

MAINE STATE LEGISLATURE

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118th MAINE LEGISLATURE

FIRST REGULAR SESSION-1997

Legislative Document

No. 825

S.P. 256

In Senate, February 6, 1997

An Act to Clarify the Laws on Personal Information of State Employees.

Submitted by the Department of Administrative and Financial Services pursuant to Joint Rule 204.

Reference to the Committee on State and Local Government suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator LaFOUNTAIN of York.
Cosponsored by Senator MILLS of Somerset.

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

2
3 **Sec. 1. 5 MRSA §7070, sub-§2,** as amended by PL 1991, c. 729,
4 §1, is further amended to read:

6 **2. Personal information of employees.** Records containing
7 the following, except they may be examined by the employee to
8 whom they relate when the examination is permitted or required by
9 law:

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

13 B. Performance evaluations and personal references
14 submitted in confidence;

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

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

20 D-1. Personal information pertaining to the employee's
21 race, color, religion, sex, national origin, ancestry, age,
22 physical disability, mental disability and marital status;
23 social security number; home telephone number and home
24 address; and personal employment choices pertaining to
25 elected payroll deductions, deferred compensation, savings
26 plans, pension plans, health insurance and life insurance;
27 and

28 E. Except as provided in section 7070-A, complaints,
29 charges or accusations of misconduct, replies to those
30 complaints, charges or accusations and any other information
31 or materials that may result in disciplinary action. If
32 disciplinary action is taken, the final written decision
33 relating to that action is no longer confidential after the
34 decision is completed.

35 For purposes of this paragraph, "final written decision"
36 means:

37 (1) The final written administrative decision that is
38 not appealed pursuant to a grievance arbitration
39 procedure; or

40 (2) If the final written administrative decision is
41 appealed to arbitration, the final written decision of
42 a neutral arbitrator.

2 A final written administrative decision that is appealed to
3 arbitration is no longer confidential 120 days after a
4 written request for the decision is made to the employer if
5 the final written decision of the neutral arbitrator is not
6 issued and released before the expiration of the 120 days;

7 **Sec. 2. 5 MRSA §7070, sub-§4**, as enacted by PL 1987, c. 673,
8 §1, is amended to read:

9 **4. Disclosure of certain information for grievance and**
10 **other proceedings.** ~~The~~ Upon the request of the Director of
11 Employee Relations or the head of a state department or a
12 designee, the Director of Human Resources may release to the
13 Director of Employee Relations authorize the use by that person
14 of specific information designated confidential by this section
15 which has been requested by the Director of Employee Relations
16 when that specific information is to be used by the Director of
17 Employee Relations in negotiations, mediation, fact-finding,
18 arbitration, grievance proceedings and other labor relations
19 proceedings in which the Director of Employee Relations
20 represents the State as defined in this subsection or to be used
21 by that state department in its preparation for a workers'
22 compensation hearing, an unemployment compensation hearing, a
23 human rights hearing or a labor relations hearing in which the
24 department head or designee represents the State. For the
25 purpose of this subsection, "other proceedings" means
26 unemployment compensation proceedings, workers' compensation
27 proceedings, human rights proceedings and labor relations
28 proceedings.

29 Confidential information provided or authorized under this
30 subsection to the Bureau of Employee Relations ~~shall be~~ or a
31 state department head or designee is governed by the following.

32 A. The information to be released shall must be information
33 only as necessary and directly related to the proceeding as
34 determined by the Director of Human Resources.

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

41 C. The proceeding for which the confidential information is
42 provided shall must be private and not open to the public;
43 or, if the proceeding is open to the public, the
44 confidential information shall may not be disclosed except
45 exclusively in the presence of the fact finder, the parties
46 and counsel of record, and the employee who is the subject

2 of the proceeding and provisions are made to ensure that
there is no public access to the confidential information.

4 The Director of Employee Relations or the state department head
6 or designee may use this information in grievance or other labor
8 relations proceedings and provide copies to the employee
10 organization that is a party to the proceedings, provided the
12 information is directly related to those proceedings as defined
14 by the applicable collective bargaining agreement. Confidential
personnel records in the possession of the Bureau of Employee
Relations ~~shall~~, the state department involved, the Bureau of
Human Resources and the employee organization may not be open to
public inspection and ~~shall~~ are not be "public records," as
defined in Title 1, section 402, subsection 3.

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SUMMARY

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20 This bill clarifies the laws regarding the availability of
personal information of state employees. The bill also makes
22 changes regarding the disclosure of certain information for
grievance and other proceedings by clarifying who has access to
certain information.