PL 1997, c. 793, Pt. A, §10 (AFF).]

B. An individual who is aggrieved by conduct in violation of this section may bring a civil action against a person who has intentionally unlawfully disclosed health care information in the Superior Court in the county in which the individual resides or the disclosure occurred. The action may seek to enjoin unlawful disclosure and may seek costs and a forfeiture or penalty under paragraph C. An applicant for injunctive relief under this paragraph may not be required to give security as a condition of the issuance of the injunction. [PL 1999, c. 512, Pt. A, §5 (AMD); PL 1999, c. 512, Pt. A, §7 (AFF); PL 1999, c. 790, Pt. A, §§58, 60 (AFF).]

C. A person who intentionally violates this section is subject to a civil penalty not to exceed $5,000, payable to the State, plus costs. If a court finds that intentional violations of this section have

occurred after due notice of the violating conduct with sufficient frequency to constitute a general business practice, the person is subject to a civil penalty not to exceed $10,000 for health care practitioners and $50,000 for health care facilities, payable to the State. A civil penalty under this subsection is recoverable in a civil action. [PL 1999, c. 512, Pt. A, §5 (AMD); PL 1999, c. 512, Pt. A, §7 (AFF); PL 1999, c. 790, Pt. A, §§58, 60 (AFF).]

D. Nothing in this section may be construed to prohibit a person aggrieved by conduct in violation of this section from pursuing all available common law remedies, including but not limited to an action based on negligence. [PL 1999, c. 512, Pt. A, §5 (NEW); PL 1999, c. 512, Pt. A, §7 (AFF); PL 1999, c. 790, Pt. A, §§58, 60 (AFF).]

[PL 1999, c. 512, Pt. A, §5 (AMD); PL 1999, c. 512, Pt. A, §7 (AFF); PL 1999, c. 790, Pt. A, §§58, 60 (AFF).]

14. Waiver prohibited. Any agreement to waive the provisions of this section is against public policy and void.

[PL 1997, c. 793, Pt. A, §8 (NEW); PL 1997, c. 793, Pt. A, §10 (AFF).]

15. Immunity. A cause of action in the nature of defamation, invasion of privacy or negligence does not arise against any person for disclosing health care information in accordance with this section. This section provides no immunity for disclosing information with malice or willful intent to injure any person.

[PL 1999, c. 512, Pt. A, §5 (AMD); PL 1999, c. 512, Pt. A, §7 (AFF); PL 1999, c. 790, Pt. A, §§58, 60 (AFF).]

16. Application. This section applies to all requests, directives and authorizations to disclose health care information executed on or after February 1, 2000. An authorization to disclose health care information executed prior to February 1, 2000 that does not meet the standards of this section is deemed to comply with the requirements of this section until the next health care encounter between the individual and the health care practitioner or facility.

[PL 1999, c. 512, Pt. A, §5 (AMD); PL 1999, c. 512, Pt. A, §7 (AFF); PL 1999, c. 790, Pt. A, §§58, 60 (AFF).]

17. Repeal.

[PL 2001, c. 346, §1 (RP).]

18. Participation in a state-designated statewide health information exchange. The following provisions apply to participation in a state-designated statewide health information exchange.

A. A health care practitioner may not deny a patient health care treatment and a health insurer may not deny a patient a health insurance benefit based solely on the provider's or patient's decision not to participate in a state-designated statewide health information exchange. Except when otherwise required by federal law, a payor of health care benefits may not require participation in a state-designated statewide health information exchange as a condition of participating in the payor's provider network. [PL 2011, c. 691, Pt. A, §20 (RPR).]

B. Recovery for professional negligence is not allowed against any health care practitioner or health care facility on the grounds of a health care practitioner's or a health care facility's nonparticipation in a state-designated statewide health information exchange arising out of or in connection with the provision of or failure to provide health care services. In any civil action for professional negligence or in any proceeding related to such a civil action or in any arbitration, proof of a health care practitioner's, a health care facility's or a patient's participation or nonparticipation in a state-designated statewide health information exchange is inadmissible as evidence of liability or nonliability arising out of or in connection with the provision of or failure to provide health care services. This paragraph does not prohibit recovery or the admission of evidence of reliance on information in a state-designated statewide electronic health information

exchange when there was participation by both the patient and the patient's health care practitioner. [PL 2011, c. 691, Pt. A, §20 (RPR).]

C. A state-designated statewide health information exchange to which health care information is disclosed under this section shall provide an individual protection mechanism by which an individual may opt out from participation to prohibit the state-designated statewide health information exchange from disclosing the individual's health care information to a health care practitioner or health care facility. [PL 2011, c. 691, Pt. A, §20 (RPR).]

D. At point of initial contact, a health care practitioner, health care facility or other entity participating in a state-designated statewide health information exchange shall provide to each patient, on a separate form, at minimum:

(1) Information about the state-designated statewide health information exchange, including a description of benefits and risks of participation in the state-designated statewide health information exchange;

(2) A description of how and where to obtain more information about or contact the state-designated statewide health information exchange;

(3) An opportunity for the patient to decline participation in the state-designated statewide health information exchange; and

(4) A declaration that a health care practitioner, health care facility or other entity may not deny a patient health care treatment based solely on the provider's or patient's decision not to participate in a state-designated statewide health information exchange.

