

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from electronic originals  
(may include minor formatting differences from printed original)

**LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED BY THE**

**ONE HUNDRED AND EIGHTEENTH LEGISLATURE**

**SECOND REGULAR SESSION**  
**January 7, 1998 to March 31, 1998**

**SECOND SPECIAL SESSION**  
**April 1, 1998 to April 9, 1998**

**THE GENERAL EFFECTIVE DATE FOR**  
**SECOND REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**JUNE 30, 1998**

**SECOND SPECIAL SESSION**  
**NON-EMERGENCY LAWS IS**  
**JULY 9, 1998**

**PUBLISHED BY THE REVISOR OF STATUTES**  
**IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,**  
**TITLE 3, SECTION 163-A, SUBSECTION 4.**

---

---

**J.S. McCarthy Company**  
**Augusta, Maine**  
**1997**

at a time specified in the decision of the Secretary of State, and, in the case of revocation, any person may apply for a new commission one year from the date of the Secretary of State's original action.

**Sec. 3. 5 MRSA §82**, as amended by PL 1991, c. 465, §§6 and 7, is further amended to read:

**§82. Appointment of notaries public; renewal of commissions; disciplinary action**

The Secretary of State may appoint and renew commissions of all notaries public.

Notaries public shall serve terms of 7 years and exercise their power and duties in any county. Only adult residents of this State may be appointed to the offices.

The Secretary of State shall adopt rules relating to the appointment and renewal of commissions of notaries public. The rules must include criteria and a procedure to be applied by the Secretary of State in appointment and renewal. The Secretary of State may not refuse to appoint or renew solely because the applicant lives or works in a specific geographic area or because of political party affiliation.

The Secretary of State shall provide written notice of the expiration of their commission to notaries public 30 days prior to the expiration date. Failure to receive a notice does not affect the expiration date of a commission.

The Secretary of State shall investigate or cause to be investigated all complaints concerning improper or illegal notarial acts performed by notaries public made on the Secretary of State's own motion or on written complaint filed with the department.

The Secretary of State may conduct hearings to assist with investigations and to determine whether grounds exist for denial of commission, suspension of commission, revocation of commission, renewal of commission or other action necessary to the fulfillment of the Secretary of State's responsibility under the laws of this State.

See title page for effective date.

---



---

**CHAPTER 713**

**S.P. 785 - L.D. 2112**

**An Act Creating the InforME Public Information Act to Ensure Access to Electronic Public Records**

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

**Sec. 1. 1 MRSA c. 14** is enacted to read:

**CHAPTER 14**

**ELECTRONIC ACCESS TO PUBLIC INFORMATION**

**§531. Short title**

This chapter may be known and cited as the "InforME Public Information Access Act."

**§532. Definitions**

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

**1. Board.** "Board" means the InforME Board established in section 534.

**2. Data custodian.** "Data custodian" means any branch, agency or instrumentality of State Government or any agency or instrumentality of a political subdivision of the State that gathers, stores or generates public information.

**3. InforME.** "InforME" means the system through which the State electronically provides public information, access to public information and premium services to individuals, businesses and other entities.

**3. Network manager.** "Network manager" means the person under contract to carry out the duties described in section 535.

**4. Premium services.** "Premium services" means InforME services that are available only to subscribers. Premium services include, but are not limited to, the enhancement of information that is otherwise available through InforME for the statutory fee or at no charge.

**5. Public information.** "Public information" means any information that is:

A. Stored, gathered or generated in digitized form by a data custodian; and

B. Either:

(1) A public record under section 402, subsection 3; or

(2) Otherwise expressly authorized to be released as specified by law.

**6. Subscriber.** "Subscriber" means a person who, in exchange for a fee established under section 534, subsection 5, paragraph G, receives premium services.

**7. User association.** "User association" means an association:

- A. Whose membership is identifiable by regular payment of association dues and regularly maintained membership lists;
- B. That is registered with the State or is a Maine corporation; and
- C. That exists for the purpose of advancing the common occupation or profession of its membership.

