

MAINE STATE LEGISLATURE

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Date: 6/6/17

majority

L.D. 1216
(Filing No. H-433)

JUDICIARY

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

COMMITTEE AMENDMENT "A" to H.P. 848, L.D. 1216, Bill, "An Act To Clarify the Law Regarding Arbitration Privacy with Respect to Executive and Legislative Branch Employees"

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

'An Act To Clarify the Law Regarding Arbitration Privacy with Respect to Public Employees'

Amend the bill by inserting after section 1 the following:

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

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1 the person who is the subject of the final written decision, the entire final written
2 report, with regard to that employee, is public.

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

4 (a) The final written administrative decision that is not appealed pursuant to
5 a grievance arbitration procedure; or

6 (b) If the final written administrative decision is appealed to arbitration, the
7 final written decision of a neutral arbitrator.

8 A final written administrative decision that is appealed to arbitration is ~~no longer~~
9 confidential ~~120 days after a written request for the decision is made to the~~
10 ~~employer if the~~ until a final written decision of the neutral arbitrator is ~~not~~ issued
11 and released ~~before the expiration of the 120 days~~; and

12 **Sec. 3. 30-A MRSA §2702, sub-§1, ¶B**, as amended by PL 1997, c. 770, §3, is
13 further amended to read:

14 B. Municipal records pertaining to an identifiable employee and containing the
15 following:

16 (1) Medical information of any kind, including information pertaining to
17 diagnosis or treatment of mental or emotional disorders;

18 (2) Performance evaluations and personal references submitted in confidence;

19 (3) Information pertaining to the creditworthiness of a named employee;

20 (4) Information pertaining to the personal history, general character or conduct
21 of members of an employee's immediate family; and

22 (5) Complaints, charges or accusations of misconduct, replies to those
23 complaints, charges or accusations and any other information or materials that
24 may result in disciplinary action. If disciplinary action is taken, the final written
25 decision relating to that action is no longer confidential after the decision is
26 completed if it imposes or upholds discipline. The decision must state the
27 conduct or other facts on the basis of which disciplinary action is being imposed
28 and the conclusions of the acting authority as to the reasons for that action. If an
29 arbitrator completely overturns or removes disciplinary action from an employee
30 personnel file, the final written decision is public except that the employee's
31 name must be deleted from the final written decision and kept confidential. If the
32 employee whose name was deleted from the final written decision discloses that
33 the employee is the person who is the subject of the final written decision, the
34 entire final written report, with regard to that employee, is public.

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

36 (a) The final written administrative decision that is not appealed pursuant to
37 a grievance arbitration procedure; or

38 (b) If the final written administrative decision is appealed to arbitration, the
39 final written decision of a neutral arbitrator.

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COMMITTEE AMENDMENT "A" to H.P. 848, L.D. 1216

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

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SUMMARY

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This amendment is the majority report of the Joint Standing Committee on Judiciary. The bill addresses confidentiality of disciplinary actions appealed to arbitration affecting state employees. The amendment extends the same confidentiality to county and municipal employees. Disciplinary actions concerning state, county and municipal employees remain confidential if an action is appealed to arbitration until the arbitration decision is final and released.

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