



126th MAINE LEGISLATURE

FIRST REGULAR SESSION-2013

Legislative Document

No. 900

H.P. 623

House of Representatives, March 7, 2013

An Act Regarding the Disclosure of Certain Records in Criminal Matters

Submitted by the Department of the Attorney General pursuant to Joint Rule 204.
Reference to the Committee on State and Local Government suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative DION of Portland.
Cosponsored by Senator KATZ of Kennebec and
Representative: PLANTE of Berwick.

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

2 **Sec. 1. 5 MRSA §7070, sub-§5** is enacted to read:

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

13 **Sec. 2. 30-A MRSA §503, sub-§3** is enacted to read:

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

24 **Sec. 3. 30-A MRSA §2702, sub-§3** is enacted to read:

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

35 **SUMMARY**

36 This bill allows state, county and municipal government employers to disclose
37 otherwise confidential personnel records to prosecutors when it is necessary for the
38 determination of whether or not a defendant has a constitutional right to any of the
39 information in the records, in accordance with Brady v. Maryland, 373 U.S. 83 (1963)
40 and Giglio v. United States, 405 U.S. 150 (1972).

1 The bill also permits state, county and municipal employees to disclose personnel
2 records at the request of prosecutors in support of the prosecutors' efforts to comply with
3 their constitutional duties.