

MAINE STATE LEGISLATURE

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STATE OF MAINE
HOUSE OF REPRESENTATIVES (Filing No. H-460)
109TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT" **A** to H.P. 666, L.D. 826, Bill, "AN ACT
Relating to Personnel Records of Employees of Political Subdivisions
of the State."

Amend the bill by striking out all of the title and inserting
in its place the following:

'AN ACT Relating to Personnel Records of Employees of the State
and its Political Subdivisions.'

Further amend the bill by striking out everything after
the enacting clause and inserting in its place the following:

'Sec. 1. 5 MRSA §554, 4th ¶, as repealed and replaced by
PL 1977, c. 564, §14, is repealed and the following enacted in
its place:

The following records shall be confidential and not open to
public inspection, and shall not be "public records" as defined
in Title 1, section 402, subsection 3:

1. Papers relating to examinations or evaluations of appli-
cants. Working papers, research material, records and the examin-
ations prepared for and used specifically in the examination or
evaluation of applicants for positions within the classified
service of State Government;

2. Personal information. Records containing the following,
except they may be examined by the employee to whom they relate
when that examination is permitted or required by statute:

A. Medical information of any kind, including information pertaining to diagnosis or treatment of mental or emotional disorders;

B. Performance evaluations and personal references submitted in confidence;

C. Information pertaining to the credit worthiness of a named employee;

D. Information pertaining to the personal history, general character or conduct of members of an employee's immediate family; and

E. Complaints, charges or accusations of misconduct, replies to those complaints, charges or accusations and any other information or materials that may result in disciplinary action.
← If disciplinary action is taken, the final ^{written decision} relating to that action shall no longer be confidential after it is completed.

3. Other information. Other information to which access by the general public is prohibited by statute.

Sec. 2. 30 MRSA §64, as enacted by PL 1975, c. 694, §3, is repealed and the following enacted in its place:

§64. Personnel records

1. Confidential records. The following records shall be confidential and not open to public inspection, and shall not be "public records" as defined in Title 1, section 402, subsection 3:

- A. Working papers, research materials, records and the examinations prepared for and used specifically in the examination or evaluation of applicants for employment by that county;
- B. County records containing the following:
- (1) Medical information of any kind, including information pertaining to diagnosis or treatment of mental or emotional disorders;
 - (2) Performance evaluations and personal references submitted in confidence;
 - (3) Information pertaining to the credit worthiness of a named employee;
 - (4) Information pertaining to the personal history, general character or conduct of members of an employee's immediate family; and
 - (5) Complaints, charges or accusations of misconduct, replies to those complaints, charges or accusations and any other information or materials that may result in disciplinary action. If disciplinary action is taken, the final ^{written decision} relating to that action shall no longer be confidential after it is completed; and
- C. Other information to which access by the general public is prohibited by statute.

2. Employee right to review. The county commissioner shall, on written request from an employee or former employee, provide the employee, former employee or his duly authorized representative with an opportunity to review his personnel file, if the county commissioner has a personnel file for that employee. These reviews shall take place at the location where the personnel files are maintained and during normal office hours. For the purposes of this subsection, a personnel file shall include, but not be limited to, any formal or informal employee evaluations and reports relating to the employee's character, credit, work habits, compensation and benefits which the county commissioner has in his possession. The records described in subsection 1, paragraph B, may also be examined by the employee to whom they relate, as provided in this subsection.

Sec. 3. 30 MRSA §2257, as enacted by PL 1975, c. 694, §4, is repealed and the following enacted in its place:

§2257. Personnel records

1. Confidential records. The following records shall be confidential and not open to public inspection, and shall not be "public records" as defined in Title 1, section 402, subsection 3:

A. Working papers, research materials, records and the examinations prepared for and used specifically in the examination or evaluation of applicants for employment by that municipality; and

B. Municipal records containing the following:

- (1) Medical information of any kind, including information pertaining to diagnosis or treatment of mental or emotional disorders;
- (2) Performance evaluations and personal references submitted in confidence;
- (3) Information pertaining to the credit worthiness of a named employee;
- (4) Information pertaining to the personal history, general character or conduct of members of an employee's immediate family; and
- (5) Complaints, charges or accusations of misconduct, replies to those complaints, charges or accusations and any other information or materials that may result in disciplinary action. If disciplinary action is taken, the final ^{written decision} relating to that action shall no longer be confidential after it is completed.

2. Employee right to review. The municipal officer shall, on written request from an employee or former employee, provide the employee, former employee or his duly authorized representative with an opportunity to review his personnel file, if the municipal officer has a personnel file for that employee. These reviews shall take place at the location where the personnel files are maintained and during normal office hours. For the purposes of this subsection, a personnel file shall include, but not be limited to, any formal or informal employee evaluations and reports relating to the employee's character, credit, work habits, compensation

and benefits which the municipal officer has in his possession.
The records described in subsection 1, paragraph B, may also
be examined by the employee to whom they relate, as provided
in this subsection. '

Statement of Fact

This amendment sets out specific types of information contained in personnel files that will remain confidential. The confidential information shall include:

1. Materials relating to testing and evaluating applicants;
2. Medical information;
3. Confidential references and evaluations;
4. Credit worthiness;
5. Personal history of an employee's family; and
6. Information relating to a proposed disciplinary action, except after disciplinary action is completed.

Except for the test material, an employee may review the confidential records that relate to him.

This amendment establishes a uniform provision for state, county and municipal personnel records.