

MAINE STATE LEGISLATURE

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122nd MAINE LEGISLATURE

FIRST REGULAR SESSION-2005

Legislative Document

No. 1455

H.P. 1020

House of Representatives, March 23, 2005

An Act To Codify Public Records Exceptions

Reported by Representative KOFFMAN of Bar Harbor for the Committee to Study Compliance with Maine's Freedom of Access Laws pursuant to Resolve 2003, chapter 83, section 9-A.

Reference to the Committee on Judiciary suggested and ordered printed under Joint Rule 218.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

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

4 **Sec. 1. 1 MRSA §435** is enacted to read:

6 **§435. Listing of statutes**

8 This section provides a list of statutes that designate records and information as confidential. The inclusion of records in or exclusion of records from this section does not affect the public or confidential status of the records. Inclusion in or exclusion from a specific subsection of this section of records does not affect the purposes for which the information was collected or for which it may be used or maintained.

16 1. **Agriculture.** The following statutes designate as confidential certain records containing information collected, used or maintained for agriculture purposes:

20 A. Title 7, section 20, subsection 1, relating to information reported to the Department of Agriculture, Food and Rural Resources;

24 B. Title 7, section 306-A, subsection 3, relating to agricultural development grant program, market research or development activities;

28 C. Title 7, section 951-A, relating to minimum standards for planting potatoes;

32 D. Title 7, section 1052, subsection 2, relating to growers of genetically engineered plants and seeds;

34 E. Title 7, section 2103-A, subsection 4, relating to patented and nonreleased potato varieties;

38 F. Title 7, section 4204, subsection 10, relating to nutrient management plans;

40 G. Title 7, section 4205, subsection 2, relating to livestock operation permits and nutrient management plans;

44 H. Title 13, section 1957, subsection 8, relating to the members of associations of agricultural producers and purchasing information;

48 I. Title 36, section 4315, subsection 1-A, relating to the transportation of wild blueberries; and

2 J. Title 36, section 4316, subsection 4, relating to wild
3 blueberries audits.

4 2. Commercial regulation. The following statutes designate
5 as confidential certain records containing information collected,
6 used or maintained for commercial regulation purposes:

8 A. Title 10, section 1109, subsection 4, relating to
9 information reported to the Attorney General concerning
10 acquisition of gasoline and heating oil assets;

12 B. Title 10, section 1495-G, subsection 3, relating to
13 payroll processing bonding;

14 C. Title 10, section 1675, relating to information received
15 by the Attorney General under the Petroleum Market Share Act;

18 D. Title 22, section 2698-B, subsection 5, relating to
19 prescription drug information provided by the manufacturer
20 to the Department of Health and Human Services concerning
21 price;

22 E. Title 28-A, section 755, relating to liquor licensees'
23 business and financial records;

26 F. Title 32, section 6115, subsection 1, relating to
27 financial information provided to the Director of the Office
28 of Consumer Credit Regulation within the Department of
29 Professional and Financial Regulation;

30 G. Title 32, section 10701, subsection 4, relating to the
31 administration of the Revised Maine Securities Act by the
32 Securities Administrator; and

34 H. Title 32, section 11305, subsection 3, relating to
35 administration of the Maine Commodity Code by the Securities
36 Administrator.

38 3. Compensation programs. The following statutes designate
39 as confidential certain records containing information collected,
40 used or maintained for compensation program purposes:

42 A. Title 5, section 3360-D, subsection 4, relating to the
43 Victims' Compensation Fund concerning applications and
44 awards; and

46 B. Title 5, section 22009, subsection 2, relating to Baxter
47 Compensation Program claimant information.

2 4. Economic and community development. The following
3 statutes designate as confidential certain records containing
4 information collected, used or maintained for economic and
5 community development purposes:

6 A. Title 5, section 13119-A, relating to economic and
7 community development activities of the Department of
8 Economic and Community Development and municipalities;

10 B. Title 5, section 13120-M, subsection 2, relating to
11 Maine Rural Development Authority activities;

12 C. Title 5, section 15302, subsection 2, relating to Maine
13 Technology Institute activities;

14 D. Title 5, section 15321, subsection 3, relating to
15 Applied Technology Development Center System records and
16 proceedings;

17 E. Title 10, section 391, subsections 2 and 3, relating to
18 the Small Enterprise Growth Program;

19 F. Title 10, section 945-J, relating to the Maine
20 International Trade Center;

21 G. Title 10, section 975-A, subsections 2 and 3, relating
22 to the Finance Authority of Maine;

23 H. Title 10, section 1079, subsection 4, relating to
24 persons who have family development accounts;

25 I. Title 12, section 6078-A, subsection 1, relating to the
26 Aquaculture Monitoring, Research and Development Fund
27 concerning harvest information from leaseholders; and

28 J. Title 30-A, section 5242, subsection 13, relating to tax
29 increment financing districts.

30 5. Education. The following statutes designate as
31 confidential certain records containing information collected,
32 used or maintained for education purposes:

33 A. Title 15, section 3009, subsection 2, relating to
34 reintegration of a juvenile into school;

35 B. Title 20-A, section 4008, subsection 2, relating to
36 school counselor or social worker activities;

37 C. Title 20-A, section 5001-A, subsection 3, relating to
38 homeschooling records;

2 D. Title 20-A, section 6001, subsection 3, relating to
students' education records;

4 E. Title 20-A, section 6205, relating to standards and
6 assessments of student performance;

8 F. Title 20-A, section 6357, subsection 1, relating to
10 student immunization records;

12 G. Title 20-A, section 11418, subsections 1 and 2, relating
to Maine Educational Loan Authority applicants and
14 recipients;

16 H. Title 20-A, section 11444, subsections 1 and 2, relating
to the Student Financial Aid Supplemental Loan Program
18 applicants and recipients; and

20 I. Title 20-A, section 11494, subsections 1 and 2, relating
to the Higher Education Loan Purchase Program borrowers.

22 6. Election law. The following statutes designate as
confidential certain records containing information collected,
24 used or maintained for election law purposes:

