

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-EIGHTH LEGISLATURE

SECOND SPECIAL SESSION
June 19, 2018 to September 13, 2018

THE GENERAL EFFECTIVE DATE FOR
SECOND SPECIAL SESSION
NON-EMERGENCY LAWS IS
DECEMBER 13, 2018

ONE HUNDRED AND TWENTY-NINTH LEGISLATURE

FIRST REGULAR SESSION
December 5, 2018 to June 20, 2019

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 19, 2019

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

Augusta, Maine
2019

Legislature 0081

Initiative: Deappropriates funds for the Maine Children's Growth Council.

GENERAL FUND	2019-20	2020-21
Personal Services	(\$1,980)	(\$1,980)
All Other	(\$1,800)	(\$1,800)
GENERAL FUND TOTAL	(\$3,780)	(\$3,780)
LEGISLATURE		
DEPARTMENT TOTALS	2019-20	2020-21
GENERAL FUND	(\$3,040)	(\$3,040)
DEPARTMENT TOTAL - ALL FUNDS	(\$3,040)	(\$3,040)

DEPARTMENT TOTAL - ALL FUNDS	2019-20	2020-21
SECTION TOTALS	2019-20	2020-21
GENERAL FUND	(\$3,040)	(\$3,040)
FEDERAL EXPENDITURES FUND	\$500	\$500
OTHER SPECIAL REVENUE FUNDS	\$500	\$500
SECTION TOTAL - ALL FUNDS	(\$2,040)	(\$2,040)

See title page for effective date.

MAINE CHILDREN'S CABINET EARLY CHILDHOOD ADVISORY COUNCIL

Maine Children's Cabinet Early Childhood Advisory Council N335

Initiative: Establishes allocation in the Federal Expenditures Fund and Other Special Revenue Funds.

FEDERAL EXPENDITURES FUND	2019-20	2020-21
All Other	\$500	\$500
FEDERAL EXPENDITURES FUND TOTAL	\$500	\$500
OTHER SPECIAL REVENUE FUNDS		
All Other	\$500	\$500
OTHER SPECIAL REVENUE FUNDS TOTAL	\$500	\$500
MAINE CHILDREN'S CABINET EARLY CHILDHOOD ADVISORY COUNCIL		
DEPARTMENT TOTALS	2019-20	2020-21
FEDERAL EXPENDITURES FUND	\$500	\$500
OTHER SPECIAL REVENUE FUNDS	\$500	\$500

CHAPTER 451

H.P. 1272 - L.D. 1790

An Act To Amend the Law To Protect the Confidentiality of State and Local Government Employees' Private Information

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

Sec. 1. 5 MRSA §7070, sub-§2, ¶D-1, as amended by PL 2007, c. 597, §6, is repealed and the following enacted in its place:

D-1. Personal information, including that which pertains to the employee's:

- (1) Age;
- (2) Ancestry, ethnicity, genetic information, national origin, race or skin color;
- (3) Marital status;
- (4) Mental or physical disabilities;
- (5) Personal contact information, as described in Title 1, section 402, subsection 3, paragraph O;
- (6) Personal employment choices pertaining to elected payroll deductions, deferred compensation, savings plans, pension plans, health insurance and life insurance;
- (7) Religion;
- (8) Sex, gender identity or sexual orientation as defined in section 4553, subsection 9-C; or
- (9) Social security number.

Such personal information may be disclosed publicly in aggregate form, unless there is a reasonable possibility that the information would be able to be used, directly or indirectly, to identify any specific employee.

When there is a work requirement for public access to personal information under this paragraph that is not otherwise protected by law, that information may be made public. The Director of the Bureau of Human Resources, upon the request of the employing agency, shall make the determination that the release of certain personal information not otherwise protected by law is allowed; and

Sec. 2. 30-A MRSA §503, sub-§1, ¶B, as amended by PL 1997, c. 770, §2, is further amended to read:

B. County records containing the following:

- (1) Medical information of any kind, including information pertaining to the diagnosis or treatment of mental or emotional disorders;
- (2) Performance evaluations and personal references submitted in confidence;
- (3) Information pertaining to the creditworthiness of a named employee;
- (4) Information pertaining to the personal history, general character or conduct of members of an employee's immediate family; ~~and~~
- (5) Complaints, charges or accusations of misconduct, replies to those complaints, charges or accusations and any other information or materials that may result in disciplinary action. If disciplinary action is taken, the final written decision relating to that action is no longer confidential after the decision is completed if it imposes or upholds discipline. If an arbitrator completely overturns or removes disciplinary action from an employee personnel file, the final written decision is public except that the employee's name must be deleted from the final written decision and kept confidential. If the employee whose name was deleted from the final written decision discloses that the employee is the person who is the subject of the final written decision, the entire final written report, with regard to that employee, is public.

