

MAINE STATE LEGISLATURE

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ONE HUNDRED AND EIGHTH LEGISLATURE

Legislative Document

No. 366

H. P. 283

House of Representatives, February 9, 1977

Referred to Committee on Legal Affairs. 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-SEVEN

**AN ACT to Insure the Confidentiality of Criminal and Professional
Licensing Investigations.**

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

1 MRSA § 402, sub-§ 3, §§ F and G are enacted to read:

F. Records of any investigation with regard to criminal activity in the possession of a criminal justice agency, as that term is defined in Title 16, section 601, subsection 3, except as provided by discovery rules promulgated by the Supreme Judicial Court; and

G. Records of any investigation by a professional licensing agency of State Government into alleged unprofessional conduct or other violation of the statutes which it is responsible for enforcing, except as provided by discovery rules promulgated by any court of this State, including the Administrative Court, and records of any licensing examination conducted by such agency, but only to the extent that the names of the persons being examined appear in such records.

STATEMENT OF FACT

The purpose of this bill is to permit exceptions to the Freedom of Access Law, which is designed to insure the confidentiality of criminal and professional licensing investigations until such time as the records become subject to

the rules of discovery. The purpose of the exemptions is two-fold: (1) to protect the privacy of the persons being investigated so that their reputations will not be damaged by publication or other dissemination of untrue information which may fall into the hands of the government, and (2) to facilitate the conduct of such investigations until a decision is made to bring public charges.

The bill also exempts the records of examinations administered by public licensing agencies from inspection by anyone other than a person actually taking a particular examination, in the interest of preserving the privacy of all persons taking such examination. This provision is not intended to insulate such agencies from discovery in the event of litigation challenging the legality of the manner in which such examinations are conducted or graded.