

# MAINE STATE LEGISLATURE

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# 130th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2021

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Legislative Document

No. 573

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H.P. 418

House of Representatives, February 24, 2021

### **An Act Concerning Records of the Employment of Law Enforcement Officers and Corrections Officers**

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Received by the Clerk of the House on February 22, 2021. Referred to the Committee on Criminal Justice and Public Safety pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

A handwritten signature in black ink that reads "R B. Hunt".

ROBERT B. HUNT  
Clerk

Presented by Representative COREY of Windham.  
Cosponsored by Senator ROSEN of Hancock and  
Representatives: BRYANT of Windham, COSTAIN of Plymouth, FAY of Raymond,  
PICKETT of Dixfield, WARREN of Hallowell.

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

2 **Sec. 1. 25 MRSA §2805-B, sub-§4** is enacted to read:

3 **4. Application for employment with a law enforcement agency, correctional**  
4 **facility or county or regional jail.** This subsection applies when a law enforcement officer  
5 or corrections officer who is employed by a law enforcement agency, correctional facility  
6 or county or regional jail, or who was employed by a law enforcement agency, correctional  
7 facility or county or regional jail within 90 days prior to making an application for  
8 employment, applies for employment as a law enforcement officer or corrections officer  
9 with a different law enforcement agency, correctional facility or county or regional jail.

10 A. As used in this subsection, unless the context otherwise indicates, the following  
11 terms have the following meanings.

12 (1) "Applicant" means the law enforcement officer or corrections officer who is  
13 applying for employment at a hiring agency.

14 (2) "Employing agency" means the law enforcement agency, correctional facility  
15 or county or regional jail that employs the applicant at the time that a request is  
16 made pursuant to paragraph B or that employed the applicant within 90 days prior  
17 to the applicant making an employment application to the hiring agency.

18 (3) "Hiring agency" means the law enforcement agency, correctional facility or  
19 county or regional jail to which the applicant is applying for employment.

20 B. The applicant shall sign a request that an employing agency release all personnel  
21 and employment records, internal investigation records and any other records  
22 pertaining to the applicant's employment and the job performance of the applicant to a  
23 hiring agency. For the purposes of the employment application, the request form must  
24 include a waiver of any rights that the applicant has to the privacy of the personnel and  
25 employment records, internal investigation records and any other records pertaining to  
26 the applicant's employment and the job performance of the applicant. The request form  
27 must be signed by the applicant and the signature must be witnessed. The board shall  
28 adopt rules establishing a standard request and waiver form. Rules adopted pursuant  
29 to this paragraph are routine technical rules as defined by Title 5, chapter 375,  
30 subchapter 2-A.

31 C. An employing agency that receives a request pursuant to paragraph B shall promptly  
32 release all personnel and employment records, internal investigation records and any  
33 other records pertaining to the employment and job performance of the applicant to the  
34 hiring agency.

35 D. An employing agency that responds to a request pursuant to paragraph B and  
36 releases information pursuant to paragraph C is immune from civil or criminal liability  
37 for releasing the requested information to a hiring agency.

38 E. A hiring agency that receives information pursuant to paragraph C from an  
39 employing agency shall treat that information in the same manner as it treats personnel  
40 and employment records of the employees of the hiring agency. A hiring agency is  
41 immune from civil or criminal liability for receiving the requested information.

42 **Sec. 2. 25 MRSA §2805-B, sub-§5** is enacted to read:

1       **5. Release of the results of a polygraph examination.**   When a polygraph  
2       examination has been performed on a law enforcement officer or corrections officer and  
3       the results indicate probable cause to believe that the officer is or has been involved in  
4       criminal activity, the law enforcement agency, correctional facility or county or regional  
5       jail that conducted the examination or for whom the examination was performed shall  
6       release the results of the examination to the head of the law enforcement agency,  
7       correctional facility or county or regional jail that employs the law enforcement officer or  
8       corrections officer.

9   **SUMMARY**

10           This bill requires a law enforcement officer or corrections officer who applies for  
11           employment with a law enforcement agency, correctional facility or county or regional jail,  
12           when the applicant is employed by or within 90 days prior to the application employed by  
13           another law enforcement agency, correctional facility or county or regional jail, to request  
14           that the officer's personnel records, employment records, internal investigation records and  
15           any other records pertaining to the applicant's employment and the job performance of the  
16           applicant be released to the other agency, facility or jail. The request form, which must be  
17           signed and witnessed, must include a waiver of any rights that the applicant has to the  
18           privacy of the personnel and employment records, internal investigation records and any  
19           other records pertaining to the employment and job performance of the applicant. The bill  
20           directs the Board of Trustees of the Maine Criminal Justice Academy to adopt routine  
21           technical rules to establish the request and waiver form. The bill requires the agency,  
22           facility or jail to which the request was made to promptly release the requested information.  
23           The bill provides civil and criminal immunity to both the sending and the receiving agency,  
24           facility or jail.

25           The bill requires an agency, facility or jail that performs a polygraph examination on a  
26           law enforcement officer or corrections officer to notify the head of the agency, facility or  
27           jail that employs the officer if the results indicate probable cause to believe that the officer  
28           is or has been involved in criminal activity.