The state-designated statewide health information exchange shall develop the form for use under this paragraph, with input from consumers and providers. The form must be approved by the office of the state coordinator for health information technology within the Governor's office of health policy and finance. [PL 2011, c. 691, Pt. A, §20 (RPR).]

E. A health care practitioner, health care facility or other entity participating in a state-designated statewide health information exchange shall communicate to the exchange the decision of each patient who has declined participation and shall do so within a reasonable time frame, but not more than 2 business days following the receipt of a signed form, as described in paragraph D, from the patient, or shall establish a mechanism by which the patient may decline participation in the state-designated statewide health information exchange at no cost to the patient. [PL 2011, c. 691, Pt. A, §20 (RPR).]

F. A state-designated statewide health information exchange shall process the request of a patient who has decided not to participate in the state-designated statewide health information exchange within 2 business days of receiving the patient's decision to decline, unless additional time is needed to verify the identity of the patient. A signed authorization from the patient is required before a patient is newly entered or reentered into the system if the patient chooses to begin participation at a later date.

Except as otherwise required by applicable law, regulation or rule or state or federal contract, or when the state-designated statewide health information exchange is acting as the agent of a health care practitioner, health care facility or other entity, the state-designated statewide health information exchange shall remove health information of individuals who have declined participation in the exchange. In no event may health information retained in the state-designated statewide health information exchange as set forth in this paragraph be made available to health care practitioners, health care facilities or other entities except as otherwise required by applicable law, regulation or rule or state or federal contract, or when the health care practitioner, health care facility or other entity is the originator of the information. [PL 2011, c. 691, Pt. A, §20 (RPR).]

G. A state-designated statewide health information exchange shall establish a secure website accessible to patients. This website must:

(1) Permit a patient to request a report of who has accessed that patient's records and when the access occurred. This report must be delivered to the patient within 2 business days upon verification of the patient's identity by the state-designated statewide health information exchange;

(2) Provide a mechanism for a patient to decline participation in the state-designated statewide health information exchange; and

(3) Provide a mechanism for the patient to consent to participation in the state-designated statewide health information exchange if the patient had previously declined participation. [PL 2011, c. 691, Pt. A, §20 (RPR).]

H. A state-designated statewide health information exchange shall establish for patients an alternate procedure to that provided for in paragraph F that does not require Internet access. A health care practitioner, health care facility or other entity participating in the state-designated statewide health information exchange shall provide information about this alternate procedure to all patients. The information must be included on the form identified in paragraph D. [PL 2011, c. 691, Pt. A, §20 (RPR).]

I. A state-designated statewide health information exchange shall maintain records regarding all disclosures of health care information by and through the state-designated statewide health information exchange, including the requesting party and the dates and times of the requests and disclosures. [PL 2011, c. 691, Pt. A, §20 (RPR).]

J. A state-designated statewide health information exchange may not charge a patient or an authorized representative of a patient any fee for access or communication as provided in this subsection. [PL 2011, c. 691, Pt. A, §20 (RPR).]

K. Notwithstanding any provision of this subsection to the contrary, a health care practitioner, health care facility or other entity shall provide the form and communication required by paragraphs D and F to all existing patients following the effective date of this subsection. [PL 2011, c. 691, Pt. A, §20 (RPR).]

L. A state-designated statewide health information exchange shall meet or exceed all applicable federal laws and regulations pertaining to privacy, security and breach notification regarding personally identifiable protected health information, as defined in 45 Code of Federal Regulations, Part 160. If a breach occurs, the state-designated statewide health information exchange shall arrange with its participants for notification of each individual whose protected health information has been, or is reasonably believed by the exchange to have been, breached. For purposes of this paragraph, "breach" has the same meaning as in 45 Code of Federal Regulations, Part 164, as amended. [PL 2011, c. 691, Pt. A, §20 (RPR).]

M. The state-designated statewide health information exchange shall develop a quality management plan, including auditing mechanisms, in consultation with the office of the state coordinator for health information technology within the department, who shall review the plan and results. [PL 2011, c. 691, Pt. A, §20 (RPR).]

[PL 2011, c. 691, Pt. A, §20 (RPR).]

20. Exemption from freedom of access laws. Except as provided in this section, the names and other identifying information of individuals in a state-designated statewide health information exchange are confidential and are exempt from the provisions of Title 1, chapter 13.

[PL 2011, c. 373, §4 (NEW).]