26 A. Title 21-A, section 22, subsection 2, relating to
ballots;

28 B. Title 21-A, section 22, subsections 5 and 6, relating to
30 registered voter applications;

32 C. Title 21-A, section 737-A, subsection 7, relating to
disputed ballots; and

34 D. Title 21-A, section 764, relating to applications and
36 envelopes for absentee ballots.

38 7. Environmental regulation. The following statutes
designate as confidential certain records containing information
40 collected, used or maintained for environmental regulation
purposes:

42 A. Title 7, section 607, subsection 4, relating to results
44 of pesticides tests;

46 B. Title 7, section 4204, subsection 10, relating to
nutrient management plans;

48 C. Title 7, section 4205, subsection 2, relating to
50 livestock operation permits and nutrient management plans;

2 D. Title 12, section 550-B, subsection 6, relating to water
4 well information collected by the Department of
Conservation, Bureau of Geology and Natural Areas;

6 E. Title 12, section 6173, relating to marine resources
8 statistics;

10 F. Title 36, section 579, relating to the Maine Tree Growth
Tax Law concerning forest management plans;

12 G. Title 38, section 345-A, subsection 4, relating to
14 information submitted to the Department of Environmental
Protection and Board of Environmental Protection concerning
16 trade secrets;

18 H. Title 38, section 414, subsection 6, relating to records
and reports obtained by the Board of Environmental
20 Protection in license application procedures;

22 I. Title 38, section 470-D, relating to individual water
withdrawal reports;

24 J. Title 38, section 585-C, subsection 2, relating to the
hazardous air pollutant emissions inventory;

26 K. Title 38, section 1310-B, subsection 2, relating to
28 hazardous waste information;

30 L. Title 38, section 1661-A, subsection 4, relating to
32 information submitted to the Department of Environmental
Protection concerning mercury-added products; and

34 M. Title 38, section 2307-A, subsections 1 and 5, relating
36 to information submitted to the Department of Environmental
Protection concerning toxics use and hazardous waste
38 reduction.

40 8. Families and children. The following statutes designate
as confidential certain records containing information collected,
42 used or maintained for purposes related to families and children:

44 A. Title 19-A, section 651, subsection 2, relating to
social security numbers on marriage applications;

46 B. Title 19-A, section 908, relating to social security
48 numbers on divorce records;

2 C. Title 19-A, section 1565, subsection 4, relating to
social security numbers in paternity actions;

4 D. Title 19-A, section 1653, subsection 6, relating to
addresses of children and victims in cases concerning
6 parental rights and responsibilities involving domestic
abuse;

8 E. Title 19-A, section 2006, subsection 10, relating to
10 social security numbers in child support actions;

12 F. Title 19-A, section 2152, subsection 11, relating to
information collected in child support enforcement and
14 medical support recoupment;

16 G. Title 22, section 17, subsection 7, relating to records
of child support obligors;

18 H. Title 22, section 2706-A, subsection 6, relating to
20 adoption contact files; and

22 I. Title 22, section 4018, subsection 4, relating to
information about a person delivering a child to a safe
24 haven.

26 **9. Financial services.** The following statutes designate as
confidential certain records containing information collected,
28 used or maintained for purposes related to the regulation of
financial services:

30 A. Title 9-A, section 2-304, subsection 2, relating to
32 reports of supervised lenders; and

34 B. Title 9-A, section 6-116, relating to the Department of
Professional and Financial Regulation, Office of Consumer
36 Credit Regulation.

38 **10. Health.** The following statutes designate as
confidential certain records containing information collected,
40 used or maintained for health purposes:

42 A. Records relating to patients, clients or other
identifiable individuals:

44 (1) Title 5, section 957, subsection 5, relating to
46 State Employee Assistance Program client records;

48 (2) Title 5, section 20047, subsection 1, relating to
Department of Health and Human Services, Office of
50 Substance Abuse records concerning patients;

- 2 (3) Title 14, section 164-A, subsection 3, relating to
3 the Maine Assistance Program for Lawyers;
- 4
- 5 (4) Title 20-A, section 6357, subsection 1, relating
6 to student immunization records;
- 7
- 8 (5) Title 22, section 811, subsection 6, relating to
9 hearings regarding testing or admission concerning
10 communicable diseases;
- 11
- 12 (6) Title 22, section 815, subsection 1, relating to
13 communicable disease information;
- 14
- 15 (7) Title 22, section 824, relating to persons having
16 or suspected of having communicable diseases;
- 17
- 18 (8) Title 22, section 1494, relating to occupational
19 disease reporting;
- 20
- 21 (9) Title 22, section 1596, relating to abortion and
22 miscarriage reporting;
- 23
- 24 (10) Title 22, section 1597-A, subsection 6, relating
25 to a petition for a court order consenting to a minor's
26 abortion;
- 27
- 28 (11) Title 22, section 1711-C, relating to hospital
29 records concerning an individual's health care
30 information;
- 31
- 32 (12) Title 22, section 3188, subsection 4, relating to
33 the Maine Managed Care Insurance Plan Demonstration for
34 uninsured individuals;
- 35
- 36 (13) Title 22, section 3192, subsection 13, relating
37 to Community Health Access Program medical data;
- 38
- 39 (14) Title 22, section 7250, subsection 1, relating to
40 the Controlled Substances Prescription Monitoring
41 Program;
- 42
- 43 (15) Title 22, section 8824, subsection 2, relating to
44 the newborn hearing program;
- 45
- 46 (16) Title 22, section 8943, relating to the registry
47 for birth defects;
- 48

