

# MAINE STATE LEGISLATURE

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SMC  
R. of S. 1

L.D. 146

Date: 4/26/17

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STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
128TH LEGISLATURE  
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 104, L.D. 146, Bill, "An Act To Protect the Confidentiality of Local Government Employees' Private Information"

Amend the bill by striking out the title and substituting the following:

**'Act To Protect the Confidentiality of State and Local Government Employees' Private Information'**

Amend the bill by inserting after the enacting clause and before section 1 the following:

**'Sec. 1. 5 MRSA §7070, sub-§2, ¶D-1,** as amended by PL 2007, c. 597, §6, is further amended to read:

D-1. Personal information pertaining to the employee's race, color, religion, sex, sexual orientation as defined in section 4553, subsection 9-C, national origin, ancestry, genetic information, age, physical disability, mental disability and marital status; social security number; personal contact information as provided in Title 1, section 402, subsection 3, paragraph O; and personal employment choices pertaining to elected payroll deductions, deferred compensation, savings plans, pension plans, health insurance and life insurance. When there is a work requirement for public access to personal information under this paragraph that is not otherwise protected by law, that information may be made public. The Director of the Bureau of Human Resources, upon the request of the employing agency, shall make the determination that the release of certain personal information not otherwise protected by law is allowed; and

**Sec. 2. 30-A MRSA §503, sub-§1, ¶B,** as amended by PL 1997, c. 770, §2, is further amended to read:

B. County records containing the following:

- (1) Medical information of any kind, including information pertaining to the diagnosis or treatment of mental or emotional disorders;
- (2) Performance evaluations and personal references submitted in confidence;

- 1 (3) Information pertaining to the creditworthiness of a named employee;
- 2 (4) Information pertaining to the personal history, general character or conduct
- 3 of members of an employee's immediate family; ~~and~~
- 4 (5) Complaints, charges or accusations of misconduct, replies to those
- 5 complaints, charges or accusations and any other information or materials that
- 6 may result in disciplinary action. If disciplinary action is taken, the final written
- 7 decision relating to that action is no longer confidential after the decision is
- 8 completed if it imposes or upholds discipline. If an arbitrator completely
- 9 overturns or removes disciplinary action from an employee personnel file, the
- 10 final written decision is public except that the employee's name must be deleted
- 11 from the final written decision and kept confidential. If the employee whose
- 12 name was deleted from the final written decision discloses that the employee is
- 13 the person who is the subject of the final written decision, the entire final written
- 14 report, with regard to that employee, is public.

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

- 16 (a) The final written administrative decision that is not appealed pursuant to
- 17 a grievance arbitration procedure; or
- 18 (b) If the final written administrative decision is appealed to arbitration, the
- 19 final written decision of a neutral arbitrator.

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

- 24 (6) Personal information, including that which pertains to the employee's:
- 25 (a) Age;
- 26 (b) Ancestry, ethnicity, genetic information, national origin, race or skin
- 27 color;
- 28 (c) Marital status;
- 29 (d) Mental or physical disabilities;
- 30 (e) Personal contact information, as described in Title 1, section 402,
- 31 subsection 3, paragraph O;
- 32 (f) Personal employment choices pertaining to elected payroll deductions,
- 33 deferred compensation, savings plans, pension plans, health insurance and
- 34 life insurance;
- 35 (g) Religion;
- 36 (h) Sex or sexual orientation as defined in Title 5, section 4553, subsection
- 37 9-C; or

# COMMITTEE AMENDMENT

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(i) Social security number; and'

Amend the bill in section 1 in subsection 1 in paragraph B in subparagraph (6) in division (h) in the first line (page 2, line 25 in L.D.) by inserting after the following: "orientation" the following: 'as defined in Title 5, section 4553, subsection 9-C'

Amend the bill in section 1 in subsection 1 in paragraph B in subparagraph (6) in division (i) in the first line (page 2, line 26 in L.D.) by inserting after the following: "security" the following: 'number'

Amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

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**SUMMARY**

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The bill amends the law governing the confidentiality of personal information of municipal employees to parallel the same protections for state employees, with the addition of keeping as confidential any genetic information and information about the sexual orientation of the employee if contained in the records of the municipality. This amendment amends the state employee personnel records provisions to include confidentiality of genetic information and sexual orientation and amends the laws governing county employee personnel records to match. This amendment includes cross-references to the Maine Human Rights Act for the definition of "sexual orientation." It also correctly provides for the confidentiality of a municipal employee's social security number.