SECTION HISTORY

RR 1997, c. 2, §44 (COR). PL 1997, c. 793, §A8 (NEW). PL 1997, c. 793, §A10 (AFF). PL 1999, c. 3, §§1,2 (AMD). PL 1999, c. 3, §§3,5 (AFF). PL 1999, c. 512, §A5 (AMD). PL 1999, c. 512, §A6, 7 (AFF). PL 1999, c. 790, §§A58,60 (AFF). RR 2001, c. 1, §26 (COR). PL 2001, c. 346, §1 (AMD). PL 2009, c. 211, Pt. B, §17 (AMD). PL 2009, c. 292, §3 (AMD). PL 2009, c. 292, §6 (AFF). PL 2009, c. 387, §§1, 2 (AMD). PL 2011, c. 347, §§6-8 (AMD). PL 2011, c. 373, §§1-4 (AMD). PL 2011, c. 572, §1 (AMD). PL 2011, c. 691, Pt. A, §20 (AMD). PL 2013, c. 289, §§1, 2 (AMD). PL 2013, c. 326, §1 (AMD). PL 2013, c. 528, §1 (AMD). PL 2013, c. 528, §12 (AFF). RR 2015, c. 1, §17 (COR). PL 2015, c. 218, §1 (AMD). PL 2015, c. 370, §§4, 5 (AMD). PL 2017, c. 203, §§2-4 (AMD). PL 2017, c. 402, Pt. C, §44 (AMD). PL 2017, c. 402, Pt. F, §1 (AFF). PL 2017, c. 407, Pt. A, §72 (AMD). PL 2019, c. 417, Pt. B, §14 (AFF). PL 2021, c. 398, Pt. MMMM, §§3-5 (AMD). RR 2021, c. 2, Pt. B, §106 (COR). PL 2023, c. 648, Pt. F, §§1-5 (AMD). PL 2025, c. 332, §§1-3 (AMD).

LD 1824 An Act to Prohibit the Public Release of Information Regarding a Railroad Fatality

LD 1824 excludes from the definition of "public record" in Title 1, section 402 "reports of a law enforcement agency" regarding an accident resulting in a fatality involving a railroad or railroad line and "all records of communication between the law enforcement agency and a railroad company employee involved in that accident." The exclusion applies only during the course of an investigation of such an accident. The bill provides certain exceptions to the confidentiality of the reports and records.

The RTKAC was asked by the Judiciary committee to examine the exception proposed by this bill. The Judiciary committee voted ONTP on the bill last session, citing concerns that the bill was insufficiently narrowly tailored.

Questions for consideration:

- What is the definition of a "report of a law enforcement agency" for the purposes of this bill?
- The bill notwithstands contrary language in Current law at Title 23, section 7311, which requires railroad companies to file a report of railroad accidents with the Commissioner of Transportation. There does not appear to be conflicting language in this section. However, it is unclear how the section relates to LD 1824, as the report described in section 7311 is a report of the railroad company, not a law enforcement report.
- Reports of LEAs are governed by Title 16, chapter 9, the Intelligence and Investigative Record Information Act. This act provides that investigate records are confidential under a broad range of circumstances, including when disclosure would interfere with criminal law enforcement proceedings.
- Could the bill be more narrowly drafted to make confidential all personally identifiable information of a railroad company employee contained in a law enforcement agency report and/or a an accident report of a railroad (as required by Title 23, section 7311) during the course of investigation?

CHAPTER 9

INTELLIGENCE AND INVESTIGATIVE RECORD INFORMATION ACT

§801. Short title

This chapter may be known and cited as "the Intelligence and Investigative Record Information Act." [PL 2013, c. 267, Pt. A, §3 (NEW).]

SECTION HISTORY

PL 2013, c. 267, Pt. A, §3 (NEW).

§802. Application

This chapter applies to a record that is or contains intelligence and investigative record information and that is collected by or prepared at the direction of or kept in the custody of any Maine criminal justice agency. [PL 2013, c. 267, Pt. A, §3 (NEW).]

SECTION HISTORY

PL 2013, c. 267, Pt. A, §3 (NEW).

§803. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 2013, c. 267, Pt. A, §3 (NEW).]

1. Administration of civil justice. "Administration of civil justice" means activities relating to the anticipation, prevention, detection, monitoring or investigation of known, suspected or possible civil violations and prospective and pending civil actions. It includes the collection, storage and dissemination of intelligence and investigative record information relating to the administration of civil justice. "Administration of civil justice" does not include known, suspected or possible traffic infractions.
[PL 2013, c. 267, Pt. A, §3 (NEW).]

2. Administration of criminal justice. "Administration of criminal justice" means activities relating to the anticipation, prevention, detection, monitoring or investigation of known, suspected or possible crimes. It includes the collection, storage and dissemination of intelligence and investigative record information relating to the administration of criminal justice.
[PL 2013, c. 267, Pt. A, §3 (NEW).]

3. Administration of juvenile justice. "Administration of juvenile justice" has the same meaning as in Title 15, section 3003, subsection 1-A.
[PL 2021, c. 365, §26 (AMD); PL 2021, c. 365, §37 (AFF).]

4. Criminal justice agency. "Criminal justice agency" means a federal, state or State of Maine government agency or any subunit of a government agency at any governmental level that performs the administration of criminal justice pursuant to a statute or executive order. "Criminal justice agency" includes the Department of the Attorney General, district attorneys' offices and the equivalent departments or offices in any federal or state jurisdiction. "Criminal justice agency" also includes any equivalent agency at any level of Canadian government and the government of any federally recognized Indian tribe.
[PL 2013, c. 267, Pt. A, §3 (NEW).]

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

[PL 2013, c. 267, Pt. A, §3 (NEW).]

