

# MAINE STATE LEGISLATURE

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# 126th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2013

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Legislative Document

No. 104

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H.P. 86

House of Representatives, January 24, 2013

### An Act To Amend the Laws Governing Public Records

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Reference to the Committee on Judiciary suggested and ordered printed.

*Millicent M. MacFarland*  
MILLICENT M. MacFARLAND  
Clerk

Presented by Representative NELSON of Falmouth.  
Cosponsored by Senator MILLETT of Cumberland and  
Representatives: HUBBELL of Bar Harbor, KENT of Woolwich, KUSIAK of Fairfield,  
MAKER of Calais, TURNER of Burlington, Senator: HASKELL of Cumberland.

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

2 **Sec. 1. 1 MRSA §402, sub-§3, ¶Q**, as amended by PL 2011, c. 149, §2, is further  
3 amended to read:

4 Q. Security plans, staffing plans, security procedures, architectural drawings or risk  
5 assessments prepared for emergency events that are prepared for or by or kept in the  
6 custody of the Department of Corrections or a county jail if there is a reasonable  
7 possibility that public release or inspection of the records would endanger the life or  
8 physical safety of any individual or disclose security plans and procedures not  
9 generally known by the general public. Information contained in records covered by  
10 this paragraph may be disclosed to state and county officials if necessary to carry out  
11 the duties of the officials, the Department of Corrections or members of the State  
12 Board of Corrections under conditions that protect the information from further  
13 disclosure; ~~and~~

14 **Sec. 2. 1 MRSA §402, sub-§3, ¶R**, as enacted by PL 2011, c. 149, §3, is  
15 amended to read:

16 R. Social security numbers in the possession of the Secretary of State; ~~and~~

17 **Sec. 3. 1 MRSA §402, sub-§3, ¶S** is enacted to read:

18 S. E-mail addresses obtained by a political subdivision of the State for the sole  
19 purpose of disseminating noninteractive notifications, updates, cancellations,  
20 newsletters or other similar communications that are issued from the political  
21 subdivision or its elected officers to an individual or individuals that request or  
22 regularly accept these noninteractive communications.

23 **Sec. 4. 1 MRSA §408-A, sub-§8, ¶B**, as enacted by PL 2011, c. 662, §5, is  
24 amended to read:

25 B. The agency or official may charge a fee to cover the actual cost of searching for,  
26 retrieving and compiling the requested public record ~~of not more than \$15 per hour~~  
27 ~~after~~ excluding the first hour of staff time per request. Compiling the public record  
28 includes reviewing and redacting confidential information. For the purposes of this  
29 paragraph, "actual cost" means the number of hours employees of the agency or  
30 official spent complying with the request multiplied by the hourly rate of the lowest-  
31 paid public employee possessing the capabilities and qualifications to compile the  
32 public record. "Actual cost" does not include attorney consultation costs.

33 **Sec. 5. 30-A MRSA §4353, sub-§4-A**, as repealed and replaced by PL 2009, c.  
34 342, §1, is amended to read:

35 **4-A. Disability variance; vehicle storage.** A disability variance may be granted  
36 pursuant to this subsection. Documents submitted to the board that describe or verify a  
37 person's disability are not public records pursuant to Title 1, chapter 13.

38 A. The board may grant a variance to an owner of a dwelling for the purpose of  
39 making that dwelling accessible to a person with a disability who resides in or

1 regularly uses the dwelling. The board shall restrict any variance granted under this  
2 paragraph solely to the installation of equipment or the construction of structures  
3 necessary for access to or egress from the dwelling by the person with the disability.

4 The board may impose conditions on the variance granted pursuant to this paragraph,  
5 including limiting the variance to the duration of the disability or to the time that the  
6 person with the disability lives in the dwelling. For the purposes of this paragraph,  
7 the term "structures necessary for access to or egress from the dwelling" is defined to  
8 include railing, wall or roof systems necessary for the safety or effectiveness of the  
9 structure.

10 B. If authorized by the zoning ordinance establishing the board, the board may grant  
11 a variance to an owner of a dwelling who resides in the dwelling and who is a person  
12 with a permanent disability for the construction of a place of storage and parking for  
13 a noncommercial vehicle owned by that person and no other purpose. The width and  
14 length of the structure may not be larger than 2 times the width and length of the  
15 noncommercial vehicle. The owner shall submit proposed plans for the structure  
16 with the request for the variance pursuant to this paragraph to the board.

17 The person with the permanent disability shall prove by a preponderance of the  
18 evidence that the person's disability is permanent.

19 For purposes of this paragraph, "noncommercial vehicle" means a motor vehicle as  
20 defined in Title 29-A, section 101, subsection 42 with a gross vehicle weight of no  
21 more than 6,000 pounds, bearing a disability registration plate issued pursuant to  
22 Title 29-A, section 521 and owned by the person with the permanent disability.

23 The board may impose conditions on the variance granted pursuant to this subsection.

24 For purposes of this subsection, "disability" has the same meaning as a physical or mental  
25 disability under Title 5, section 4553-A.

## 26 **SUMMARY**

27 This bill amends the laws governing public records in 3 ways. First, it adds an  
28 exception to the definition of "public records" under the Freedom of Access Act for  
29 e-mail addresses obtained by a political subdivision of the State for the sole purpose of  
30 disseminating noninteractive communications to individuals. Second, the bill eliminates  
31 the cap on the hourly rate that a governmental entity may charge to cover the actual cost  
32 of searching for, retrieving and compiling a requested public record and establishes a  
33 definition of "actual cost" that is tied to the hourly rate paid to employees to fulfill a  
34 request. Third, the bill creates an exception to the Freedom of Access Act for documents  
35 submitted to a municipal board of appeals that describe or verify the mental or physical  
36 disability of a person who is seeking a variance from certain land use regulations in order  
37 to accommodate the disability.