

MAINE STATE LEGISLATURE

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116th MAINE LEGISLATURE

SECOND REGULAR SESSION-1994

Legislative Document

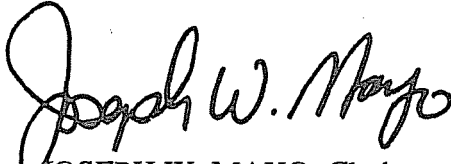
No. 1787

H.P. 1325

House of Representatives, January 25, 1994

An Act to Promote Fairness in Investigation of Employee Misconduct.

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.
Reference to the Committee on State and Local Government suggested and ordered printed.


JOSEPH W. MAYO, Clerk

Presented by Representative FARNSWORTH of Hallowell.
Cosponsored by Representatives: COTE of Auburn, GWADOSKY of Fairfield, PARADIS of Augusta, Senators: BUSTIN of Kennebec, CONLEY of Cumberland.

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

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4 **Sec. 1. 5 MRSA §7070, sub-§4,** as enacted by PL 1987, c. 673,
§1, is amended to read:

6 **4. Disclosure of certain information for grievance and**
8 **other proceedings.** The Director of Human Resources may release
10 to the Director of Employee Relations specific information
12 designated confidential by this section which has been requested
14 by the Director of Employee Relations to be used in negotiations,
16 mediation, fact-finding, arbitration, grievance proceedings and
 other proceedings in which the Director of Employee Relations
 represents the State as defined in this subsection. For the
 purpose of this subsection, "other proceedings" means
 unemployment compensation proceedings, workers' compensation
 proceedings, human rights proceedings and labor relations
 proceedings.

18 Confidential information provided under this subsection to the
20 Bureau of Employee Relations shall be governed by the following.

22 A. The information to be released shall be information only
24 as necessary and directly related to the proceeding as
 determined by the Director of Human Resources.

26 B. The Director of Employee Relations shall specify in
28 writing the confidential information required in the
30 proceedings and the reasons explaining the need for the
 information, and shall provide a copy of the written request
 to the employee or employees.

32 C. The proceeding for which the confidential information is
34 provided shall be private and not open to the public; or, if
36 the proceeding is open to the public, the confidential
38 information shall not be disclosed except exclusively in the
 presence of the fact finder, the parties and counsel of
 record, and the employee who is the subject of the
 proceeding and provisions are made to ensure that there is
 no public access to the confidential information.

40 The Director of Employee Relations may use this information in
42 grievance proceedings and provide copies to the employee
44 organization that is a party to the proceedings, provided the
46 information is directly related to those proceedings as defined
48 by the applicable collective bargaining agreement. An employee
50 accused of misconduct in a labor relations proceeding has the
 same rights to question witnesses and utilize confidential
 information that may prove exculpatory. Confidential personnel
 records in the possession of the Bureau of Employee Relations
 shall not be open to public inspection and shall not be "public
 records," as defined in Title 1, section 402, subsection 3.

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Sec. 2. 22 MRSA §3293, sub-§4 is enacted to read:

4. Use of confidential information in grievance or disciplinary proceedings. An employee accused of misconduct has the right to use confidential information that may prove exculpatory and to question witnesses regarding confidential information in a grievance or disciplinary procedure within the department, subject to the limitations of section 3292, subsection 3.

Sec. 3. 26 MRSA §598 is enacted to read:

§598. Equal rights in labor relations proceedings

An employee accused of misconduct in a labor relations proceeding has the right to utilize confidential information that may prove exculpatory and to question witnesses regarding confidential information when that labor relations proceeding is confidential.

Sec. 4. 30-A MRSA §503, sub-§3 is enacted to read:

3. Use of confidential information in labor relations proceedings. An employee accused of misconduct in a labor relations proceeding has the right to utilize confidential information that may prove exculpatory and to question witnesses regarding confidential information when that labor relations proceeding is confidential.

Sec. 5. 30-A MRSA §2702, sub-§3 is enacted to read:

3. Use of confidential information in labor relations proceedings. An employee accused of misconduct in a labor relations proceeding has the right to utilize confidential information that may prove exculpatory and to question witnesses regarding confidential information when that proceeding is confidential.

STATEMENT OF FACT

This bill grants employees accused of misconduct in a labor relations proceeding the right to utilize confidential

information that may prove exculpatory and to question witnesses
regarding confidential information if the proceeding is
confidential.

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This document has not yet been reviewed to determine the
need for cross-reference, stylistic and other technical
amendments to conform existing law to current drafting standards.