6. Executive order. "Executive order" means an order of the President of the United States or the chief executive of a state that has the force of law and that is published in a manner permitting regular public access.
[PL 2013, c. 267, Pt. A, §3 (NEW).]

7. Intelligence and investigative record information. "Intelligence and investigative record information" means information of record collected by or prepared by or at the direction of a criminal justice agency or kept in the custody of a criminal justice agency while performing the administration of criminal justice or, exclusively for the Department of the Attorney General and district attorneys' offices, the administration of civil justice. "Intelligence and investigative record information" includes information of record concerning investigative techniques and procedures and security plans and procedures prepared or collected by a criminal justice agency or other agency. "Intelligence and investigative record information" does not include criminal history record information as defined in section 703, subsection 3 and does not include information of record collected or kept while performing the administration of juvenile justice.
[PL 2013, c. 267, Pt. A, §3 (NEW).]

8. State. "State" means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the United States Virgin Islands, Guam and American Samoa. "State" also includes the federal government of Canada and any provincial government of Canada and the government of any federally recognized Indian tribe.
[PL 2013, c. 267, Pt. A, §3 (NEW).]

9. Statute. "Statute" means an Act of Congress or an act of a state legislature or a provision of the Constitution of the United States or the constitution of a state.
[PL 2013, c. 267, Pt. A, §3 (NEW).]

SECTION HISTORY

PL 2013, c. 267, Pt. A, §3 (NEW). PL 2021, c. 365, §26 (AMD). PL 2021, c. 365, §37 (AFF).

§804. Limitation on dissemination of intelligence and investigative record information

Except as provided in sections 805-A and 806, a record that is or contains intelligence and investigative record information is confidential and may not be disseminated by a Maine criminal justice agency to any person or public or private entity if there is a reasonable possibility that public release or inspection of the record would: [PL 2023, c. 235, §1 (AMD).]

1. Interfere with criminal law enforcement proceedings. Interfere with law enforcement proceedings relating to crimes;
[PL 2013, c. 267, Pt. A, §3 (NEW).]

2. Result in dissemination of prejudicial information. Result in public dissemination of prejudicial information concerning an accused person or concerning the prosecution's evidence that will interfere with the ability of a court to impanel an impartial jury;
[PL 2013, c. 267, Pt. A, §3 (NEW).]

3. Constitute an invasion of privacy. Constitute an unwarranted invasion of personal privacy;
[PL 2013, c. 267, Pt. A, §3 (NEW).]

4. Disclose confidential source. Disclose the identity of a confidential source;
[PL 2013, c. 267, Pt. A, §3 (NEW).]

5. Disclose confidential information. Disclose confidential information furnished only by a confidential source;
[PL 2013, c. 267, Pt. A, §3 (NEW).]

6. Disclose trade secrets or other confidential commercial or financial information. Disclose trade secrets or other confidential commercial or financial information designated as such by the owner or source of the information, by the Department of the Attorney General or by a district attorney's office;
[PL 2013, c. 267, Pt. A, §3 (NEW).]

7. Disclose investigative techniques or security plans. Disclose investigative techniques and procedures or security plans and procedures not known by the general public;
[PL 2013, c. 267, Pt. A, §3 (NEW).]

8. Endanger law enforcement or others. Endanger the life or physical safety of any individual, including law enforcement personnel;
[PL 2013, c. 267, Pt. A, §3 (NEW).]

9. Disclose statutorily designated confidential information. Disclose information designated confidential by statute;
[PL 2013, c. 267, Pt. A, §3 (NEW).]

10. Interfere with civil proceedings. Interfere with proceedings relating to civil violations, civil enforcement proceedings and other civil proceedings conducted by the Department of the Attorney General or by a district attorney's office;
[PL 2013, c. 267, Pt. A, §3 (NEW).]

11. Disclose arbitration or mediation information. Disclose conduct of or statements made or documents submitted by any person in the course of any mediation or arbitration conducted under the auspices of the Department of the Attorney General; or
[PL 2013, c. 267, Pt. A, §3 (NEW).]

12. Identify source of consumer or antitrust complaints. Identify the source of a complaint made to the Department of the Attorney General regarding a violation of consumer or antitrust laws.
[PL 2013, c. 267, Pt. A, §3 (NEW).]

SECTION HISTORY

PL 2013, c. 267, Pt. A, §3 (NEW). PL 2013, c. 507, §4 (AMD). PL 2023, c. 235, §1 (AMD).

§805. Exceptions

(REPEALED)

SECTION HISTORY

PL 2013, c. 267, Pt. A, §3 (NEW). PL 2013, c. 507, §5 (AMD). PL 2023, c. 235, §2 (RP).

§805-A. Exceptions

1. Dissemination of certain information. This chapter does not preclude dissemination of intelligence and investigative record information that is confidential under section 804 by a Maine criminal justice agency to:

A. Another criminal justice agency; [PL 2023, c. 235, §3 (NEW).]

B. A person or public or private entity as part of the criminal justice agency's administration of criminal justice or the administration of civil justice by the Department of the Attorney General or a district attorney's office; [PL 2023, c. 235, §3 (NEW).]

