

# MAINE STATE LEGISLATURE

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**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.**

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

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>
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See title page for effective date.

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**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

informants in a correctional or detention facility for the purpose of determining whether facility rules have been violated, or a victim's request for notice of release, may, and must upon request, be disclosed:

**Sec. 3. 34-A MRSA §3003, sub-§2**, as enacted by PL 1983, c. 459, §6, is repealed and the following enacted in its place:

**2. Civil violation.** A person who discloses information in violation of this section commits a civil violation for which a forfeiture not to exceed \$1,000 may be adjudged.

**Sec. 4. 34-A MRSA §3035, sub-§6** is enacted to read:

**6. Notification of law enforcement agencies.** A prisoner may not participate in a furlough under subsection 2 unless, in advance of the chief administrative officer's consideration of the request for that furlough, the department notifies:

A. The district attorney for the district in which the prisoner will reside;

B. The sheriff for the county in which the prisoner will reside;

C. The chief of police of any municipality in which the prisoner will reside;

D. The Department of Public Safety; and

E. The district attorney for the district where the prisoner's underlying commitment to the department originated.

If the department grants a prisoner furlough request, the department shall again notify those listed in paragraphs A to E.

A furlough may be granted in an emergency without any prior notification as long as notification is given as soon as practicable.

**Sec. 5. 34-A MRSA §9801-A** is enacted to read:

**§9801-A. Notification of law enforcement agencies**

The department, in advance of its consideration of a request under this subchapter, shall notify the district attorney for the district in which the person will reside; the sheriff for the county in which the person will reside; the chief of police of any municipality in which the person will reside; and the Department of Public Safety.

**Emergency clause.** In view of the emergency cited in the preamble, this Act takes effect when approved.

Effective April 3, 1998.

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**CHAPTER 715**

**S.P. 838 - L.D. 2246**

**An Act to Require Expeditious Action in Child Protection Cases**

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

**PART A**

**Sec. A-1. 22 MRSA §4005, sub-§1, ¶B**, as amended by PL 1995, c. 405, §19, is further amended to read:

B. The guardian ad litem shall act in pursuit of the best interests of the child. The guardian ad litem must be given access to all reports and records relevant to the case and investigate to ascertain the facts. The investigation must include, when possible and appropriate, the following:

- (1) Review of relevant mental health records and materials;
- (2) Review of relevant medical records;
- (3) Review of relevant school records and other pertinent materials;
- (4) Interviews with the child with or without other persons present; and
- (5) Interviews with parents, foster parents, teachers, caseworkers and other persons who have been involved in caring for or treating the child.

The guardian ad litem shall have face-to-face contact with the child in the child's home or foster home within 7 days of appointment by the court and at least once every 3 months thereafter or on a schedule established by the court for reasons specific to the child and family. The guardian ad litem shall report to the court and all parties in writing at 6-month intervals, or as is otherwise ordered by the court, regarding the guardian ad litem's activities on the behalf of the child and recommendations concerning the manner in which the court should proceed in the best interest of the child. The court may provide an opportunity for the child to address the court personally if the child requests to do so or if the