

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND NINTH LEGISLATURE

Legislative Document

No. 416

H. P. 306

House of Representatives, February 7, 1979

Referred to the Committee on Judiciary. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Mr. Joyce of Portland.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-NINE

AN ACT Making Certain Records of Municipal Police Departments Confidential.

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

30 MRSA § 2365 is enacted to read:

§ 2365. Police records confidential

All criminal and administrative records of a municipal police department are declared to be confidential, except:

1. **Operational reports. Operational reports by the department;**
2. **Activity reports. Activity reports by the department;**
3. **Names. Names of police applicants;**
4. **Promotions. Promotions;**
5. **Resignations. Resignations;**
6. **Discharges. Discharges;**
7. **Retirement. Retirement;**
8. **Statistical reports. Statistical reports by the department;**
9. **Accident reports. Accident reports;**

10. **Accident information.** Accident information on pending cases which would not jeopardize the investigation or prosecution of those cases;

11. **Court information.** Information made available in open court;

12. **Pending case information.** Information on pending cases which would not jeopardize the investigation or prosecution;

13. **Further statistical reports.** Statistical reports by divisions or units of the department; and

14. **Financial records.** Budget requests, budgets and annual audits.

Notwithstanding subsections one through 14, records of a statement or testimony given by a police officer, whether or not under oath, relating to an investigation into the conduct of police activities, are confidential provided that the statement or testimony was not voluntarily given. A statement or testimony was not voluntarily given if it was compelled by order of the department and if a failure to give the statement or testimony would have subjected the officer to disciplinary action.

Records other than the exceptions listed in this section may be subpoenaed by a court of record for use in a pending civil or criminal trial subject to the rules of procedure and rules of evidence recognized by the courts of this State in civil or criminal trials.

STATEMENT OF FACT

The purpose of this bill is to divide the necessary confidentiality of administrative and criminal records of local police departments. This confidentiality has been recognized with regard to State Police records under Title 25, section 1631. This bill seeks to provide similar confidentiality for records of local police departments. In addition, the bill provides that the constitutional rights of municipal police officers provided by the ruling of the United States Supreme Court in *Gerrity v. New Jersey* may be protected.