**§533. InforME established; purposes**

Information Resource of Maine, referred to as "InforME," is established with the following purposes:

**1. Electronic gateway.** To serve as a self-supporting and cost-effective electronic gateway to provide and enhance access to the State's public information for individuals, businesses and other entities;

**2. Rational, standardized, comprehensive services.** To provide rational, standardized and comprehensive services by enabling universal continuous access to accurate, current public information that may be searched to suit the user's own purposes. These services include, at a minimum, providing standardized access to customized databases, data custodians' databases and links to other information sources;

**3. Electronic transactions.** To conduct electronic transactions;

**4. Electronic dissemination of public information.** To assist state agencies in electronically disseminating public information in their custody;

**5. Constantly improve access and utility.** To constantly improve access to and the utility of the public information available through InforME by exploring and, where appropriate, implementing ways to:

- A. Expand the amount and kind of public information available free of charge;
- B. Increase the utility of the public information provided and the form in which it is provided;
- C. Expand the base of users who access the public information; and
- D. Improve individual and business access to public information through improvements in technology;

**6. Accuracy of information.** To provide opportunities for individuals, businesses and other entities to review public information for accuracy and to indicate to the data custodian when corrections may be appropriate;

**7. Information conduit.** To provide a mechanism for the authorized transfer of nonpublic information;

**8. Private-public partnerships and inter-agency cooperation.** To promote opportunities for private-public partnerships and interagency cooperation; and

**9. Innovative uses of information.** To provide opportunities for innovative uses of public information.

Nothing in this Act may be construed to affect the rights of persons to inspect or copy public records under chapter 13, subchapter I or the duty of data custodians to provide for public inspection and copying of those records.

**§534. InforME Board**

**1. Membership.** The InforME Board, as established in Title 5, section 12004-G, subsection 30-A, consists of 15 voting members and 2 nonvoting, advisory members as follows:

A. The Secretary of State or the Secretary of State's designee;

B. Three members who are chief executive officers of agencies of the executive branch that are major data custodians, who are appointed by the Governor and who serve at the pleasure of the Governor, or their designees;

C. A representative of each of the following:

(1) The University of Maine System, appointed by the chancellor;

(2) A statewide association of municipalities, appointed by the Governor from nominations made by the association's governing body;

(3) Nonprofit or user organizations advancing citizens' rights of access to information, appointed by the Governor; and

(4) A statewide association of public librarians, appointed by the Governor from nominations made by the association's governing body.

The term for members appointed pursuant to this paragraph is 3 years;

D. Three members from user associations of a statewide character appointed by the Governor. After the initial appointments, the Governor shall appoint user association members from a list of not less than 6 user association representatives compiled by the board. No 2 members appointed pursuant to this paragraph may represent the same user association. The terms for the members appointed pursuant to this paragraph are for a period of 3 years, except initially, when terms are for one, 2 and 3 years respectively;

E. The Director of the Bureau of Information Services within the Department of Administrative and Financial Services or the director's designee;

F. The State Librarian or the State Librarian's designee;

G. Two public members, one appointed by the President of the Senate and one appointed by the Speaker of the House of Representatives;

H. A representative of the membership or staff of the Judicial Department, appointed by the Chief Justice of the Supreme Judicial Court, who serves as a nonvoting member; and

I. The chief executive officer or designee of the private entity under contract as the network manager who serves as a nonvoting member.

A member who designates another person to serve on the board as that member's designee shall provide written notice to the board staff of the name and title of the designee.

Appointing authorities shall make their appointments and provide written notice of the appointments to the board staff no later than September 1, 1998.

**2. Board chair.** The Governor shall annually appoint one member of the board as chair.

**3. Staff.** The Department of Administrative and Financial Services, Bureau of Information Services shall provide staff to the board.

**4. Quorum; action.** Eight voting members of the board constitute a quorum. The affirmative vote of 8 members is necessary for any action taken by the board. A vacancy in the membership of the board does not impair the right of a quorum to exercise all the powers and perform the duties of the board. The board may use video conferencing and other technologies to conduct its business, but is not exempt from chapter 13, subchapter I.

**5. Duties.** The board shall:

A. Carry out the purposes of InforME as provided in section 533;

B. Approve the criteria and specifications for a network manager and its duties developed by the Director of the Bureau of Information Services within the Department of Administrative and Financial Services;

C. Approve the contract with the network manager;

D. Establish InforME policies and performance criteria and review and approve strategic plans submitted by the network manager;

E. Assess the performance of the network manager;

F. Approve premium services offered.

(1) The board may not approve a service that provides access to public records and data in the form they are maintained by the data custodian and available for public inspection under chapter 13, subchapter I as a premium service;

G. Review revenue and expenditures and approve premium services fees and fee schedules to be levied by the network manager.

(1) Fees must be sufficient to maintain, develop, operate and expand InforME on a continuing basis.

(2) Fees for premium services must be reasonable but sufficient to support the maximum amount of information and services provided at no charge.

(3) The board may establish fee schedules that include no charge for designated services for one or more specified classes of users. If services are to be provided at no charge to libraries, the services must be provided to libraries designated as depository libraries for government documents pursuant to 44 United States Code, Chapter 19 and to any other libraries the board designates.

(4) Fees must be sufficient to ensure that, to the extent possible, data custodians do not suffer loss of revenues from sources that are approved or authorized by law due to the operations of InforME.