- 2 (17) Title 24-A, section 6907, subsection 1, relating
4 to personally identifiable financial information
 obtained by Dirigo Health;
- 6 (18) Title 24-A, section 6907, subsection 2, relating
8 to health information obtained by Dirigo Health under
 the federal Health Insurance Portability and
 Accountability Act of 1996;
- 10 (19) Title 26, section 685, subsection 3, relating to
12 substance abuse testing by an employer;
- 14 (20) Title 29-A, section 1258, subsection 7, relating
 to a person's competency to operate a motor vehicle;
- 16 (21) Title 32, section 1092-A, subsections 1 and 2,
18 relating to privileged communications of dentists' and
 dental hygienists' patients;
- 20 (22) Title 34-B, section 1207, subsection 1, relating
22 to mental health and mental retardation orders of
 commitment and medical and administrative records;
- 24 (23) Title 34-B, section 1216, subsection 3, relating
26 to the Consumer Advisory Board;
- 28 (24) Title 34-B, section 3864, subsection 5, relating
 to mental health involuntary commitment hearings;
- 30 (25) Title 34-B, section 5475, subsection 3, relating
32 to mental retardation judicial certification hearings;
- 34 (26) Title 34-B, section 5476, subsection 6, relating
 to mental retardation judicial commitment hearings;
- 36 (27) Title 34-B, section 5605, subsection 15, relating
38 to records of persons receiving mental retardation
 services; and
- 40 (28) Title 34-B, section 7014, subsection 1, relating
42 to court proceedings concerning sterilization;

44 B. Records relating to facilities, manufacturers or other
 entities:

- 46 (1) Title 22, section 1828, relating to Medicaid and
48 licensing of hospitals, nursing homes and other medical
 facilities and entities;

2 (2) Title 22, section 1885, subsection 1, relating to
3 information provided to the Attorney General under the
4 Hospital Cooperation Act of 1992; and

5 (3) Title 22, section 2698-B, subsection 5, relating
6 to prescription drug information provided by the
7 manufacturer to the Department of Health and Human
8 Services concerning price; and

10 C. Records relating to the Maine Health Security Act or
11 other health care review:

12 (1) Title 22, section 8707, relating to the Maine
13 Health Data Organization;

14 (2) Title 22, section 8754, relating to medical
15 sentinel events and reporting;

16 (3) Title 24, section 2510, subsection 1, relating to
17 professional competence reports under the Maine Health
18 Security Act;

19 (4) Title 24, section 2510-A, relating to professional
20 competence review records under the Maine Health
21 Security Act;

22 (5) Title 24, section 2604, relating to liability
23 claims reports under the Maine Health Security Act;

24 (6) Title 24, section 2853, subsection 1-A, relating
25 to action for professional negligence under the Maine
26 Health Security Act;

27 (7) Title 24, section 2857, subsections 1 and 2,
28 relating to mandatory prelitigation screening and
29 mediation panels;

30 (8) Title 24-A, section 4204, subsection 2-A, relating
31 to health maintenance organizations' quality assurance
32 programs;

33 (9) Title 24-A, section 4224, subsection 2, relating
34 to health maintenance organizations' quality assurance
35 committees;

36 (10) Title 32, section 87-B, subsection 3, relating to
37 the Department of Public Safety, Emergency Medical
38 Services' Board trauma-incidence registry;

- 2 (11) Title 32, section 92, relating to the Department
3 of Public Safety, Emergency Medical Services' Board
4 reports and records;
- 5 (12) Title 32, section 92-A, subsection 2, relating to
6 emergency medical services quality assurance committee
7 activities; and
- 8 (13) Title 32, section 3296, relating to Board of
9 Licensure in Medicine medical review committees.

11 **11. Insurance regulation.** The following statutes designate
12 as confidential certain records containing information collected,
13 used or maintained for purposes related to the regulation of
14 insurance:

15 A. Records pertaining primarily to insurers:

- 16 (1) Title 22, section 3188, subsection 4, relating to
17 Maine Managed Care Insurance Plan Demonstration for
18 uninsured individuals;
- 19 (2) Title 24-A, section 1905, subsection 1, relating
20 to credit and investigative reports concerning
21 insurance administrator applicants;
- 22 (3) Title 24-A, section 216, subsections 2 and 3,
23 relating to relating to records of the Bureau of
24 Insurance;
- 25 (4) Title 24-A, section 222, subsection 13, relating
26 to insurance information filed with the Superintendent
27 of Insurance concerning registration statements, tender
28 offers, requests or invitations for tender offers,
29 options to purchase, agreements to merge and contracts
30 to manage;
- 31 (5) Title 24-A, section 225, subsection 3, relating to
32 insurance examination reports;
- 33 (6) Title 24-A, section 226, subsection 2, relating to
34 insurance examination reports furnished to the
35 Governor, the Attorney General and the Treasurer of
36 State pending final decision;
- 37 (7) Title 24-A, section 227, relating to information
38 pertaining to individuals in insurance examination
39 reports;

- 2 (8) Title 24-A, section 414, subsection 5, relating to
insurance certificate of authority audit work papers;
- 4 (9) Title 24-A, section 423-C, subsection 4, relating
to insurance reports of material transactions;
- 6 (10) Title 24-A, section 952-A, subsection 4, relating
8 to actuarial opinion of reserves;
- 10 (11) Title 24-A, section 6807, subsection 7, relating
12 to viatical settlement examinations;
- 14 (12) Title 24-A, section 1420-N, subsection 6,
16 relating to insurers and producers;
- 18 (13) Title 24-A, section 1911, relating to insurance
20 audits and examinations;
- 22 (14) Title 24-A, section 2204, subsection 4, relating
24 to insurance investigative information;
- 26 (15) Title 24-A, section 2304-A, subsection 7,
28 relating to insurance rate filings;
- 30 (16) Title 24-A, section 2315, relating to information
32 submitted to fire insurance advisory organizations;
- 34 (17) Title 24-A, section 2323, subsection 4, relating
36 to insurers' reports concerning loss and expense
38 experience;
- 40 (18) Title 24-A, section 2393, subsection 2, relating
42 to workers' compensation pool self-insurance and
44 surcharges;
- 46 (19) Title 24-A, section 2412, subsection 8, relating
48 to insurance contracts and forms;
- 50 (20) Title 24-A, section 2483, subsection 6, relating
to the Interstate Insurance Product Regulation
Commission's work papers and individuals' privacy and
proprietary information of insurers;
- (21) Title 24-A, section 4233, subsection 2, relating
to health maintenance organizations' work papers filed
with the Superintendent of Insurance;
- (22) Title 24-A, section 4245, subsection 1, relating
to health maintenance organizations' accreditation
survey report;

