

# MAINE STATE LEGISLATURE

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# 117th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1995

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Legislative Document

No. 1525

H.P. 1083

House of Representatives, May 16, 1995

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**An Act to Increase Access to Public Information.**

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Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative SHIAH of Bowdoinham.  
Cosponsored by Representatives: ADAMS of Portland, BERRY of Livermore, BUCK of Yarmouth, BUNKER of Kossuth Township, CHARTRAND of Rockland, JONES of Bar Harbor, LIBBY of Buxton, MURPHY of Berwick, SAMSON of Jay, VOLENIK of Sedgwick.

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

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4       **Sec. 1. 1 MRSA §402, sub-§3, ¶E**, as repealed and replaced by PL 1989, c. 878, Pt. A, §2, is amended to read:

6       E. Records, working papers, interoffice and intraoffice memoranda used by or prepared for faculty and administrative  
8       committees of the Maine Maritime Academy, the Maine Technical College System and the University of Maine System,  
10       if these materials are related to or consist of academic examinations of students or academic research or have been  
12       otherwise designated confidential by law. The provisions of this paragraph do not apply to the boards of trustees and  
14       the committees and subcommittees of those boards, ~~which that~~ are referred to in subsection 2, paragraph B;

16       **Sec. 2. 1 MRSA §408**, as enacted by PL 1975, c. 758, is amended to read:

18  
20       **§408. Public records available for public inspection**

22       Except as otherwise provided by statute, every person shall have has the right to inspect and copy any public record during  
24       the regular business hours of the custodian or location of such record; provided that, whenever inspection ~~cannot~~ can not be  
26       accomplished without translation of mechanical or electronic data compilations into some other form, the person desiring inspection  
28       may be required to pay the State ~~in advance~~ the cost of translation and ~~both translation and inspection may be scheduled~~  
30       ~~to occur at such time as will not delay or inconvenience the regular activities of the agency or official having custody of~~  
32       ~~the record sought and provided further that the cost of copying any public record to comply with this section shall be paid by~~  
34       ~~the person requesting the copy.~~

36       1. Responsiveness. An agency or official having custody of a record sought and obtainable under this subchapter shall comply  
38       with a request to inspect or copy such a record expeditiously and access to the information sought may be delayed only in the event  
40       of a compelling administrative exigency and only for the duration of that exigency.

42       2. Electronic data translation. The following provisions govern electronic data translation.

44  
46       A. An agency or official to whom a request is made for electronically recorded data obtainable under this  
48       subchapter shall provide this data in a form readily usable to the person making the request. Compliance with this  
50       provision by an agency or official may include, but is not

2 limited to, conversion of the data into printed paper form  
3 or translation of the data into a commonly used word  
4 processing or data processing format. Upon request, the  
5 agency or official shall transfer the electronically  
6 recorded data to a storage medium other than paper, such as  
7 a magnetic disk.

8 B. A fee may not be charged for the translation of  
9 electronically recorded data obtainable under this  
10 subchapter unless this translation requires an agency or  
11 official to provide materials, equipment or services of  
12 personnel who are not state employees to the person making  
13 the request, in which case a reasonable fee may be  
14 assessed. The fee charged may not include the time of state  
15 employees needed to perform the data translation.

16 C. Access to any public record may not be denied or  
17 unreasonably delayed by reason of the technology used to  
18 create, maintain and read or otherwise gain access to the  
19 information recorded in the record, or by reason of the  
20 interest, if any, of any nongovernmental person in the  
21 machine, software or other equipment used to maintain the  
22 records.

23 **Sec. 3. 1 MRSA §409, sub-§4** is enacted to read:

24 **4. Attorney's fees.** An individual who undertakes an appeal  
25 under subsection 1 or 2, the result of which is an order for  
26 disclosure of the information sought or the nullification of an  
27 illegal action, is entitled to have all reasonable attorney's  
28 fees and court costs paid by the body, agency or official against  
29 whom the appeal was taken. For the purposes of this subsection,  
30 the term "individual" means only a natural person; it does not  
31 mean a corporation, partnership, limited liability company or any  
32 other legal entity or organization.

## 33 STATEMENT OF FACT

34 This bill makes the following changes to the laws governing  
35 access to public records.

36 The bill provides that only records and materials involved  
37 in academic testing and research and those otherwise made  
38 confidential by law may be kept confidential by the Maine  
39 Maritime Academy, the Maine Technical College System and the  
40 University of Maine System.

2           The bill provides for the timely inspection or recording of  
public information and the provision of electronic data in a  
4 readily usable form.

6           The bill repeals the requirement of advance payment for the  
mechanical or electronic translation of data and provides for the  
8 translation of electronic data without cost when that translation  
can be made without having to furnish any materials, equipment or  
10 services of personnel who are not state employees to the  
individual making the request.

12           The bill provides that any body, agency or official that  
wrongfully denies an individual access to public information  
14 shall pay that individual's reasonable attorney's fees and court  
costs.

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