C. A person accused of a crime or that person's agent or attorney for trial and sentencing purposes if authorized by:

(1) The responsible prosecutorial office or prosecutor; or

(2) A court rule, court order or court decision of this State or of the United States.

As used in this subsection, "agent" means a licensed professional investigator, an expert witness or a parent, foster parent or guardian if the accused person has not attained 18 years of age; [PL 2023, c. 235, §3 (NEW).]

D. A federal court, the District Court, Superior Court or Supreme Judicial Court or an equivalent court in another state; [PL 2023, c. 235, §3 (NEW).]

E. A person or public or private entity expressly authorized to receive the intelligence and investigative record information by statute, executive order, court rule, court decision or court order. "Express authorization" means language in the statute, executive order, court rule, court decision or court order that specifically speaks of intelligence and investigative record information or specifically refers to a type of intelligence or investigative record; or [PL 2023, c. 235, §3 (NEW).]

F. The Secretary of State for use in the determination and issuance of a driver's license suspension. [PL 2023, c. 235, §3 (NEW).]

[PL 2023, c. 235, §3 (NEW).]

2. Record of complaint.

[PL 2023, c. 557, §3 (RP).]

SECTION HISTORY

PL 2023, c. 235, §3 (NEW). PL 2023, c. 557, §3 (AMD).

§806. Exceptions subject to reasonable limitations

Subject to reasonable limitations imposed by a Maine criminal justice agency to protect against the harms described in section 804, this chapter does not preclude dissemination of intelligence and investigative record information confidential under section 804 by a Maine criminal justice agency to: [PL 2013, c. 267, Pt. A, §3 (NEW).]

1. A government agency responsible for regulating facilities and programs providing care to children or adults. A government agency or subunit of a government agency in this State or another state that pursuant to statute is responsible for licensing or regulating the programs or facilities that provide care to children or incapacitated or dependent adults if the intelligence and investigative record information concerns the investigation of suspected abuse, neglect or exploitation; [PL 2021, c. 252, §1 (AMD).]

1-A. A government agency or subunit of a government agency responsible for investigating child or adult abuse. A government agency or subunit of a government agency in this State or another state that pursuant to statute is responsible for investigating abuse, neglect or exploitation of children or incapacitated or dependent adults if:

A. The intelligence and investigative record information is being provided in response to a request by that agency or subunit of an agency for records regarding a particular person or persons; and [PL 2021, c. 252, §2 (NEW).]

B. The intelligence and investigative record information relates to alleged or proven conduct that is criminal under Title 17-A, chapters 9, 11, 12, 13, 21, 23, 33, 35, 41, 43 or 45 by a person in paragraph A. [PL 2021, c. 252, §2 (NEW).]

The intelligence and investigative record information obtained pursuant to this subsection may be used only for the purpose for which it was obtained and, as necessary, for administrative or ombudsman office oversight of the agency or subunit of an agency obtaining the information; [PL 2021, c. 252, §2 (NEW).]

2. A crime victim or that victim's agent or attorney. A crime victim or that victim's agent or attorney. A Maine criminal justice agency that provides a copy of intelligence and investigative record

information under this subsection to the crime victim or that victim's agent or attorney may not charge a fee for providing that information. As used in this subsection, "agent" means a licensed professional investigator, an insurer or an immediate family member, foster parent or guardian if due to death, age or physical or mental disease, disorder or defect the victim cannot realistically act on the victim's own behalf; or
[PL 2023, c. 235, §4 (AMD).]

3. A counselor or advocate.

[PL 2015, c. 411, §1 (RP).]

4. A counselor or advocate. A sexual assault counselor, as defined in section 53-A, subsection 1, paragraph B, or a domestic violence advocate, as defined in section 53-B, subsection 1, paragraph A-4. A person to whom intelligence and investigative record information is disclosed pursuant to this subsection:

A. May use the information only for planning for the safety of the victim of a sexual assault or domestic or family violence incident to which the information relates; [PL 2015, c. 411, §2 (NEW).]

B. May not further disseminate the information; [PL 2015, c. 411, §2 (NEW).]

C. Shall ensure that physical copies of the information are securely stored and remain confidential; [PL 2015, c. 411, §2 (NEW).]

D. Shall destroy all physical copies of the information within 30 days after their receipt; [PL 2015, c. 411, §2 (NEW).]

E. Shall permit criminal justice agencies providing such information to perform reasonable and appropriate audits to ensure that all physical copies of information obtained pursuant to this subsection are maintained in accordance with this subsection; and [PL 2015, c. 411, §2 (NEW).]

F. Shall indemnify and hold harmless criminal justice agencies providing information pursuant to this subsection with respect to any litigation that may result from the provision of the information to the person. [PL 2015, c. 411, §2 (NEW).]
[PL 2025, c. 139, §6 (AMD).]

SECTION HISTORY

PL 2013, c. 267, Pt. A, §3 (NEW). PL 2013, c. 507, §§6, 7 (AMD). PL 2015, c. 411, §§1, 2 (AMD). PL 2021, c. 252, §§1, 2 (AMD). PL 2023, c. 235, §4 (AMD). PL 2025, c. 139, §6 (AMD).

