

MAINE STATE LEGISLATURE

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STATE OF MAINE
129TH LEGISLATURE
FIRST REGULAR SESSION



Summaries of bills, adopted amendments and laws enacted or finally passed

JOINT STANDING COMMITTEE ON JUDICIARY

August 2019

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STATE OF MAINE

129TH LEGISLATURE
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LEGISLATIVE DIGEST OF BILL SUMMARIES AND ENACTED LAWS

This *Legislative Digest of Bill Summaries and Enacted Laws* contains summaries of all LDs and adopted amendments and all laws enacted or finally passed during the First Regular Session of the 129th Maine Legislature.

The *Digest* is arranged alphabetically by committee and within each committee by Legislative Document (LD) number. The committee report(s), prime sponsor and lead co-sponsor(s), if designated, are listed below each LD title. All adopted amendments are summarized and listed by paper number. A subject index is included with each committee. An appendix provides a summary of relevant session statistics.

Final action on each LD is noted to the right of the LD title. The following describes the various final actions.

CARRIED OVER..... carried over to a subsequent session of the Legislature
CON RES XXX..... chapter # of constitutional resolution passed by both houses
CONF CMTE UNABLE TO AGREE..... Committee of Conference unable to agree; legislation died
DIED BETWEEN HOUSES..... House & Senate disagreed; legislation died
DIED IN CONCURRENCE..... defeated in each house, but on different motions; legislation died
DIED ON ADJOURNMENT..... action incomplete when session ended; legislation died
EMERGENCY..... enacted law takes effect sooner than 90 days after session adjournment
FAILED, EMERGENCY ENACTMENT or FINAL PASSAGE..... emergency failed to receive required 2/3 vote
FAILED, ENACTMENT or FINAL PASSAGE..... failed to receive final majority vote
FAILED, MANDATE ENACTMENT..... legislation proposing local mandate failed required 2/3 vote
HELD BY GOVERNOR..... Governor has not signed; final disposition to be determined at subsequent session
LEAVE TO WITHDRAW..... sponsor's request to withdraw legislation granted
NOT PROPERLY BEFORE THE BODY..... ruled out of order by the presiding officer; legislation died
INDEF PP..... indefinitely postponed; legislation died
ONTP, ACCEPTED, MAJORITY, MINORITY or REPORT X... ought-not-to-pass report accepted; legislation died
P&S XXX..... chapter # of enacted private & special law
PUBLIC XXX..... chapter # of enacted public law
RESOLVE XXX..... chapter # of finally passed resolve
VETO SUSTAINED..... Legislature failed to override Governor's veto

The effective date for non-emergency legislation enacted in the First Regular Session of the 129th Legislature is Thursday, September 19, 2019. The effective date for legislation enacted as an emergency measure may be found in the enacted law summary for that legislation.

Joint Standing Committee on Judiciary

subject to limitations. It prohibits the further dissemination of juvenile intelligence and investigative record information unless such further dissemination is authorized.

The amendment prohibits a criminal justice agency from confirming the existence or nonexistence of juvenile intelligence and investigative record information that is confidential.

Enacted Law Summary

Public Law 2019, chapter 525 amends provisions in the Maine Juvenile Code. It changes gender-specific terms to gender-neutral terms. It creates definitions, including a definition for "juvenile case records" to include all information, records or documents that may be contained in the court records of a juvenile for an individual case. It provides that when juvenile case records are inspected by or disseminated to anyone other than parties to the juvenile's case or victims, the court may impose reasonable limitations to protect the identity and safety of third parties, including, but not limited to, victims and other accused or adjudicated juveniles, and the interests of justice. It also provides that the dissemination of juvenile intelligence and investigative record information is subject to limitations. It prohibits the further dissemination of juvenile intelligence and investigative record information unless such further dissemination is authorized. It also prohibits a criminal justice agency from confirming the existence or nonexistence of juvenile intelligence and investigative record information that is confidential.

LD 1575 An Act To Improve the Freedom of Access Laws of Maine

CARRIED OVER

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
HARNETT T		

The purpose of this bill is to enhance access to public records without imposing undue burdens on the efficient and effective functioning of government. This bill makes the following changes to the Freedom of Access Act.