For purposes of this subparagraph, "final written decision" means:

- (a) The final written administrative decision that is not appealed pursuant to a grievance arbitration procedure; or

- (b) If the final written administrative decision is appealed to arbitration, the final written decision of a neutral arbitrator.

A final written administrative decision that is appealed to arbitration is no longer confidential 120 days after a written request for the decision is made to the employer if the final written decision of the neutral arbitrator is not issued and released before the expiration of the 120 days; and

(6) Personal information, including that which pertains to the employee's:

- (a) Age;
- (b) Ancestry, ethnicity, genetic information, national origin, race or skin color;
- (c) Marital status;
- (d) Mental or physical disabilities;
- (e) Personal contact information, as described in Title 1, section 402, subsection 3, paragraph O;
- (f) Personal employment choices pertaining to elected payroll deductions, deferred compensation, savings plans, pension plans, health insurance and life insurance;
- (g) Religion;
- (h) Sex, gender identity or sexual orientation as defined in Title 5, section 4553, subsection 9-C; or
- (i) Social security number.

Such personal information may be disclosed publicly in aggregate form, unless there is a reasonable possibility that the information would be able to be used, directly or indirectly, to identify any specific employee; and

Sec. 3. 30-A MRSA §2702, sub-§1, as amended by PL 1997, c. 770, §3, is further amended to read:

1. Confidential records. The following records are confidential and not open to public inspection. They are not "public records" as defined in Title 1, section 402, subsection 3. These records include:

A. Except as provided in this paragraph, applications, resumes, letters and notes of reference, working papers, research materials, records, examinations and any other documents or records and the information they contain, solicited or prepared either by the applicant or the municipality for use in the examination or evaluation of applicants for positions as municipal employees.

(1) Notwithstanding any confidentiality provision other than this paragraph, applications, resumes and letters and notes of reference, other than those letters and notes of reference expressly submitted in confidence, pertaining to the applicant hired are public records after the applicant is hired.

(2) Telephone numbers are not public records if they are designated as "unlisted" or "unpublished" in an application, resume or letter or note of reference.

(3) This paragraph does not preclude union representatives from access to personnel records ~~which that~~ may be necessary for the bargaining agent to carry out its collective bargaining responsibilities. Any records available to union representatives ~~which that~~ are otherwise covered by this subsection ~~shall~~ must remain confidential and are not open to public inspection;

B. Municipal records pertaining to an identifiable employee and containing the following:

(1) Medical information of any kind, including information pertaining to diagnosis or treatment of mental or emotional disorders;

(2) Performance evaluations and personal references submitted in confidence;

(3) Information pertaining to the creditworthiness of a named employee;

(4) Information pertaining to the personal history, general character or conduct of members of an employee's immediate family; ~~and~~

(5) Complaints, charges or accusations of misconduct, replies to those complaints, charges or accusations and any other information or materials that may result in disciplinary action. If disciplinary action is taken, the final written decision relating to that action is no longer confidential after the decision is completed if it imposes or upholds discipline. The decision must state the conduct or other facts on the basis of which disciplinary action is being imposed and the conclusions of the acting authority as to the reasons for that action. If an arbitrator completely overturns or removes disciplinary action from an employee personnel file, the final written decision is public except that the employee's name must be deleted from the final written decision and kept confidential. If the employee whose name was deleted from the final written decision discloses that the employee is the person who is the subject of the final written decision, the entire final

written report, with regard to that employee, is public.

For purposes of this subparagraph, "final written decision" means:

(a) The final written administrative decision that is not appealed pursuant to a grievance arbitration procedure; or

(b) If the final written administrative decision is appealed to arbitration, the final written decision of a neutral arbitrator.

A final written administrative decision that is appealed to arbitration is no longer confidential 120 days after a written request for the decision is made to the employer if the final written decision of the neutral arbitrator is not issued and released before the expiration of the 120 days; and

(6) Personal information, including that which pertains to the employee's:

(a) Age;

(b) Ancestry, ethnicity, genetic information, national origin, race or skin color;

(c) Marital status;

(d) Mental or physical disabilities;

(e) Personal contact information, as described in Title 1, section 402, subsection 3, paragraph O;

(f) Personal employment choices pertaining to elected payroll deductions, deferred compensation, savings plans, pension plans, health insurance and life insurance;

(g) Religion;

(h) Sex, gender identity or sexual orientation as defined in Title 5, section 4553, subsection 9-C; or

(i) Social security number.

Such personal information may be disclosed publicly in aggregate form, unless there is a reasonable possibility that the information would be able to be used, directly or indirectly, to identify any specific employee; and

C. Other information to which access by the general public is prohibited by law.

See title page for effective date.