

# MAINE STATE LEGISLATURE

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

**AS PASSED BY THE**

**ONE HUNDRED AND TWENTY-SEVENTH LEGISLATURE**

**FIRST REGULAR SESSION**  
**December 3, 2014 to July 16, 2015**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**OCTOBER 15, 2015**

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

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**Augusta, Maine**  
**2015**

**CHAPTER 248  
H.P. 747 - L.D. 1086**

**An Act To Implement the  
Recommendations of the Right  
To Know Advisory Committee  
To Create a Remedy for  
Unduly Burdensome and  
Oppressive Requests**

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

**Sec. 1. 1 MRSA §408-A, sub-§4**, as amended  
by PL 2013, c. 350, §2, is further amended to read:

**4. Refusals; denials.** If a body or an agency or  
official having custody or control of any public record  
refuses permission to inspect or copy or abstract a  
public record, the body or agency or official shall provide  
written notice of the denial, stating the reason for the  
denial, within 5 working days of the receipt of the  
request for inspection or copying. A request for inspection  
or copying may be denied, in whole or in part, on the basis  
that the request is unduly burdensome or oppressive if the  
procedures established in subsection 4-A are followed. Failure  
to comply with this subsection is considered failure to allow  
inspection or copying and is subject to appeal as provided in  
section 409.

**Sec. 2. 1 MRSA §408-A, sub-§4-A** is enacted  
to read:

**4-A. Action for protection.** A body, an agency  
or official may seek protection from a request for  
inspection or copying that is unduly burdensome or  
oppressive by filing an action for an order of protection  
in the Superior Court for the county where the request  
for records was made within 30 days of receipt of the  
request.

A. The following information must be included in  
the complaint if available or provided to the parties  
and filed with the court no more than 14 days  
from the filing of the complaint or such other period  
as the court may order:

- (1) The terms of the request and any modifications  
agreed to by the requesting party;
- (2) A statement of the facts that demonstrate  
the burdensome or oppressive nature of the request,  
with a good faith estimate of the time required to  
search for, retrieve, redact if necessary and compile  
the records responsive to the request and the  
resulting costs calculated in accordance with  
subsection 8;
- (3) A description of the efforts made by the  
body, agency or official to inform the requesting  
party of the good faith estimate of costs and to  
discuss possible modifications of

the request that would reduce the burden of  
production; and

(4) Proof that the body, agency or official  
has submitted a notice of intent to file an action  
under this subsection to the party requesting  
the records, dated at least 10 days prior to  
filing the complaint for an order of protection  
under this subsection.

B. Any appeal that may be filed by the  
requesting party under section 409 may be  
consolidated with an action under this  
subsection.

C. An action for protection may be  
advanced on the docket and receive priority  
over other cases when the court determines  
that the interests of justice so require upon  
the request of any party.

D. If the court finds that the body, agency  
or official has demonstrated good cause to  
limit or deny the request, the court shall  
enter an order making such findings and  
establishing the terms upon which  
production, if any, must be made. If the  
court finds that the body, agency or  
official has not demonstrated good cause to  
limit or deny the request, the court shall  
establish a date by which the records  
must be provided to the requesting party.

See title page for effective date.

**CHAPTER 249  
H.P. 748 - L.D. 1087**

**An Act To Implement the  
Recommendations of the Right  
To Know Advisory Committee  
Concerning Response  
Deadlines and Appeals**

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

**Sec. 1. 1 MRSA §408-A, sub-§4**, as amended  
by PL 2013, c. 350, §2, is further amended to read:

**4. Refusals; denials.** If a body or an agency or  
official having custody or control of any public record  
refuses permission to inspect or copy or abstract a  
public record, the body or agency or official shall provide,  
within 5 working days of the receipt of the request  
for inspection or copying, written notice of the denial,  
stating the reason for the denial, ~~within 5 working  
days of the receipt of the request for inspection or  
copying,~~ or the expectation that the request will be  
denied in full or in part following a review. Failure to  
comply with this subsection is considered failure to  
allow inspection or copying and is subject to appeal as  
provided in section 409.

**Sec. 2. 1 MRSA §409, sub-§1**, as repealed and replaced by PL 2013, c. 350, §3, is amended to read:

**1. Records.** Any person aggrieved by a refusal or denial to inspect or copy a record or the failure to allow the inspection or copying of a record under section 408-A may appeal the refusal, denial or failure within 30 calendar days of the receipt of the written notice of refusal, denial or failure to any the Superior Court within the State ~~as a trial de novo for the county where the person resides or the agency has its principal office.~~ The agency or official shall file ~~an answer~~ a statement of position explaining the basis for denial within 14 calendar days of service of the appeal. If a court, after a ~~trial de novo~~ review, with taking of testimony and other evidence as determined necessary, determines such refusal, denial or failure was not for just and proper cause, the court shall enter an order for disclosure. Appeals may be advanced on the docket and receive priority over other cases when the court determines that the interests of justice so require.

See title page for effective date.

**CHAPTER 250**

**H.P. 749 - L.D. 1088**

**An Act To Implement  
Recommendations of the Right  
To Know Advisory Committee**

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

**PART A**

**Sec. A-1. 1 MRSA §411, sub-§2, ¶¶L and M**, as enacted by PL 2005, c. 631, §1, are amended to read:

L. Two representatives of the public, one appointed by the President of the Senate and one appointed by the Speaker of the House; ~~and~~

M. The Attorney General or the Attorney General's designee; and

**Sec. A-2. 1 MRSA §411, sub-§2, ¶N** is enacted to read:

N. One member with broad experience in and understanding of issues and costs in multiple areas of information technology, including practical applications concerning creation, storage, retrieval and accessibility of electronic records; use of communication technologies to support meetings, including teleconferencing and Internet-based conferencing; databases for records management and reporting; and information technology system development and support, appointed by the Governor.

**PART B**

**Sec. B-1. 5 MRSA §200-I, sub-§5**, as enacted by PL 2007, c. 603, §1, is amended to read:

**5. Report.** The ombudsman shall submit a report not later than ~~March~~ January 15th of each year to the Legislature and the Right To Know Advisory Committee established in Title 1, section 411 concerning the activities of the ombudsman for the previous year. The report must include:

- A. The total number of inquiries and complaints received;
- B. The number of inquiries and complaints received respectively from the public, the media and public agencies or officials;
- C. The number of complaints received concerning respectively public records and public meetings;
- D. The number of complaints received concerning respectively:
  - (1) State agencies;
  - (2) County agencies;
  - (3) Regional agencies;
  - (4) Municipal agencies;
  - (5) School administrative units; and
  - (6) Other public entities;

E. The number of inquiries and complaints that were resolved;

F. The total number of written advisory opinions issued and pending; and

G. Recommendations concerning ways to improve public access to public records and proceedings.

**PART C**

**Sec. C-1. 22 MRSA c. 271, sub-c. 2**, as amended, is repealed.

**Sec. C-2. 26 MRSA §3**, as amended by PL 2011, c. 655, Pt. DD, §10 and affected by §24, is repealed and the following enacted in its place:

**§3. Confidentiality of records**

**1. Confidential records.** Except as provided in subsections 2 and 3, all information and reports received by the director or the director's authorized agents under this Title are confidential for the purposes of Title 1, section 402, subsection 3, paragraph A.

**2. Exceptions.** Reports of final bureau action taken under the authority of this Title are public records for the purposes of Title 1, chapter 13, subchapter 1.