2 (23) Title 24-A, section 4406, subsection 3, relating
3 to delinquent insurers;

4
5 (24) Title 24-A, section 6708, subsection 2, relating
6 to examination of captive insurance companies'
7 documents;

8
9 (25) Title 24-A, section 6715, relating to captive
10 insurance companies' information submitted to the
11 Superintendent of Insurance; and

12
13 (26) Title 24-A, section 6807, subsection 7, paragraph
14 B, relating to viatical settlement licensee examination
15 records; and

16
17 B. Records pertaining primarily to insureds:

18
19 (1) Title 24, section 2604, relating to liability
20 claims reports under the Maine Health Security Act;

21
22 (2) Title 24, section 2853, subsection 1-A, relating
23 to action for professional negligence under the Maine
24 Health Security Act;

25
26 (3) Title 24, section 2857, subsections 1 and 2,
27 relating to mandatory prelitigation screening and
28 mediation panels;

29
30 (4) Title 24-A, section 2384-B, subsection 8, relating
31 to workers' compensation insurance rating concerning
32 claims and self-insurance;

33
34 (5) Title 24-A, section 2384-C, subsection 7, relating
35 to workers' compensation insurance concerning claims
36 and self-insurance;

37
38 (6) Title 24-A, section 4204, subsection 2-A, relating
39 to health maintenance organizations' quality assurance
40 programs;

41
42 (7) Title 24-A, section 4224, subsection 2, relating
43 to health maintenance organizations' quality assurance
44 committees;

45
46 (8) Title 24-A, section 6807, subsection 7, paragraph
47 A, relating to individual identification data of
48 viators;

2 (9) Title 24-A, section 6818, subsection 6, relating
3 to fraudulent viatical or life insurance settlements
4 information provided for enforcement;

6 (10) Title 24-A, section 6907, subsection 1, relating
7 to personally identifiable financial information
8 obtained by Dirigo Health; and

10 (11) Title 24-A, section 6907, subsection 2, relating
11 to health information obtained by Dirigo Health under
12 the federal Health Insurance Portability and
13 Accountability Act of 1996.

14 12. Investigations. The following statutes designate as
15 confidential certain records containing information regarding
16 investigations:

18 A. Records relating to internal departmental or agency
19 investigations:

20 (1) Title 3, section 997, subsections 1, 3, 4, 5 and
21 6, relating to the Office of Program Evaluation and
22 Governmental Accountability activities and working
23 papers;

26 (2) Title 4, section 17, subsection 3, relating to
27 State Court Administrator complaints and investigative
28 files;

30 (3) Title 5, section 244-C, subsections 2 and 3,
31 relating to the Department of Audit activities and
32 working papers;

34 (4) Title 25, section 2806, subsection 8, relating to
35 proceedings of the board of trustees of the Maine
36 Criminal Justice Academy concerning complaints of
37 misconduct of law enforcement officers;

38 (5) Title 30-A, section 503, subsection 1-A, relating
39 to county personnel records concerning the use of force;

42 (6) Title 30-A, section 2702, subsection 1-A, relating
43 to municipal personnel records concerning the use of
44 force;

46 (7) Title 32, section 92, relating to Emergency
47 Medical Services' Board complaints and investigative
48 records;

2 (8) Title 32, section 13006, relating to real estate
grievance and professional standards committees
hearings;

4
6 (9) Title 34-A, section 1203, subsection 5, relating
to the Department of Corrections, Office of Advocacy
concerning requests for action; and

8
10 (10) Title 34-B, section 1205, subsection 5, relating
to the Department of Health and Human Services, Office
of Advocacy records concerning requests for action; and

12
14 B. Records relating to investigations other than those set
out in paragraph A:

16 (1) Title 1, section 1013, subsections 2 and 3,
relating to the Commission on Governmental Ethics and
Election Practices records;

18
20 (2) Title 5, section 48-A, subsection 5, relating to
confidential communications facilitated by privileged
interpreters for the deaf;

22
24 (3) Title 5, section 1545, relating to outstanding
unpaid checks issued by the State;

26
28 (4) Title 10, section 1109, subsection 4, relating to
information reported to the Attorney General concerning
acquisition of gasoline and heating oil assets;

30
32 (5) Title 10, section 1675, relating to information
received by the Attorney General under the Petroleum
Market Share Act; and

34
36 (6) Title 23, section 1980, subsection 2-B, relating
to recorded images used to enforce tolls on the Maine
Turnpike.

38
40 13. Judicial proceedings. The following statutes designate
as confidential certain records containing information collected,
used or maintained for judicial proceedings purposes:

42
44 A. Title 14, section 1254-A, subsection 7, relating to
jurors;

46
48 B. Title 15, section 3308, subsection 7, relating to
juvenile proceedings;

50 C. Title 18-A, section 2-901, relating to wills deposited
with the Probate Court;

2 D. Title 18-A, section 9-304, subsection (a-1), relating to
4 background checks for adoptions ordered by the Probate Court;

6 E. Title 18-A, section 9-308, subsection (c), relating to
8 final adoption decrees;

10 F. Title 18-A, section 9-310, relating to adoption records
12 concerning adoptions decreed on or after August 8, 1953;

14 G. Title 22, section 811, subsection 6, relating to
16 hearings regarding testing or admission concerning
18 communicable diseases;

20 H. Title 22, section 832, subsection 3, relating to
22 hearings for consent to test for the source of exposure for
24 a blood-borne pathogen;

26 I. Title 22, section 1597-A, subsection 6, relating to a
28 petition for a court order consenting to a minor's abortion;

30 J. Title 24, section 2857, subsections 1 and 2, relating to
32 mandatory prelitigation screening and mediation panels;

34 K. Title 34-B, section 3864, subsection 5, relating to
36 mental health involuntary commitment hearings;

38 L. Title 34-B, section 5475, subsection 3, relating to
40 mental retardation judicial certification hearings;

42 M. Title 34-B, section 5476, subsection 6, relating to
44 mental retardation judicial commitment hearings; and

46 N. Title 34-B, section 7014, subsection 1, relating to
48 court proceedings concerning sterilization.

14. Juvenile justice or criminal investigation and
history. The following statutes designate as confidential
certain records containing information collected, used or
maintained for juvenile justice or criminal investigation or
history purposes:

A. Title 4, section 809, relating to investigations of
attorneys by the Attorney General;

B. Title 5, section 200-H, relating to the Office of the
Attorney General, Maine Elder Death Analysis Review Team;

- 2 C. Title 15, section 101-C, subsection 3, relating to
3 records necessary to conduct an evaluation concerning mental
4 responsibility for criminal conduct;

- 6 D. Title 15, section 3009, subsection 2, relating to the
7 reintegration of a juvenile into school;

- 8 E. Title 15, section 3301, subsection 6-A, relating to
9 information about a juvenile against whom a juvenile
10 petition has not been filed;

- 12 F. Title 16, section 614, subsection 1, relating to
13 criminal justice agency intelligence and investigative
14 information;

- 16 G. Title 16, section 614, subsection 2, relating to
17 personally identifying information of persons who report
18 cruelty to animals to the Department of Agriculture, Food
19 and Rural Resources;

- 20 H. Title 18-A, section 9-304, subsection (a-1), relating to
21 background checks for adoptions ordered by the Probate Court;

- 24 I. Title 18-A, section 9-304, subsection (a-2), relating to
25 background checks for adoptions initiated by the Department
26 of Health and Human Services;

- 28 J. Title 19-A, section 4013, subsection 4, relating to the
29 Domestic Abuse Homicide Review Panel;

- 30 K. Title 20-A, section 6103, subsection 3, relating to
31 school records concerning criminal history record checks of
32 employees and applicants;

- 34 L. Title 22, section 3022, subsections 8, 12 and 13,
35 relating to medical examiner information;

- 38 M. Title 22, section 3034, subsection 2, relating to the
39 Chief Medical Examiner's missing persons files;

- 40 N. Title 22, section 4008, subsection 3-A, relating to the
41 child death and serious injury review panel;

- 44 O. Title 25, section 1577, subsection 1, relating to the
45 state DNA data base and the state DNA data bank;

- 46 P. Title 25, section 2957, relating to Maine Drug
47 Enforcement Agency investigative records;

- 48

2 O. Title 34-A, section 1216, subsection 6, relating to
3 documents used to screen or assess clients of the Department
4 of Corrections;

6 R. Title 34-A, section 5210, subsection 4, relating to the
7 State Parole Board report to the Governor;

8 S. Title 34-A, section 9877, subsection 4, relating to the
9 release by the Interstate Commission for Adult Offender
10 Supervision of records that adversely affect personal
11 privacy rights or proprietary interests; and

12 T. Title 34-A, section 9903, subsection 8, relating to the
13 release by the Interstate Commission for Juveniles of
14 records that adversely affect personal privacy rights or
15 proprietary interests.

16
17 15. Labor. The following statutes designate as
18 confidential certain records containing information collected,
19 used or maintained for purposes related to the regulation of
20 labor:

21
22 A. Title 24-A, section 2393, subsection 2, relating to
23 workers' compensation pool concerning self-insurance and
24 surcharges;

25
26 B. Title 26, section 3, relating to information, reports
27 and records of the Director of Labor Standards within the
28 Department of Labor;

29
30 C. Title 26, section 43, relating to the names of persons,
31 firms and corporations providing information to the
32 Department of Labor, Bureau of Labor Standards;

33
34 D. Title 26, section 665, subsection 1, relating to records
35 submitted to the Director of Labor Standards within the
36 Department of Labor by an employer concerning wages;

37
38 E. Title 26, section 685, subsection 3, relating to
39 substance abuse testing by an employer;

40
41 F. Title 26, section 979-Q, subsection 2, relating to
42 personnel records in possession of the Department of
43 Administrative and Financial Services, Bureau of Employee
44 Relations;

45
46 G. Title 26, section 979-Q, subsection 2, relating to state
47 employees grievance information;
48

2 H. Title 26, section 1082, subsection 7, relating to
3 employers' unemployment compensation records concerning
4 individual information;

5 I. Title 35-A, section 114, subsection 1, relating to
6 utility personnel records;

7 J. Title 39-A, section 153, subsection 5, relating to the
8 Workers' Compensation Board abuse investigation unit;

9 K. Title 39-A, section 153, subsection 9, relating to
10 Workers' Compensation Board audit working papers;

11 L. Title 39-A, section 355-B, subsection 11, relating to
12 records and proceedings of the Workers' Compensation
13 Supplemental Benefits Oversight Committee concerning
14 individual claims;

15 M. Title 39-A, section 403, subsection 15, relating to
16 workers' compensation self-insurers; and

17 N. Title 39-A, section 409, relating to workers'
18 compensation information filed by insurers.

19 **16. Maine Human Rights Act.** The following statutes
20 designate as confidential certain records containing information
21 collected, used or maintained for purposes related to the Maine
22 Humans Rights Act:

23 A. Title 5, section 4572, subsection 2, relating to medical
24 information or history of an applicant in an employment
25 discrimination complaint;

26 B. Title 5, section 4573, subsection 2, relating to records
27 of mental or physical disability; and

28 C. Title 5, section 4612, subsection 5, relating to
29 3rd-party records.

30 **17. Marine resources and aquaculture.** The following
31 statutes designate as confidential certain records containing
32 information collected, used or maintained for the following
33 purposes:

34 A. Records relating to marine resources:

35 (1) Title 12, section 6455, subsection 1-A, relating
36 to market studies and promotional plans of the Lobster
37 Promotion Council; and

2 (2) Title 12, section 6173, relating to marine
3 resources statistics; and

4 B. Records relating to aquaculture:

6 (1) Title 12, section 6072, subsection 10, relating to
7 aquaculture lease seeding and harvesting reports;

8 (2) Title 12, section 6072-A, subsection 17-A,
9 relating to aquaculture leasing research and
10 development;

11 (3) Title 12, section 6077, subsection 4, relating to
12 the aquaculture monitoring program; and

13 (4) Title 12, section 6078-A, subsection 1, relating
14 to the Aquaculture Monitoring, Research and Development
15 Fund concerning harvest information from leaseholders.

