

# MAINE STATE LEGISLATURE

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# 121st MAINE LEGISLATURE

## FIRST REGULAR SESSION-2003

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Legislative Document

No. 1306

H.P. 960

House of Representatives, March 11, 2003

### **An Act Relating to the Use and Disposal of Personal Information by Certain Commercial, Governmental and Other Entities**

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Reference to the Committee on Judiciary suggested and ordered printed.

*Millicent M. MacFarland*  
MILLICENT M. MacFARLAND  
Clerk

Presented by Representative GOODWIN of Pembroke.

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

Sec. 1. 10 MRSA c. 228 is enacted to read:

**CHAPTER 228**

**CONSUMER RECORDS**

**§1500-G. Disposal**

**1. Definitions.** As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

A. "Destroy" means to shred, erase or otherwise modify information or records to make the information or records unreadable or undecipherable by reasonable means.

B. "Entity" means a sole proprietor, partnership, corporation, limited liability company, trust, association, financial institution, government unit or any other individual or group.

C. "Person" means a natural person, or if that person is under legal guardianship, the parent or duly appointed guardian of that person.

D. "Personal information" means information that identifies a person and that is commonly used for financial or health care purposes, including account numbers, access codes, passwords, credit card numbers or information gathered for security purposes, account access, transaction initiation or medical history or status.

E. "Personal identification number" means an identification number issued by a government unit that is protected and not available to the public and includes a tax identification number, social security number, driver's license or permit number and professional or business license number.

F. "Record" means any material in any physical form on which information is recorded or preserved by any means, including written, spoken, graphically depicted, printed or electronically stored or transmitted material. "Record" does not include a publicly available document or directory containing information that a person has voluntarily consented to have publicly disseminated.

**2. Disposal.** An entity must destroy or arrange for the destruction of personal information and a personal

identification number of a person contained in records within the entity's custody or control that the entity intends to dispose of or no longer intends to retain.

**3. Remedies.** A person who has reason to believe an entity has violated or may violate the provisions of subsection 2 may apply to a court of competent jurisdiction to enjoin the entity to comply with the provisions of subsection 2. A person injured by a violation of subsection 2 may bring a civil action in a court of competent jurisdiction against the violating entity. The court may either:

A. If the violation is due to negligence, award a penalty of \$200 or the amount of actual damages, whichever is greater, and costs and reasonable attorney's fees; or

B. If the violation is willful, award a penalty of \$600 or an amount equal to 3 times the actual damages but not to exceed \$10,000, whichever is greater, and costs and reasonable attorney's fees.

**4. Attorney General.** The Attorney General may bring a civil action in the name of the State in a court of competent jurisdiction for injunctive relief or damages similar to the damages provided in subsection 3, paragraphs A and B.

**5. Exceptions.** This section does not apply to personal records intended to be returned to the person to whom the records pertain or transferred legally to another entity, government unit or an archive.

## SUMMARY

This bill requires all government and private entities to destroy records containing personal information in the entity's custody or control that the entity intends to dispose of or no longer retain, except for transferring legally to another entity, government unit or archive or to the individual to whom the records pertain. This bill provides legal and equitable remedies for the Attorney General or a person aggrieved by a violation of the provisions of this Act.