

# MAINE STATE LEGISLATURE

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# 127th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2015

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Legislative Document

No. 1086

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H.P. 747

House of Representatives, March 25, 2015

**An Act To Implement the Recommendations of the Right To Know  
Advisory Committee To Create a Remedy for Unduly Burdensome  
and Oppressive Requests**

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Reported by Representative HOBBS of Saco for the Joint Standing Committee on Judiciary pursuant to the Maine Revised Statutes, Title 1, section 411, subsection 6, paragraph G.

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

A handwritten signature in cursive script that reads "Robert B. Hunt".

ROBERT B. HUNT  
Clerk

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

2 **Sec. 1. 1 MRSA §408-A, sub-§4**, as amended by PL 2013, c. 350, §2, is further  
3 amended to read:

4 **4. Refusals; denials.** If a body or an agency or official having custody or control of  
5 any public record refuses permission to inspect or copy or abstract a public record, the  
6 body or agency or official shall provide written notice of the denial, stating the reason for  
7 the denial, within 5 working days of the receipt of the request for inspection or copying.  
8 A request for inspection or copying may be denied, in whole or in part, on the basis that  
9 the request is unduly burdensome or oppressive if the procedures established in  
10 subsection 4-A are followed. Failure to comply with this subsection is considered failure  
11 to allow inspection or copying and is subject to appeal as provided in section 409.

12 **Sec. 2. 1 MRSA §408-A, sub-§4-A** is enacted to read:

13 **4-A. Action for protection.** A body, an agency or official may seek protection from  
14 a request for inspection or copying that is unduly burdensome or oppressive by filing an  
15 action for an order of protection in the Superior Court for the county where the request  
16 for records was made within 30 days of receipt of the request.

17 A. The following information must be included in the complaint if available or  
18 provided to the parties and filed with the court no more than 14 days from the filing  
19 of the complaint or such other period as the court may order:

20 (1) The terms of the request and any modifications agreed to by the requesting  
21 party;

22 (2) A statement of the facts that demonstrate the burdensome or oppressive  
23 nature of the request, with a good faith estimate of the time required to search for,  
24 retrieve, redact if necessary and compile the records responsive to the request and  
25 the resulting costs calculated in accordance with subsection 8; and

26 (3) A description of the efforts made by the body, agency or official to inform  
27 the requesting party of the good faith estimate of costs and to discuss possible  
28 modifications of the request that would reduce the burden of production.

29 B. Any appeal that may be filed by the requesting party under section 409 may be  
30 consolidated with an action under this subsection.

31 C. An action for protection may be advanced on the docket and receive priority over  
32 other cases when the court determines that the interests of justice so require upon the  
33 request of any party.

34 D. If the court finds that the body, agency or official has demonstrated good cause to  
35 limit or deny the request, the court shall enter an order making such findings and  
36 establishing the terms upon which production, if any, must be made. If the court  
37 finds that the body, agency or official has not demonstrated good cause to limit or  
38 deny the request, the court shall establish a date by which the records must be  
39 provided to the requesting party.

1 **SUMMARY**

2 This bill amends the Freedom of Access Act to authorize a body, agency or official to  
3 deny a request for inspection or copying of public records, in whole or in part, on the  
4 basis that the request is unduly burdensome or oppressive. The bill requires that the  
5 body, agency or official seek protection from an unduly burdensome or oppressive  
6 request by filing an action in Superior Court within 30 days of receipt of the request.  
7 This bill adopts a good cause standard to be used by the court in determining whether the  
8 request may be limited or denied as unduly burdensome or oppressive.