

MAINE STATE LEGISLATURE

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128th MAINE LEGISLATURE

FIRST REGULAR SESSION-2017

Legislative Document

No. 1541

H.P. 1062

House of Representatives, April 27, 2017

An Act To Protect Certain Administrative Licensing Files

Submitted by the Department of Public Safety pursuant to Joint Rule 204.
Reference to the Committee on Judiciary suggested and ordered printed.

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

ROBERT B. HUNT
Clerk

Presented by Representative GERRISH of Lebanon.

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

2 **Sec. 1. 32 MRSA §7391** is enacted to read:

3 **§7391. Confidentiality of application, information and other specified records**
4 **collected by the commissioner**

5 Notwithstanding Title 1, chapter 13, subchapter 1, and except as otherwise provided
6 in this section, all applications for a license to be a polygraph examiner; any records made
7 a part of the application, refusals and any information of record collected by the
8 commissioner during the process of ascertaining whether an applicant meets the
9 requirements of sections 7382 and 7388; and all records collected by the commissioner
10 during the course of administrative licensing investigations conducted in response to a
11 complaint made against a licensee are confidential and may not be made available for
12 public inspection or copying, except that the final written decision of whether a license is
13 issued or denied, or of whether, in response to a complaint, adverse action is taken against
14 a licensee's license, is publicly accessible. In the case of the issuance or denial of a
15 license, the final written decision must state the basis for which a license is issued or
16 denied, and, in the case of a complaint against a licensee's license, the final written
17 decision must state the basis for which adverse action was or was not taken against the
18 license. The applicant may waive this confidentiality by written notice to the
19 commissioner. All proceedings relating to the issuance of a license to be a polygraph
20 examiner are not public proceedings under Title 1, chapter 13, unless otherwise requested
21 by the applicant. This section does not limit disclosure for criminal justice purposes or to
22 a government licensing agency of this State or another state of records made confidential
23 under this section.

24 The commissioner shall make a permanent record of each license to be a polygraph
25 examiner in a suitable file kept for that purpose. The record must include a copy of the
26 information included on issued licenses and must be available for public inspection.

27 **Sec. 2. 32 MRSA §8124**, as enacted by PL 2015, c. 295, §1, is repealed.

28 **Sec. 3. 32 MRSA §8124-A** is enacted to read:

29 **§8124-A. Confidentiality of application, information and other specified records**
30 **collected by the chief**

31 Notwithstanding Title 1, chapter 13, subchapter 1, and except as otherwise provided
32 in this section, all applications for a license to be a professional investigator; any records
33 made a part of the application, refusals and any information of record collected by the
34 chief during the process of ascertaining whether an applicant is of good moral character
35 and meets the additional requirements of sections 8105 and 8113; and all records
36 collected by the chief during the course of administrative licensing investigations
37 conducted in response to a complaint made against a licensee are confidential and may
38 not be made available for public inspection or copying, except that the final written
39 decision of whether a license is issued or denied, or of whether, in response to a
40 complaint, adverse action is taken against a licensee's license, is publicly accessible. In
41 the case of the issuance or denial of a license, the final written decision must state the

1 basis for which a license is issued or denied, and, in the case of a complaint against a
2 licensee's license, the final written decision must state the basis for which adverse action
3 was or was not taken against the license. The applicant may waive this confidentiality
4 by written notice to the chief. All proceedings relating to the issuance of a license to be a
5 professional investigator are not public proceedings under Title 1, chapter 13, unless
6 otherwise requested by the applicant. This section does not limit disclosure for criminal
7 justice purposes or to a government licensing agency of this State or another state of
8 records made confidential under this section.

9 The chief shall make a permanent record of each license to be a professional
10 investigator in a suitable file kept for that purpose. The record must include a copy of the
11 information included on issued licenses and must be available for public inspection.

12 **Sec. 4. 32 MRSA §9418**, as amended by PL 2011, c. 662, §20, is further amended
13 to read:

14 **§9418. Confidentiality of application and information collected by the commissioner**

15 Notwithstanding Title 1, chapter 13, subchapter 1, all applications for a license to be
16 a contract security company and any documents made a part of the application, refusals
17 and any information of record collected by the commissioner during the process of
18 ascertaining whether an applicant is of good moral character and meets the additional
19 requirements of sections 9405 and 9411-A, and all information of record collected by the
20 commissioner during the process of ascertaining whether a natural person meets the
21 requirements of section 9410-A, are confidential and may not be made available for
22 public inspection or copying, except that the final written decision of whether a license is
23 issued or denied, or of whether, in response to a complaint, adverse action is taken against
24 a licensee's license, is publicly accessible. In the case of the issuance or denial of a
25 license, the final written decision must state the basis for which a license is issued or
26 denied, and, in the case of a complaint against a licensee's license, the final written
27 decision must state the basis for which adverse action was or was not taken against the
28 license. The applicant or natural person may waive this confidentiality by written notice
29 to the commissioner. All proceedings relating to the issuance of a license to be a contract
30 security company are not public proceedings under Title 1, chapter 13, unless otherwise
31 requested by the applicant. This section does not limit disclosure for criminal justice
32 purposes or to a government licensing agency of this State or another state of records
33 made confidential under this section.

34 The commissioner ~~or his designee~~ shall make a permanent record of each license to
35 be a contract security company in a suitable book or file kept for that purpose. The record
36 ~~shall~~ must include a copy of the license and ~~shall~~ must be available for public inspection.
37 Upon a specific request, the commissioner or ~~his~~ the commissioner's designee shall
38 provide a list of names and current addresses of security guards employed by licensed
39 contract security companies.

1

SUMMARY

2 This bill makes polygraph examiner and professional investigator administrative
3 licensing files confidential by law, except the final written decision of whether a license
4 is issued or denied, or of whether, in response to a complaint, adverse action is taken
5 against a licensee's license, is publicly accessible and records may be disclosed for
6 criminal justice purposes or to a government licensing agency of this State or another
7 state. In the case of the issuance or denial of a license, the final written decision must
8 state the basis for which a license is issued or denied, and, in the case of a complaint
9 against a licensee's license, the final written decision must state the basis for which
10 adverse action was or was not taken against the license. The Private Security Guards Act
11 also is amended to ensure consistency with the changes made to the Polygraph Examiners
12 Act and Professional Investigators Act.