16 18. Market assistance and regulation. The following
17 statutes designate as confidential certain records containing
18 information collected, used or maintained for market assistance
19 and regulation purposes:

20 A. Title 7, section 20, subsection 1, relating to
21 information reported to the Department of Agriculture, Food
22 and Rural Resources;

23 B. Title 7, section 306-A, subsection 3, relating to
24 agricultural development grant program, market research or
25 development activities;

26 C. Title 7, section 951-A, relating to minimum standards
27 for planting potatoes;

28 D. Title 7, section 1052, subsection 2, relating to growers
29 of genetically engineered plants and seeds;

30 E. Title 7, section 2103-A, subsection 4, relating to
31 patented and nonreleased potato varieties;

32 F. Title 10, section 945-J, relating to the Maine
33 International Trade Center;

34 G. Title 10, section 1675, relating to information received
35 by the Attorney General under the Petroleum Market Share Act;

36 H. Title 12, section 6072, subsection 10, relating to
37 aquaculture lease seeding and harvesting reports;

38

2 I. Title 12, section 6072-A, subsection 17-A, relating to
aquaculture leasing research and development;

4 J. Title 12, section 6077, subsection 4, relating to the
aquaculture monitoring program;

6 K. Title 12, section 6078-A, subsection 1, relating to the
8 Aquaculture Monitoring Research and Development Fund
concerning harvest information from leaseholders;

10 L. Title 12, section 6455, subsection 1-A, relating to the
12 market studies and promotional plans of the Lobster
Promotion Council;

14 M. Title 12, section 8611, subsection 1, relating to forest
16 management information concerning landowner contacts;

18 N. Title 12, section 8869, subsection 13, relating to
forest policy experimental areas;

20 O. Title 12, section 8884, subsection 3, relating to
22 landowner and wood processor reporting requirements
concerning volume information;

24 P. Title 13, section 1957, subsection 8, relating to the
26 members of associations of agricultural producers and
purchasing information;

28 Q. Title 22, section 2698-A, subsection 7, relating to
30 prescription drug marketing costs submitted to the
Department of Health and Human Services;

32 R. Title 36, section 4315, subsection 1-A, relating to the
34 transportation of wild blueberries; and

36 S. Title 36, section 4316, subsection 4, relating to wild
blueberries audits.

38 **19. Medical facilities.** The following statutes designate
40 as confidential certain records containing information collected,
used or maintained for purposes related to the regulation of
42 medical facilities:

44 A. Title 22, section 1828, relating to Medicaid and
46 licensing of hospitals, nursing homes and other medical
facilities and entities;

48 B. Title 22, section 1885, subsection 1, relating to
50 information provided to the Attorney General under the
Hospital Cooperation Act of 1992; and

2 C. Title 24, section 2307, subsection 3, relating to an
4 accountant's work papers concerning nonprofit hospital or
 medical service organizations.

6 **20. Motor vehicles and operators.** The following statutes
8 designate as confidential certain records containing information
 collected, used or maintained for motor vehicle and motor vehicle
10 operator purposes:

12 A. Title 5, section 90-B, subsection 7, relating to the
 Address Confidentiality Program;

14 B. Title 29-A, section 152, subsection 3, relating to the
16 Secretary of State's data processing information files
 concerning motor vehicles;

18 C. Title 29-A, section 253, relating to motor vehicle
20 records concerning certain nongovernmental vehicles;

22 D. Title 29-A, section 255, subsection 1, relating to motor
 vehicle records when a protection order is in effect;

24 E. Title 29-A, section 257, relating to the Secretary of
26 State's motor vehicle information technology system;

28 F. Title 29-A, section 517, subsection 4, relating to motor
 vehicle records concerning unmarked law enforcement vehicles;

30 G. Title 29-A, section 1258, subsection 7, relating to a
32 person's competency to operate a motor vehicle; and

34 H. Title 29-A, section 1401, subsection 6, relating to
 driver's license digital images.

36 **21. Occupational credentialing.** The following statutes
38 designate as confidential certain records containing information
 collected, used or maintained for occupational credentialing
40 purposes:

42 A. Records relating to qualifications for initial,
 continuing and renewed credentialing:

44 (1) Title 3, sections 156 and 159, relating to
46 prehearing conference materials for legislative
 confirmations of gubernatorial appointments;

48 (2) Title 7, section 2226, subsection 1, relating to
50 ginseng license applications, licensees and locations
 of ginseng plantings;

- 2 (3) Title 10, section 8002, subsection 10, relating to
4 information provided to the Commissioner of
 Professional and Financial Regulation;
- 6 (4) Title 12, section 6310, subsection 3, relating to
8 medical information pertaining to lobster and crab
 fishing license denials;
- 10 (5) Title 12, section 6431-F, subsection 3, relating
12 to medical information pertaining to trap tag denials;
- 14 (6) Title 12, section 12907, subsection 8, relating to
 whitewater outfitters and affiliated outfitter records;
- 16 (7) Title 20-A, section 6101, subsection 2, relating
18 to school records concerning employees and applicants;
- 20 (8) Title 20-A, section 6103, subsection 3, relating
22 to school records concerning background checks of
 employees and applicants;
- 24 (9) Title 20-A, section 13004, subsection 2, relating
 to certification and registration of teachers;
- 26 (10) Title 20-A, section 13015, subsection 5, relating
28 to teacher action plans;
- 30 (11) Title 20-A, section 13034, relating to teacher
 qualifying exam scores;
- 32 (12) Title 32, section 92, relating to the Department
34 of Public Safety, Emergency Medical Services' Board
 reports and records;
- 36 (13) Title 32, section 1658-F, subsection 1, relating
38 to hearing aid dealers and fitters;
- 40 (14) Title 32, section 2105-A, subsection 3, relating
 to nurses and nursing;
- 42 (15) Title 32, section 2109, relating to home contact
44 information of nurse applicants and licensees;
- 46 (16) Title 32, section 2600-A, relating to personal
48 information of osteopathic physician applicants and
 licensees;