§806-A. Video depicting use of deadly force

This chapter does not preclude the public dissemination of that portion of a video in the custody of the Attorney General depicting the use of deadly force by law enforcement when the public interest in the evaluation of the use of deadly force by law enforcement and the review and investigation of those incidents by the Attorney General outweighs the harms contemplated in section 804. Upon receiving a request for video depicting the use of deadly force, the Attorney General shall issue a decision on whether to release the video no later than 30 days after the request and, in the event of denial, shall provide written notice stating in detail the basis for the denial, a time frame for release of all or part of the video and the process to appeal the decision pursuant to Title 1, section 409. [PL 2021, c. 353, §2 (NEW).]

SECTION HISTORY

PL 2021, c. 353, §2 (NEW).

§807. Confirming existence or nonexistence of confidential intelligence and investigative record information

(REPEALED)

SECTION HISTORY

PL 2013, c. 267, Pt. A, §3 (NEW). PL 2013, c. 507, §8 (AMD). PL 2021, c. 153, §1 (RP).

§808. No right to access or review

A person who is the subject of intelligence and investigative record information maintained by a criminal justice agency has no right to inspect or review that information for accuracy or completeness. [PL 2013, c. 267, Pt. A, §3 (NEW).]

SECTION HISTORY

PL 2013, c. 267, Pt. A, §3 (NEW).

§809. Unlawful dissemination of confidential intelligence and investigative record information

1. Offense. A person is guilty of unlawful dissemination of confidential intelligence and investigative record information if the person intentionally disseminates intelligence and investigative record information confidential under section 804 knowing it to be in violation of any of the provisions of this chapter.
[PL 2013, c. 507, §9 (AMD).]

2. Classification. Unlawful dissemination of confidential intelligence and investigative record information is a Class E crime.
[PL 2013, c. 507, §9 (AMD).]

SECTION HISTORY

PL 2013, c. 267, Pt. A, §3 (NEW). PL 2013, c. 507, §9 (AMD).

132nd MAINE LEGISLATURE

FIRST SPECIAL SESSION-2025

Legislative Document	**No. 1824**
S.P. 711	In Senate, April 29, 2025

An Act to Prohibit the Public Release of Information Regarding a Railroad Fatality

Reference to the Committee on Judiciary suggested and ordered printed.

DAREK M. GRANT
Secretary of the Senate

Presented by Senator RAFFERTY of York.
Cosponsored by Representative LYMAN of Livermore Falls and
Senators: BALDACCI of Penobscot, TIMBERLAKE of Androscoggin.

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 2023, c. 618, §1, 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. 1 MRSA §402, sub-§3, ¶V, as enacted by PL 2017, c. 118, §3, is amended to read:

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~~.~~; and

Sec. 3. 1 MRSA §402, sub-§3, ¶W is enacted to read:

W. Notwithstanding any provision of Title 23, section 7311 to the contrary, during the course of an investigation of an accident resulting in a fatality involving a railroad or railroad line, reports of a law enforcement agency regarding that accident and all records of communication between the law enforcement agency and a railroad company employee involved in that accident. A law enforcement agency that responds to the accident shall maintain such reports and records in a manner that ensures confidentiality of the reports and records, except that the reports and records may be accessible at all reasonable times, upon written request, to:

(1) A railroad company responsible for the railroad or railroad line on which the accident occurred;

(2) A railroad company whose employee is identified in a report or record; and

(3) Any other person authorized by judicial order to obtain the reports or records under this paragraph if access to the report or record is necessary in the performance of the person's duties.

The reports and records under this paragraph must be accessible at all reasonable times, upon written or e-mail request to law enforcement agencies, district attorneys and assistant district attorneys.

For the purposes of this paragraph, "railroad" has the same meaning as in Title 23, section 5001, subsection 1; "railroad company" has the same meaning as in Title 23, section 5001, subsection 2; and "railroad line" has the same meaning as in Title 23, section 7152, subsection 3.

SUMMARY

This bill excludes from the definition of "public record" reports of a law enforcement agency regarding an accident resulting in a fatality involving a railroad or railroad line and all records of communication between the law enforcement agency and a railroad company employee involved in that accident. The exclusion applies only during the course of an investigation of such an accident. The bill provides certain exceptions to the confidentiality of the reports and records.

§7311. Investigation and reports of accidents

1. Investigation. The Commissioner of Transportation shall investigate all accidents resulting in loss of human life, or personal injury requiring 3 full days of hospitalization, occurring upon the premises of any railroad company or directly or indirectly arising from or connected with its maintenance or operation. Any accident so occurring and which results in property damage or personal injury that requires less than 3 full days of hospitalization also may be investigated if, in the judgment of the commissioner, the public interest requires it. The commissioner may hold hearings in connection with any investigation and shall reasonably notify the railroad company of the time and place of the hearing, and the railroad company may then be heard and the commissioner shall have the power to make such order or recommendation with respect thereto as deemed just and reasonable.
[PL 1989, c. 398, §9 (NEW).]