1. Current law defines public records that are subject to the Freedom of Access Act as matter in the possession or custody of an agency or public official that has been received or prepared for use in connection with, or that contains information relating to, the transaction of public or governmental business. This bill defines "public or governmental business" as the administration of public policy and the exercise of governmental power through laws, rules, ordinances, regulations and the equivalent.
2. The bill requires that, when requesting to inspect or to receive a copy of a public record, a person must provide to the agency or official with custody of the record sufficient information to identify the record sought. Under the bill, a request for a public record must include, at a minimum, the specific subject matter contained in the record and the date or dates upon which the record was created or a range of dates within which the record may have been created.
3. Current law requires that, within "a reasonable time" of receiving a request for information, the agency or official must provide a good faith, nonbinding estimate of the time within which the agency or official will comply. This bill instead requires that the agency or official, within 30 days of receiving the request, provide to the requester an update on progress on the request and, within 30 days of providing the update, fulfill the request. If the agency or official is unable to fulfill the entirety of the request within the specified time period, the agency or official must provide to the requester an explanation of the reason or reasons it was unable to comply, fulfill those portions of the request that it can fulfill and provide a written estimate of the expected date of compliance with the remainder of the request.
4. The bill directs the Right To Know Advisory Committee to examine the specific challenges of ensuring public access to public records in the face of new and emerging technologies and to develop recommendations that are designed to preserve communications that can be accessed by the public. The Right To Know Advisory Committee

Joint Standing Committee on Judiciary

is directed to report its findings and recommendations to the Joint Standing Committee on Judiciary, which is authorized to report out a bill to the Second Regular Session of the 129th Legislature.

This bill was carried over to any special or regular session, or both, of the 129th Legislature by joint order, H.P. 1322.

LD 1580 An Act To Protect Licensing Information of Medical Professionals

PUBLIC 499

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MOONEN M	OTP-AM ONTP	H-631

This bill allows applicants and licensees of the State Board of Nursing, the Board of Osteopathic Licensure and the Board of Licensure in Medicine to review their own redacted licensing files before the respective board makes the file available for inspection or copying after the licensing file has been requested.

The board must notify the applicant or licensee of the request to view the file at the same time the board acknowledges the request under the Freedom of Access Act. The board must use the most recent address on file for that applicant or licensee. If the applicant or licensee would like to review the redacted file before it is made publicly available, the applicant or licensee must notify the board within 10 business days. If requested by the applicant or licensee, the board must send a copy of the redacted file to the applicant or licensee, and the applicant or licensee has 10 business days from when the file is sent to stop the release of all or a part of the redacted licensing file by petitioning the board to withhold release of all or a part of the file because making all or part of the redacted file available to the public creates a potential risk to the personal safety of the applicant or licensee or any third party.

Committee Amendment "A" (H-631)

This amendment, which is the majority report, replaces the bill but retains the basic concept of protecting information in applicants' and licensees' records held by medical licensing boards when the records are requested to be inspected or copied.

This amendment revises terminology to refer to an applicant's or licensee's record rather than a licensing file as in the bill. It requires that the acknowledgement that the licensing board must send to a requester that a request for a record has been received include a description of the review process provided to the applicant or licensee, including the fact that all or part of the record may be withheld if the board finds that disclosure of all or part of the redacted record creates a risk to the applicant's or licensee's personal safety or the personal safety of any third party.

The amendment extends the time for the licensing board to review the applicant's or licensee's petition to withhold all or part of the record from 30 days in the bill to 60 days.

It allows an applicant or licensee who does not agree with the licensing board's decision to seek an injunction in Superior Court.

It clarifies that the restriction on releasing an applicant's or licensee's record does not apply to requests for records from other governmental licensing or disciplinary authorities or from any health care providers located within or outside this State that are concerned with granting, limiting or denying an applicant's or licensee's employment or privileges.

Enacted Law Summary

Public Law 2019, chapter 499, allows applicants and licensees of the State Board of Nursing, the Board of Osteopathic Licensure and the Board of Licensure in Medicine to review their own redacted records before the