2 (17) Title 32, section 3300-A, relating to Board of
3 Licensure in Medicine personal information about
4 applicants and licensees; and

5 (18) Title 32, section 9418, relating to private
6 security guards;

7 B. Records relating to quality assurance, complaints and
8 investigations:

9 (1) Title 10, section 8003-B, subsections 1 and 2-A,
10 relating to complaints and investigations and client
11 records of boards and commissions within or associated
12 with the Department of Professional and Financial
13 Regulation;

14 (2) Title 20-A, section 13004, subsection 2-A,
15 relating to complaint, charges and accusations
16 concerning certification and registration of teachers;

17 (3) Title 24, section 2510, subsection 1, relating to
18 professional competence reports under the Maine Health
19 Security Act;

20 (4) Title 24, section 2510-A, relating to professional
21 competence review records under the Maine Health
22 Security Act;

23 (5) Title 24, section 2604, relating to liability
24 claims reports under the Maine Health Security Act;

25 (6) Title 24, section 2853, subsection 1-A, relating
26 to action for professional negligence under the Maine
27 Health Security Act;

28 (7) Title 24, section 2857, subsections 1 and 2,
29 relating to mandatory prelitigation screening and
30 mediation panels;

31 (8) Title 32, section 92-A, subsection 2, relating to
32 emergency medical services' quality assurance committee
33 activities;

34 (9) Title 32, section 2599, relating to medical staff
35 reviews and hospital reviews;

36 (10) Title 32, section 3296, relating to Board of
37 Licensure in Medicine medical review committees;
38

2 (11) Title 32, section 13006, relating to the real
3 estate grievance and professional standards committees
4 hearings; and

5 (12) Title 38, section 100-A, subsection 1, relating
6 to complaints and investigative records concerning
7 vessel pilots; and

8 C. Other purposes related to occupational credentialing:

9 (1) Title 10, section 9012, subsection 1, relating to
10 information provided to the Department of Professional
11 and Financial Regulation, Manufactured Housing Board;
12 and

13 (2) Title 32, section 1092-A, subsections 1 and 2,
14 relating to privileged communications of dentists' and
15 dental hygienists' patients.

16 22. Other licensing. The following statutes designate as
17 confidential certain records containing information collected,
18 used or maintained for purposes related to licensing not listed
19 elsewhere in this section:

20 A. Title 5, section 90-B, subsection 7, relating to the
21 Address Confidentiality Program;

22 B. Title 8, section 1052, first paragraph, relating to
23 Gambling Control Board information concerning applicants,
24 licensees, owners and key executives; and

25 C. Title 25, section 2006, relating to concealed firearms
26 permit applications.

27 23. Public employment. The following statutes designate as
28 confidential certain records containing information collected,
29 used or maintained for public employment purposes:

30 A. Title 5, section 957, subsection 5-A, relating to State
31 Employee Assistance Program client records;

32 B. Title 5, section 7070, subsection 1, relating to state
33 employee applicants;

34 C. Title 5, section 7070, subsections 2 and 4, relating to
35 state employees' personal information;

36 D. Title 5, section 17057, subsection 1, relating to Maine
37 State Retirement System information;

2 E. Title 5, section 17057, subsection 3, relating to home
3 contact information of Maine State Retirement System
4 members, benefit recipients and staff;

6 F. Title 26, section 979-Q, subsection 2, relating to
7 personnel records in possession of the Department of
8 Administrative and Financial Services, Bureau of Employee
9 Relations;

10 G. Title 26, section 979-Q, subsection 2, relating to state
11 employees grievance information;

12 H. Title 30-A, section 503, subsection 1, relating to
13 county personnel records;

14 I. Title 30-A, section 503, subsection 1-A, relating to
15 county personnel records concerning the use of force;

16 J. Title 30-A, section 2702, subsection 1, relating to
17 municipal personnel records;

18 K. Title 30-A, section 2702, subsection 1-A, relating to
19 municipal personnel records concerning the use of force; and

20 L. Title 34-A, section 1212, relating to Department of
21 Corrections employees and contractors.

22 **24. Public services.** The following statutes designate as
23 confidential certain records containing information collected,
24 used or maintained for use of public services purposes:

25 A. Title 1, section 538, subsection 3, relating to InforME
26 subscriber information;

27 B. Title 5, section 95, subsection 11, relating to state
28 archives patrons;

29 C. Title 5, section 17057, subsection 3, relating to home
30 contact information of Maine State Retirement System
31 members, benefit recipients and staff;

32 D. Title 12, section 1827, subsection 3, relating to
33 Department of Conservation records concerning camper
34 reservations at state parks;

35 E. Title 22, section 4087-A, subsection 6, relating to the
36 ombudsman program concerning a child and family services
37 complaint or inquiry;

2 F. Title 23, section 1982, relating to patrons of the Maine
3 Turnpike;

4
5 G. Title 25, section 2929, subsections 1, 2, 3 and 4,
6 relating to emergency services communications;

7
8 H. Title 25, section 2929, subsection 2, relating to public
9 safety answering point records;

10
11 I. Title 27, section 121, relating to library records
12 concerning identity of patrons; and

13
14 J. Title 34-A, section 1203, subsection 5, relating to the
15 Department of Corrections, Office of Advocacy concerning
16 requests for action.

17 25. Social services. The following statutes designate as
18 confidential certain records containing information collected,
19 used or maintained for social services purposes:

20
21 A. Title 22, section 3188, subsection 4, relating to the
22 Maine Managed Care Insurance Plan Demonstration for
23 uninsured individuals;

24
25 B. Title 22, section 3474, subsection 1, relating to adult
26 protective records;

27
28 C. Title 22, section 4008, subsection 1, relating to child
29 protective records;

30
31 D. Title 22, section 4008, subsection 3-A, relating to
32 records of the child death and serious injury review panel;

33
34 E. Title 22, section 4306, relating to general assistance;

35
36 F. Title 22, section 5328, subsection 1, relating to
37 community action agencies' records about applicants and
38 providers of services;

39
40 G. Title 22, section 7703, subsection 2, relating to
41 facilities for children and adults; and

42
43 H. Title 37-B, section 506, relating to Department of
44 Defense, Veterans and Emergency Management, Bureau of Maine
45 Veterans' Services benefits.