2. Reports of accidents. Every railroad company is required to file with the Commissioner of Transportation, under such rules as the commissioner may prescribe, reports of accidents so occurring, in the manner and form designated by the commissioner. In case of accidents resulting in loss of human life, such reports shall be made immediately by telephone or telegraph, followed by a detailed written report.
[PL 1989, c. 398, §9 (NEW).]

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.
[PL 2023, c. 618, §4 (NEW).]

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.
[PL 2023, c. 618, §5 (NEW).]

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.
[PL 2023, c. 618, §6 (NEW).]

3. Disposition of reports. The orders and recommendations of the Department of Transportation, and accident reports and all other materials in the department's file pertaining to such railroad company accidents, shall be made available, upon request, to the railroad company, the injured person or their representatives.
[PL 1989, c. 398, §9 (NEW).]

4. Reports inadmissible as evidence. The orders and recommendations of the Department of Transportation, accident reports and any other material in the department's file pertaining to such accidents obtained or prepared pursuant to an investigation under this section shall not be admitted as evidence in any suit or action for damages growing out of any matter mentioned in any such investigation.
[PL 1989, c. 398, §9 (NEW).]

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.
[PL 2023, c. 618, §7 (NEW).]

SECTION HISTORY

PL 1989, c. 398, §9 (NEW). PL 2023, c. 618, §§4-7 (AMD).

MAINE AFL-CIO

A Union of Unions Standing for Maine Workers

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Testimony of Adam Goode, Maine AFL-CIO Legislative & Political Director, In Support of LD 1824, "An Act to Prohibit the Public Release of Information Regarding a Railroad Fatality"

Senator Carney, Representative Kuhn and members of the Joint Standing Committee on Judiciary, my name is Adam Goode. I'm the Legislative and Political Director of the Maine AFL-CIO. We represent 40,000 working people in the state of Maine. We work to improve the lives and working conditions of our members and all working people. We testify in support of LD 1824.

There are a number of railway workers that are a part of the over 200 unions affiliated with the Maine AFL-CIO. This bill was brought to us by the Brotherhood of Locomotive Engineers and Trainmen (BLET), who perform dangerous work involving heavy machinery, exposure to moving trains, and potential for mechanical failures or accidents. Railroad workers face significant pressures from railroads to work longer hours, potentially leading to fatigue and increased risk of errors.

In addition to the risks associated with constantly working around moving trains, railroad workers have reported facing situations related to harassment, which you will hear further details about in testimony today. Trains can travel at high speeds and are difficult to stop quickly, posing a significant risk of accidents. In subsequent testimony today you will hear about a young female engineer who struck an 18-year-old female trespasser making a TikTok video, using the approaching train as a backdrop. The intoxicated trespasser was subsequently killed. After family and friends of the deceased obtained the engineer's personal information, they began to harass her. They vandalized her home, wrote "murderer" on her vehicle, and viciously attacked her on social media. After eventually moving to a new home, the engineer was eventually able to end the harassment.

This is just one example of an incident that has happened many times over the years. We remind the committee that workers suffer harm that is irreparable when they partake in events like this and should not face further abuse in the wake of such events. For these reasons, we are supportive of legislation to protect the names of railroad workers involved in such incidents so long as they remain recorded for posterity and accessible to the parties that need them.

We urge you to vote "ought to pass"

MAINE PRESS ASSOCIATION
On the record since 1864

P.O. Box 336 Camden, ME 04843 mainepressassociation.org

Sen. Carney, Rep. Kuhn, members of the Joint Standing Committee on Judiciary, my name is Judith Meyer. I offer testimony on behalf of the Maine Press Association against LD 1824, An Act to Prohibit the Public Release of Information Regarding a Railroad Fatality.

* * *

When crafting Maine's Freedom of Access Act, it was the intention of the Legislature that actions of government entities be taken openly and that records of their actions be open to public inspection. That includes records created and maintained by law enforcement agencies for accidents on our roads, in our forests, along waterways and railways, in our airways and anywhere an accident may occur.

Law enforcement agencies – which includes railroad police under Title 23 – are required to produce accident reports as a permanent record of the circumstances of an accident, the people involved and the public response in the form of police, fire and rescue personnel. Many of these records are later used as the foundation for civil or criminal actions against others, and as a measure of accountability of public response.

The bill before you would require that any law enforcement agency that responds to an accident that results in a fatality involving a railroad or railroad line to "maintain such reports and records in a manner that ensures confidentiality of the reports and records" except for the railroad company involved or to someone who may obtain a court order for access. This confidentiality requirement is so broad it could include arrest records, should there be an arrest connected to a fatal accident, which are specifically defined as "public" records under Maine's Criminal History Record Information Act.

Accident reports are currently defined as public records under Title 29-A. Any law enforcement agency may disclose the "date, time and location of the accident and the names and addresses of operators, owners, injured persons, witnesses and the investigating officer" for all accidents, and may also, on written request, "furnish a photocopy of the investigating officer's report." These guaranteed disclosures serve the public's right to inspect governmental records.

The bill before you also captures active investigative records, which may include communications between law enforcement and a railroad company employee, but the bill's requirement to maintain confidentiality during investigations is already guaranteed under Title 16, Chapter 9, of Maine's Intelligence and Investigative Record Information Act and is redundant here.