(5) Fees must be sufficient to ensure that data custodians are reimbursed for the actual costs of providing data to InforME.

(6) Fees must be sufficient to meet the expenses of the board;

H. Develop and implement a mechanism to resolve disputes involving the network manager and data custodians, users or subscribers;

I. Approve interagency agreements that affect premium services;

J. Approve service level agreements between data custodians and the network manager, except that, agreements between the legislative or judicial branches and the network manager do not require approval;

K. Adopt rules pursuant to the Maine Administrative Procedure Act to carry out this chapter. Notwithstanding Title 5, section 8071, subsection 2, rules adopted pursuant to this paragraph are routine technical rules; and

L. Report annually beginning January 1, 1999 to the joint standing committee of the Legislature having jurisdiction over state government matters. The report must include a complete list of services offered through the InforME system, the fees associated with services and the criteria used to determine which services are offered as premium services. In its January 1, 1999 report, the board must also include an analysis of the feasibility of offering premium services at no charge to depository libraries or other libraries in the State.

6. Meetings. The board shall meet at the call of the chair but not less than quarterly.

7. Compensation. Board members are entitled to compensation pursuant to Title 5, chapter 379.

### §535. InforME network manager; contract terms and duties

1. Criteria and specifications; contract terms. The Director of the Bureau of Information Services within the Department of Administrative and Financial Services, in consultation with the board, shall develop criteria and specifications for a network manager and its duties. The director shall develop and release a request for proposal to solicit bids from private entities to serve as the network manager. The director shall develop the terms and conditions of the contract, which must include at least the following:

A. Perpetual licensing to the board of software and other intellectual property developed by the network manager for use by InforME; and

B. Procedures ensuring that executive branch and semiautonomous state agencies comply with the standards and policies adopted by the Information Services Policy Board.

2. Network manager duties. The network manager shall:

A. Serve as an agent of the State in carrying out the purposes of InforME;

B. Direct and supervise the day-to-day operations and expansion of InforME, including the initial phase of operations necessary to make InforME operational;

C. Attend meetings of the board;

D. Deposit and disburse funds as directed by the board and service level agreements;

E. Keep a record of all operations of InforME and maintain and be a custodian of all financial and operation records, documents and papers filed with InforME. The records of InforME are the property of the board, not the network manager;

F. Develop charges for the services provided to subscribers, which must meet the provisions of section 534, subsection 5, paragraph G;

G. Develop and regularly update, in cooperation with the data custodians, a draft strategic plan for InforME for presentation to the board. The draft must include proposed measurable performance criteria;

H. Report to the board on a periodic basis concerning potential new data and services and related redacting issues;

I. Seek advice from the general public, subscribers, professional associations, academic groups and institutions and individuals with knowledge of and interest in areas of networking, electronic mail, public information access, gateway services, add-on services and electronic filing of information; and

J. Ensure that confidential information is not disclosed by the network manager without the express authorization of the data custodian.

3. Powers. The network manager may:

A. Negotiate and enter into contracts for professional consulting, research and other services; and

B. To the extent permitted by the service level agreement between the network manager and the

data custodian, have access to confidential information if it is necessary to carry out the duties of the network manager or the purposes of InforME. The network manager is subject to the same limitations and penalties as a data custodian concerning the use and disclosure of confidential information.

#### **§536. Network manager and data custodian responsibilities**

**1. Voluntary cooperation.** All data custodians may voluntarily cooperate with the network manager in providing public information, access to public information and assistance as may be requested for achieving InforME's purposes.

**2. Duplication of premium services.** Executive branch and semiautonomous state agencies may not provide services that duplicate premium services offered by InforME except as authorized by the board.

**3. Service level agreements.** Services and information to be provided by a data custodian are governed by service level agreements between the network manager and the data custodian. A service level agreement may include a provision for the network manager to receive a portion of the agency fee for information or services in return for electronically providing that information or service. The fee for electronically accessing the information or service may not exceed the agency fee for distributing the information or providing the service in its usual form.

**4. Data custodian responsibilities.** Data custodians are responsible for:

A. Ensuring that the public information is accurate, complete and current;

B. Updating the source data bases following verification of suggested corrections that users send to InforME;

C. Identifying how and from whom the information was acquired by the data custodian; and

D. Providing reasonable safeguards to protect confidentiality to the level required by law.

**5. InforME network manager responsibilities.** The network manager is responsible for:

A. Transmitting or providing access to public information;

B. Providing reasonable safeguards to protect confidentiality to the level required by law; and

C. Providing notices and disclaimers that include at least the following:

(1) How to address concerns if the public information appears to be inaccurate; and

(2) That InforME assumes no role for monitoring the information content to determine if it is accurate, complete or current.

