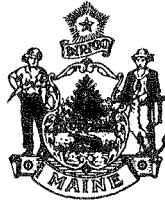


# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)



# 118th MAINE LEGISLATURE

## SECOND REGULAR SESSION-1997

---

Legislative Document

No. 1913

---

H.P. 1362

House of Representatives, December 4, 1997

---

### **An Act to Clarify the Confidentiality of Public Employee Information.**

---

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

Received by the Clerk of the House on December 2, 1997. Referred to the Committee on Judiciary pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

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

JOSEPH W. MAYO, Clerk

Presented by Representative THOMPSON of Naples.

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

2  
4       **Sec. 1. 5 MRSA §7070, sub-§2, ¶E**, as amended by PL 1997, c.  
124, §2, is further amended to read:

6       E. Except as provided in section 7070-A, complaints,  
8       charges or accusations of misconduct, replies to those  
10       complaints, charges or accusations and any other information  
12       or materials that may result in disciplinary action. If  
14       disciplinary action is taken, the final written decision  
16       involving a finding of guilt relating to that action is no  
18       longer confidential after the decision is completed. If  
20       disciplinary action is overturned or removed from an  
22       employee personnel file, the discipline is deemed to have  
24       not been taken.

26       For purposes of this paragraph, "final written decision"  
28       means:

30               (1) The final written administrative decision that is  
32               not appealed pursuant to a grievance arbitration  
34               procedure; or

36               (2) If the final written administrative decision is  
38               appealed to arbitration, the final written decision  
40               involving a finding of guilt of a neutral arbitrator.

42       A final written administrative decision that is appealed to  
44       arbitration is no longer confidential 120 days after a  
46       written request for the decision is made to the employer if  
48       the final written decision of the neutral arbitrator is not  
issued and released before the expiration of the 120 days.

34       **Sec. 2. 30-A MRSA §503, sub-§1, ¶B**, as amended by PL 1991, c.  
36       229, §2, is further amended to read:

38       B. County records containing the following:

40               (1) Medical information of any kind, including  
42               information pertaining to the diagnosis or treatment of  
44               mental or emotional disorders;

46               (2) Performance evaluations and personal references  
48               submitted in confidence;

              (3) Information pertaining to the creditworthiness of  
a named employee;

2 (4) Information pertaining to the personal history,  
general character or conduct of members of an  
4 employee's immediate family; and

6 (5) Complaints, charges or accusations of misconduct,  
replies to those complaints, charges or accusations and  
8 any other information or materials that may result in  
disciplinary action. If disciplinary action involving  
10 a finding of guilt is taken, the final written decision  
relating to that action is no longer confidential after  
12 the decision is completed. If disciplinary action is  
overturned or removed from an employee personnel file,  
14 the discipline is deemed to have not been taken.

16 For purposes of this subparagraph, "final written  
decision" means:

18 (a) The final written administrative decision  
that is not appealed pursuant to a grievance  
20 arbitration procedure; or

22 (b) If the final written administrative decision  
is appealed to arbitration, the final written  
24 decision involving a finding of guilt of a neutral  
arbitrator.

26 A final written administrative decision that is  
28 appealed to arbitration is no longer confidential 120  
days after a written request for the decision is made  
30 to the employer if the final written decision of the  
neutral arbitrator is not issued and released before  
32 the expiration of the 120 days; and

34 **Sec. 3. 30-A MRSA §2702, sub-§1, ¶B,** as amended by PL 1991, c.  
229, §3, is further amended to read:

36 B. Municipal records pertaining to an identifiable employee  
38 and containing the following:

40 (1) Medical information of any kind, including  
information pertaining to diagnosis or treatment of  
42 mental or emotional disorders;

44 (2) Performance evaluations and personal references  
submitted in confidence;

46 (3) Information pertaining to the creditworthiness of  
48 a named employee;

2 (4) Information pertaining to the personal history,  
general character or conduct of members of an  
employee's immediate family; and

4  
6 (5) Complaints, charges or accusations of misconduct,  
replies to those complaints, charges or accusations and  
any other information or materials that may result in  
8 disciplinary action. If disciplinary action is taken,  
10 the final written decision involving a finding of guilt  
relating to that action is no longer confidential after  
12 the decision is completed. The decision must state the  
conduct or other facts on the basis of which  
14 disciplinary action is being imposed and the  
conclusions of the acting authority as to the reasons  
for that action. If disciplinary action is overturned  
16 or removed from an employee personnel file, the  
discipline is deemed to have not been taken.

18 For purposes of this subparagraph, "final written  
20 decision" means:

22 (a) The final written administrative decision  
that is not appealed pursuant to a grievance  
24 arbitration procedure; or

26 (b) If the final written administrative decision  
is appealed to arbitration, the final written  
28 decision involving a finding of guilt of a neutral  
arbitrator.

30 A final written administrative decision that is  
32 appealed to arbitration is no longer confidential 120  
days after a written request for the decision is made  
34 to the employer if the final written decision of the  
neutral arbitrator is not issued and released before  
36 the expiration of the 120 days; and

38  
40  
42 **SUMMARY**

44 This bill clarifies the issue of confidentiality relating to  
public employee discipline cases resulting from a 1997 state  
46 court decision, Doe v. Department of Mental Health, Mental  
Retardation and Substance Abuse Services, 1997 Me. 195, 699 A.2d  
48 422. The bill provides that information concerning disciplinary  
action against a state, county or municipal employee remains  
confidential unless a final written decision relating to that  
50 action involves a finding of guilt.