

# MAINE STATE LEGISLATURE

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# 132nd MAINE LEGISLATURE

## FIRST REGULAR SESSION-2025

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Legislative Document

No. 966

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H.P. 626

House of Representatives, March 11, 2025

**An Act Allowing Access by State Agencies and Hospitals to Certain  
Confidential Probate Court Records If the Access Is in the Public  
Interest**

(AFTER DEADLINE)

(EMERGENCY)

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

Received by the Clerk of the House on March 7, 2025. Referred to the Committee on Judiciary pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

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

ROBERT B. HUNT  
Clerk

Presented by Representative KUHN of Falmouth.  
Cosponsored by Senator CARNEY of Cumberland.

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

3           **Whereas,** individuals in probate court proceedings involving adult guardianship,  
4 conservatorship and special arrangements have acute issues that need addressing; and

5           **Whereas,** state agencies and hospitals have limited ability to address these issues due  
6 to the inability to access confidential information and records involved in the proceedings;  
7 and

8           **Whereas,** the public interest requires prompt attention to these issues or the  
9 individuals and public interest may suffer harm or other adverse consequences; and

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

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

15           **Sec. 1. 18-C MRSA §5-308, sub-§2,** as enacted by PL 2017, c. 402, Pt. A, §2 and  
16 affected by PL 2019, c. 417, Pt. B, §14, is amended to read:

17           **2. Access to court records.** An adult subject of a proceeding for a guardianship,  
18 whether or not a guardian is appointed, any attorney designated by the adult ~~and~~ or  
19 appointed by the court to represent the adult, a person entitled to notice under section 5-310,  
20 subsection 5 and a person listed under subsection 3-A are entitled to access court records  
21 of the proceeding and resulting guardianship, including a guardian's report or plan. In  
22 addition, a person for good cause may petition the court for access to court records of the  
23 guardianship, including an annual report or guardian's plan. The court shall grant access if  
24 access is in the best interest of the respondent or adult subject to guardianship or furthers  
25 the public interest and does not endanger the welfare or financial interest of the adult.

26           **Sec. 2. 18-C MRSA §5-308, sub-§3, ¶D,** as enacted by PL 2017, c. 402, Pt. A, §2  
27 and affected by PL 2019, c. 417, Pt. B, §14, is amended to read:

28           D. An agent appointed under a power of attorney for health care or advance health  
29 care directive, or power of attorney for finances in which the respondent is identified  
30 as the principal, unless the court orders otherwise; ~~and~~

31           **Sec. 3. 18-C MRSA §5-308, sub-§3, ¶D-1** is enacted to read:

32           D-1. A person listed under subsection 3-A; and

33           **Sec. 4. 18-C MRSA §5-308, sub-§3-A** is enacted to read:

34           **3-A. Access for public interest purposes; confidentiality extended.** An employee  
35 or legal counsel of the following may access and review a probate court record related to  
36 an adult guardianship proceeding under this Article to carry out an official function, duty  
37 or responsibility in the public interest:

38           A. The Department of Health and Human Services;

39           B. The Office of the Attorney General;

1 C. An agency designated by the Governor to provide protection and advocacy for  
2 persons with disabilities pursuant to Title 5, section 19502; and

3 D. A hospital licensed under Title 22, chapter 404 or 405.

4 A person that receives information or a record under this subsection may use the  
5 information or record only for the purpose for which accessing the information or record is  
6 intended and shall comply with any confidentiality law, rule or regulation limiting further  
7 disclosure of the information or record.

8 **Sec. 5. 18-C MRSA §5-409, sub-§2**, as enacted by PL 2017, c. 402, Pt. A, §2 and  
9 affected by PL 2019, c. 417, Pt. B, §14, is amended to read:

10 **2. Access to records.** An individual subject to a proceeding for a conservatorship,  
11 whether or not a conservator is appointed, an attorney designated by the individual ~~and~~ or  
12 appointed by the court to represent the individual, a person entitled to notice under section  
13 5-411 or a subsequent order and a person listed under subsection 3-A are entitled to access  
14 court records of the proceeding and resulting conservatorship, including the conservator's  
15 plan and report. In addition, a person for good cause may petition the court for access to  
16 court records of the conservatorship, including the conservator's plan and report. The court  
17 shall grant access if access is in the best interest of the respondent or individual subject to  
18 conservatorship or furthers the public interest and does not endanger the welfare or  
19 financial interests of the respondent or individual.

20 **Sec. 6. 18-C MRSA §5-409, sub-§3, ¶D**, as enacted by PL 2017, c. 402, Pt. A, §2  
21 and affected by PL 2019, c. 417, Pt. B, §14, is amended to read:

22 D. An agent appointed under a power of attorney for finances in which the respondent  
23 is identified as the principal, unless the court orders otherwise; ~~and~~

24 **Sec. 7. 18-C MRSA §5-409, sub-§3, ¶D-1** is enacted to read:

25 D-1. A person listed under subsection 3-A; and

26 **Sec. 8. 18-C MRSA §5-409, sub-§3-A** is enacted to read:

27 **3-A. Access for public interest purposes; confidentiality extended.** An employee  
28 or legal counsel of the following may access and review a probate court record related to a  
29 conservatorship proceeding under this Article to carry out an official function, duty or  
30 responsibility in the public interest:

31 A. The Department of Health and Human Services;

32 B. The Office of the Attorney General;

33 C. An agency designated by the Governor to provide protection and advocacy for  
34 persons with disabilities pursuant to Title 5, section 19502; and

35 D. A hospital licensed under Title 22, chapter 404 or 405.

36 A person that receives information or a record under this subsection may use the  
37 information or record only for the purpose for which accessing the information or record is  
38 intended and shall comply with any confidentiality law, rule or regulation limiting further  
39 disclosure of the information or record.

40 **Sec. 9. 18-C MRSA §5-511, sub-§2**, as enacted by PL 2017, c. 402, Pt. A, §2 and  
41 affected by PL 2019, c. 417, Pt. B, §14, is amended to read:



1 hospitals access to confidential probate court records in adult guardianship, conservatorship  
2 and protective arrangement proceedings if the access is to carry out an official function,  
3 duty or responsibility in the public interest.