**6. Redacting data.** When developing new systems, a data custodian shall consult with the network manager regarding current practices for efficiently redacting data.

**7. Disclaimer.** If the network manager provides public information that is stored, gathered or generated by the legislative branch, the network manager shall include the following disclaimer:

"This data was compiled from information made public by the legislative branch."

The disclaimer is not required if the information is prepared pursuant to a contract between the network manager and the Legislative Council.

#### **§537. Financial requirements**

**1. Funding.** InforME is self-supporting. General Fund or other state funds may not be used for start-up costs. Revenue is generated through fees or surcharges on premium services paid by subscribers and from money, goods or in-kind services donated or awarded from non-General Fund sources to carry out the purposes of this Act.

**2. Fiscal year.** InforME's fiscal year begins July 1st and ends on June 30th of the next year.

**3. Annual audit.** The network manager shall submit to the Commissioner of Administrative and Financial Services within 120 days after the close of InforME's fiscal year InforME's annual financial report and audit certified by an independent certified public accountant, who may be the accountant or a member of the firm of accountants who regularly audit the books and accounts of the network manager, selected by the network manager. The audit information forwarded by the network manager to the commissioner must include but is not limited to the audited financial statements, auditor opinions, reports on internal control, findings and recommendations and management letters. InforME is subject to any further audit and review determined necessary by the Governor or the Legislative Council after furnishing reasonable notice to the network manager.

#### **§538. Copyrights, licensing restrictions and confidentiality**

**1. Information.** The information developed by the network manager for InforME and public information made available through InforME is owned by the

public, and copyright or licensing restrictions may not be fixed to this information by the board, the network manager or data custodians.

**2. Custody of network manager.** The fact that information is in the custody of the network manager does not by itself make that information a public record.

**3. Subscriber records.** Records that contain information relating to the identity of a subscriber relative to the subscriber's use of InforME services are confidential. Those records may only be released with the express written permission of the subscriber involved or pursuant to a court order.

**Sec. 2. 5 MRSA §1886, sub-§6-A** is enacted to read:

**6-A. InforME responsibilities.** The director shall serve as the contracting authority under Title 1, chapter 14, and shall provide staff to the InforME Board established in Title 1, chapter 14.

**Sec. 3. 5 MRSA §12004-G, sub-§30-A** is enacted to read:

<b>30-A.</b> <u>Public Information</u>	<u>InforME Board</u>	<u>Legislative Per Diem and Expenses for Voting Members</u>	<u>1 MRSA §534</u>
---	----------------------	---	--------------------

See title page for effective date.

---

---

**CHAPTER 714**

**H.P. 1629 - L.D. 2257**

**An Act to Make Public the Records of the Department of Corrections Relating to Inmate Furloughs and Requests under the Uniform Act for Out-of-State Parolee Supervision**

**Emergency preamble.** **Whereas,** Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

**Whereas,** the Legislature believes that the public has the right to access certain records regarding prisoner furloughs and in-state and out-of-state probationers and parolees in order to help ensure public safety; and

**Whereas,** the Legislature also believes that to further help ensure public safety, the Department of Corrections should notify members of the law enforcement community of the potential release of a

prisoner prior to a furlough and should again notify members of the law enforcement community upon the actual release of the prisoner, and the Department of Corrections should notify members of the law enforcement community regarding the department's consideration of a request to accept an out-of-state parolee for supervision; and

**Whereas,** in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

**Sec. 1. 1 MRSA §402, sub-§3-A** is enacted to read:

**3-A. Public records further defined.** "Public records" also includes the following criminal justice agency records:

A. Records relating to prisoner furloughs to the extent they pertain to a prisoner's identity, conviction data, address of furlough and dates of furlough;

B. Records relating to out-of-state probationer or parolee supervision to the extent they pertain to a probationer's or parolee's identity, conviction data, address of residence and dates of supervision; and

C. Records to the extent they pertain to a prisoner's, adult probationer's or parolee's identity, conviction data and current address or location, unless the Commissioner of Corrections determines that it would be detrimental to the welfare of a prisoner to disclose the information.

**Sec. 2. 34-A MRSA §3003, sub-§1,** as amended by PL 1997, c. 278, §§3 to 5 and c. 464, §9, is further amended by amending the first paragraph to read:

**1. Limited disclosure.** All orders of commitment, medical and administrative records, applications and reports, and facts contained in them, pertaining to any person receiving services from the department, must be kept confidential and may not be disclosed by any person, except that public records must be disclosed in accordance with Title 1, section 408, criminal history record information may be disseminated in accordance with Title 16, chapter 3, subchapter VIII, and documents, other than those documents pertaining to information obtained by the department for the purpose of evaluating a client's ability to participate in a community-based program or from