

MAINE STATE LEGISLATURE

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(New Draft of S.P. 726, L.D. 1985)
SECOND REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

No. 2581

S.P. 972

In Senate, March 23, 1988

Reported by Senator GOULD of Waldo for the Committee on State and Local Government and printed under Joint Rule 2. Original Bill sponsored by Senator TUTTLE of York. Cosponsored by: Senator GOULD of Waldo, Representative CARROLL of Gray, Representative WEYMOUTH of West Gardiner.

JOY J. O'BRIEN, Secretary of the Senate

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND EIGHTY-EIGHT

1 **AN ACT to Make Certain Personnel Records**
2 **Maintained by the Bureau of Human**
3 **Resources Available to the Bureau of**
4 **Employee Relations.**
5

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

8 **Sec. 1. 5 MRSA §7070, sub-§4 is enacted to read:**

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

15 Confidential information provided under this
16 subsection to the Bureau of Employee Relations shall
17 be governed by the following.

18 A. The information to be released shall be
19 information only as necessary and directly related
20 to the proceeding as determined by the Director of
21 Human Resources.

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

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

38 The Director of Employee Relations may use this
39 information in grievance proceedings and provide

1 copies to the employee organization that is a party to
2 the proceedings, provided the information is directly
3 related to those proceedings as defined by the
4 applicable collective bargaining agreement.
5 Confidential personnel records in the possession of
6 the Bureau of Employee Relations shall not be open to
7 public inspection and shall not be "public records,"
8 as defined in the Maine Revised Statutes, Title 1,
9 section 402, subsection 3.

10 Sec. 2. 26 MRSA §979-Q, sub-§2 is enacted to
11 read:

12 2. Disclosure of certain information for
13 grievance and other proceedings. The Director of
14 Human Resources may release to the Director of
15 Employee Relations specific information designated
16 confidential by this subsection which has been
17 requested by the Director of Employee Relations to be
18 used in negotiations, mediation, fact-finding,
19 arbitration, grievance proceedings and other
20 proceedings in which the Director of Employee
21 Relations represents the State as defined in this
22 subsection. For the purpose of this subsection,
23 "other proceedings" means unemployment compensation
24 proceedings, workers' compensation proceedings, human
25 rights proceedings and labor relations proceedings.

26 Confidential information provided under this
27 subsection to the Bureau of Employee Relations shall
28 be governed by the following.

29 A. The information to be released shall be
30 information only as necessary and directly related
31 to the proceeding as determined by the Director of
32 Human Resources.

33 B. The Director of Employee Relations shall
34 specify in writing the confidential information
35 required in the proceedings and the reasons
36 explaining the need for the information, and shall
37 provide a copy of the written request to the
38 employee or employees.

39 C. The proceeding for which the confidential

1 information is provided shall be private and not
2 open to the public; or, if the proceeding is open
3 to the public, the confidential information shall
4 not be disclosed except exclusively in the
5 presence of the fact finder, the parties and
6 counsel of record, and the employee who is the
7 subject of the proceeding and provisions are made
8 to ensure that there is no public access to the
9 confidential information.

10 The Director of Employee Relations may use this
11 information in grievance proceedings and provide
12 copies to the employee organization that is a party to
13 the proceedings, provided the information is directly
14 related to those proceedings as defined by the
15 applicable collective bargaining agreement.
16 Confidential personnel records in the possession of
17 the Bureau of Employee Relations shall not be open to
18 public inspection and shall not be "public records,"
19 as defined in the Maine Revised Statutes, Title 1,
20 section 402, subsection 3.

21 STATEMENT OF FACT

22 The intent of this new draft is to enable the
23 introduction of state employee confidential
24 information in closed proceedings in which the Bureau
25 of Employee Relations, a state employee or employees
26 or an organization representing the state employee are
27 parties. These proceedings include negotiation,
28 arbitration, mediation grievance proceedings, human
29 rights, unemployment compensation; workers'
30 compensation and labor relations proceedings.

31 The confidential information provided for these
32 proceedings is required to be directly related to the
33 proceedings. The Director of Human Resources will
34 make the decision with respect to the type of
35 information that will be disclosed following receipt
36 of a written request for specific information from the
37 Director of Employee Relations. A copy of this

1 request for confidential information will be provided
2 to the state employee or employees and the employee
3 organization representing the employee in grievance
4 proceedings.

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