The proposal to create a special exception for any and all reports around an accident involving a fatality just because it involved a railroad or occurred on a railroad line is a huge departure from

current access to accident reports and goes against the intent of Maine's FOAA to provide access to these records as a matter of public accountability. And what of records created for a non-fatal railroad-involved accident? Those would remain public?

Maine Press also has questions and concerns about whether this confidentiality proposal would conflict with preliminary and final accident reports and investigations available to the public through the National Transportation Safety Board, all of which are records created in cooperation with local law enforcement agencies and officials and may very well contain bits and pieces of locally-produced reports.

The Maine Press Association requests that a proposal of this magnitude be researched and reviewed by the Right to Know Advisory Committee, which could make a recommendation on the critical public access this bill intends to alter.

* * *

The **Maine Press Association**, founded in 1864, is one of the oldest professional news organizations in the nation. Our goals, as spelled out in our charter and by-laws are: To promote and foster high ethical standards and the best interests of the newspapers, journalists, and media organizations of the state of Maine that constitute its membership; to encourage improved business and editorial practices and better media environment in the state; and to improve the conditions of journalism and journalists by promoting and protecting the principles of freedom of speech and of the press and the public's right to know.

Joseph E. Rafferty
Senator, District 34

THE MAINE SENATE
132nd Legislature

3 State House Station
Augusta, Maine 04333

Senator Joseph Rafferty testimony presenting

LD 1824, "An Act to Prohibit the Public Release of Information Regarding a Railroad Fatality,"

Before the Joint Standing Committee on Criminal Justice and Public Safety

Monday May 12, 2025

Good afternoon, Senator Carney, Representative Kuhn and distinguished members of the Judiciary Committee. My name is Joe Rafferty and I represent Senate District 34, including the towns of Berwick, North Berwick, Wells, Kennebunk and Kennebunkport.

I'm here today presenting LD 1824, "An Act to Prohibit the Public Release of Information Regarding a Railroad Fatality." The bill idea began with a conversation I had with a constituent in my district. To be honest, I had never thought about this but gave it some time to sink in. Ultimately, I was happy to sponsor it having considered many of the strange stories involving retaliations around many issues that happen in today's world. We all have similar conversations with constituents, weighing out logistics validated my submitting legislation on two other railroad issues heard in the Transportation Committee.

The topic of our rail system comes up often in my district as all five communities have rails that pass within them. Most of the issues stem from concerns of the freight side such as crashes and what type of cargo is on the train. Other concerns stem from spills or airborne hazardous materials. This is the first that centered around a fatality resulting from such an accident. Without having much personal knowledge, I turned to internet searches. Railroad deaths totaled 995 in 2023, a 10% increase from the 2022 revised total of 908. Nonfatal injuries totaled 6,705, a 3% increase from the 2022 revised total of 6,513.

*Chair, Education and Cultural Affairs Committee * Labor Committee*
*State House: (207) 287-1515 * Fax: (207) 287-1585 * Toll Free: 1-800-423-6900 * TTY: 711*
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I've conversed with three of my local Fire Chiefs to better understand and review emergency protocol surrounding such events. They are confident in their training but also understand that an event may expose issues not covered or practiced. You can train responders for a derailment but what if that derailment happens within wetlands or the content of a train changed at the last minute as a car was added. Maybe the manifest is under water or not accessible due to the nature of the crash.

Having conversed with a constituent, I often put myself into the scene they present. In my case I'm not aware of any accident that occurred in my district, and I've been there for forty seven years. I am however aware of two train related fatalities. Both situations were suicides and separated by 30+ years. The first was a former student, the other a colleague. These events were investigated and the result showed in both cases, the individuals took their own lives by laying across the track. No doubt, both are horrible situations. What is clear looking back is that no one would benefit from knowing who was driving either train.

I appreciate you listening, and I ask that you please consider this bill and its impact. I'm happy to answer any questions you may have.

Dave Stevenson
SMART-TD
LD 1824

Testimony of Dave Stevenson
New England Safety and Legislative Director, SMART-TD
In Support of LD 1824

Good afternoon, my name is Dave Stevenson, and I'm the New England Safety and Legislative Director for SMART-TD, representing locomotive engineers and conductors across New England.

I'm here today in strong support of LD 1824, which would remove train crew names from police reports after a trespasser is struck by a train.

These incidents are deeply traumatic for our members, who are often forced to act as first responders and attempt to render aid. The majority of these tragedies are suicides, where individuals — unfortunately — choose to involve train crews in their final moments. Crews are powerless to prevent these events, yet they carry the emotional burden and long-term effects, including stress, PTSD, and serious impacts on both job performance and personal life.

Including crew members' names in police reports — and later, in news articles — has led to harassment and threats from families and friends of the deceased. Depending on how the article is written, it can even give the false impression that the crew was at fault. There is no valid reason this personal information should be made public after such incidents.

LD 1824 offers a simple, compassionate solution that protects railroad workers' privacy and mental health without compromising transparency or investigative integrity.

I urge you to support this important legislation. Thank you.