46
47 26. Taxation. The following statutes designate as
48 confidential certain records containing information collected,
49 used or maintained for taxation purposes:
50

- 2 A. Title 30-A, section 5242, subsection 13, relating to tax
3 increment financing districts;
- 4
- 5 B. Title 36, section 579, relating to the Maine Tree Growth
6 Tax Law concerning forest management plans;
- 7
- 8 C. Title 36, section 841, subsection 2, relating to
9 property tax abatement application information and
10 proceedings;
- 11
- 12 D. Title 36, section 6760, relating to employment tax
13 increment financing; and
- 14
- 15 E. Title 36, section 7113, subsection 4, relating to
16 information obtained by the Multistate Tax Commission by an
17 audit.
- 18
- 19 27. Utilities. The following statutes designate as
20 confidential certain records containing information collected,
21 used or maintained for purposes related to the regulation of
22 utilities:
- 23
- 24 A. Title 22, section 666, subsection 3, relating to the
25 State Nuclear Safety Program concerning the identity of a
26 person providing information about unsafe activities,
27 conduct or operation or license violation;
- 28
- 29 B. Title 23, section 8115, relating to the Northern New
30 England Passenger Rail Authority;
- 31
- 32 C. Title 35-A, section 114, subsection 1, relating to
33 utility personnel records;
- 34
- 35 D. Title 35-A, section 704, subsection 5, relating to
36 utility records concerning customer information;
- 37
- 38 E. Title 35-A, section 1311-A, relating to Public Utilities
39 Commission protective orders;
- 40
- 41 F. Title 35-A, section 1311-B, subsections 1, 2 and 4,
42 relating to public utility technical information;
- 43
- 44 G. Title 35-A, section 1316-A, relating to Public Utilities
45 Commission communications concerning utility violations; and
46
- 47 H. Title 35-A, section 8703, subsection 5, relating to
48 telecommunications relay service communications.

2 28. Other purposes. The following statutes designate as
3 confidential certain records containing information collected,
4 used or maintained for purposes not listed elsewhere in this
5 section:

6 A. Title 1, section 402, subsection 3, relating to
7 architecture, design, access authentication, encryption and
8 security of information technology infrastructure and
9 systems;

10 B. Title 4, section 1701, subsection 7, relating to the
11 Judicial Compensation Commission concerning working papers
12 in the possession of a legislative employee;

13 C. Title 5, section 791, relating to the code of fair
14 practices and affirmative action concerning confidential
15 business information;

16 D. Title 5, section 1743, subsection 5, relating to public
17 improvements construction contracts concerning evaluations
18 of proposals;

19 E. Title 5, section 1747, subsection 3, relating to public
20 improvement contracts concerning prebid qualifications;

21 F. Title 5, section 1976, subsection 1, relating to the
22 State Government computer system;

23 G. Title 5, section 3305-B, subsection 1, relating to the
24 Executive Department, State Planning Office concerning
25 energy policy;

26 H. Title 8, section 416-A, subsection 9, relating to the
27 Tri-State Lotto concerning personal records in connection
28 with payment of prize;

29 I. Title 20-A, section 10206, subsection 2, relating to
30 records of the Energy Testing Laboratory of Maine;

31 J. Title 23, section 63, relating to records of the
32 right-of-way divisions of the Department of Transportation
33 and the Maine Turnpike Authority;

34 K. Title 23, section 753-A, subsections 3, 4 and 5,
35 relating to design-build contracts for state highways;

36 L. Title 26, section 934, relating to a report of the State
37 Board of Arbitration and Conciliation;
38

2 M. Title 26, section 939, relating to information disclosed
3 by a party to the State Board of Arbitration and
4 Conciliation;

5 N. Title 27, section 377, relating to the location of a
6 site in possession of a state agency for archeological
7 research;

8 O. Title 30-A, section 4706, subsection 1, relating to
9 municipal housing authorities;

10 P. Title 33, section 1971, subsection 4, relating to
11 information derived from unclaimed property reports; and

12 Q. Title 37-B, section 797, subsection 7, relating to
13 Department of Defense, Veterans and Emergency Management,
14 Maine Emergency Management Agency reports of hazardous
15 substance transportation routes.

16 **29. Social security numbers.** The following statutes
17 designate social security numbers as confidential information:

18 A. Title 1, section 402, subsection 3, paragraph N,
19 relating to social security numbers in possession of the
20 Department of Inland Fisheries and Wildlife;

21 B. Title 8, section 416-A, subsection 9, relating to
22 records concerning payment of Tri-state Lotto prizes;

23 C. Title 19-A, section 651, subsection 2, relating to
24 social security numbers on marriage applications;

25 D. Title 19-A, section 908, relating to social security
26 numbers on divorce records;

27 E. Title 19-A, section 1565, subsection 4, relating to
28 social security numbers in paternity actions; and

29 F. Title 19-A, section 2006, subsection 10, relating to
30 social security numbers in child support actions.

31 **30. Domestic violence and safety.** The following statutes
32 designate certain information as confidential based on domestic
33 violence or other safety purposes:

34 A. Title 19-A, section 1653, subsection 6, relating to
35 addresses of children and victims in cases concerning
36 parental rights and responsibilities involving domestic
37 abuse;

38

2 B. Title 19-A, section 3012, relating to specific
identifying information in child support enforcement; and

4 C. Title 29-A, section 255, subsection 1, relating to motor
6 vehicle records when a protection order is in effect.

8 **SUMMARY**

10 This bill meets the requirements of Public Law 2003, chapter
12 709, section 9. It lists statutes that by designating records or
14 information as confidential remove the records or information
from the definition of "public record" in the freedom of access
laws.

16 The statutes are listed according to the purpose for which
18 the information is collected, used or maintained.

20 This bill is not intended to make any substantive changes in
the law. It is intended to provide a list of statutory
exceptions to the definition of "public record."