

# MAINE STATE LEGISLATURE

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STATE OF MAINE  
129<sup>TH</sup> LEGISLATURE  
FIRST SPECIAL AND SECOND REGULAR SESSIONS



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

**JOINT STANDING COMMITTEE ON JUDICIARY**

November 2020

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# STATE OF MAINE

129<sup>TH</sup> LEGISLATURE  
FIRST REGULAR SESSION



## 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 129<sup>th</sup> 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 129<sup>th</sup> 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.

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treasurers, managers or administrators, assessors and code enforcement officers must also complete training.

3. It clarifies that school superintendents, assistant superintendents and school board members are required to complete training.

This bill, which had been voted but not yet reported out of committee, was carried over to any special session of the 129th Legislature by joint order, S.P. 788.

**LD 2103**     **An Act To Implement the Recommendations of the Right To Know  
Advisory Committee Regarding Public Records Exceptions**

**PUBLIC 667**

<u>Sponsor(s)</u>	<u>Committee Report</u> OTP	<u>Amendments Adopted</u>
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This bill was reported by the committee pursuant to the Maine Revised Statutes, Title 1, section 411, subsection 6 and then referred back to committee for processing in the normal course. This bill implements the recommendations of the Right To Know Advisory Committee concerning public records exceptions as included in Appendix C of the Fourteenth Annual Report of the Right To Know Advisory Committee.

Part A implements statutory changes initially recommended by the Right To Know Advisory Committee in 2019 pursuant to its responsibility to review existing public records exceptions and included in L.D. 1511, "An Act To Implement the Recommendations of the Right To Know Advisory Committee Concerning Public Records Exceptions."

Part B implements recommendations identified by the Right To Know Advisory Committee in 2019.

Part B directs the Office of Policy and Legal Analysis, in consultation with the Office of the Revisor of Statutes and the Right To Know Advisory Committee, to examine inconsistencies in statutory language related to the designation of information and records as confidential or not subject to public disclosure and to recommend standardized language for use in drafting statutes to clearly delineate what information is confidential and the circumstances under which that information may appropriately be released. The Office of Policy and Legal Analysis is required to submit a report with its recommendations to the Right To Know Advisory Committee on or before September 1, 2021.

### **Enacted Law Summary**

Public Law 2019, chapter 667 implements the recommendations of the Right To Know Advisory Committee concerning public records exceptions as included in Appendix C of the Fourteenth Annual Report of the Right To Know Advisory Committee.

Part A implements statutory changes initially recommended by the Right To Know Advisory Committee in 2019 pursuant to its responsibility to review existing public records exceptions and included in L.D. 1511, "An Act To Implement the Recommendations of the Right To Know Advisory Committee Concerning Public Records Exceptions."

Part A eliminates specific protection under the Freedom of Access Act for social security numbers in the context of constituent communications because social security numbers are designated as not public records for all contexts.

Current law provides that personally identifying information concerning minors that is obtained or maintained by a municipality in providing recreational or nonmandatory educational programs or services is not a public record as long as the municipality has adopted an ordinance that protects the information from disclosure. Part A removes the

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requirement that a municipality adopt such an ordinance in order to protect the information concerning minors.

Current law provides a public records exception for records or information describing the architecture, design, access authentication, encryption or security of information technology infrastructure, systems and software. Part A amends the provision to specifically include records or information maintained to ensure government operations and technology continuity and to facilitate disaster recovery.

Part A amends the statutes governing the confidentiality of the working papers of the Office of Program Evaluation and Government Accountability to clarify that the working papers, whether in the possession of the office or an entity with which the office director has contracted, remain confidential even after the report is released to the public. It removes duplicative language that is already captured in the definition of working papers.

Part A amends the Maine Human Rights Act to update and clarify the language describing medical history and information about disabilities, as well as to update a reference to employee health and wellness programs.

Part B implements recommendations identified by the Right To Know Advisory Committee in 2019. Four sections of Part B amend specific exceptions to the definition of public records in the Freedom of Access Act.

1. Part B amends the existing public records exceptions to clarify that records, working papers and interoffice and intraoffice memoranda used by or prepared for faculty and administrative committees of the Maine Maritime Academy, the Maine Community College System and the University of Maine System are confidential when the subject matter is confidential or otherwise protected from disclosure by statute, other law, legal precedent or privilege recognized by the courts of this State.
2. Part B amends the public records exceptions to clarify that working papers become public records once distributed in a public meeting of an advisory organization and not when distributed by an individual member of an advisory organization.
3. Part B amends the public records exceptions to provide that personal contact information concerning public employees protected as confidential includes a person's username, password and uniform resource locator for a personal social media account.
4. Part B amends the public records exceptions to make records related to a discharge of hazardous materials transported by a railroad company that poses a threat to public health, safety and welfare subject to public disclosure after that discharge.

Part B amends the public records exceptions under the laws governing the Office of the State Auditor to permit the State Auditor to share confidential information related to a complaint alleging fraud, waste, inefficiency or abuse with a department or agency that is the subject of a complaint to ensure that the department or agency can respond appropriately to the complaint. The department or agency is required to maintain the confidentiality of any information related to a complaint furnished by the State Auditor.

Part B amends the public records exceptions in the laws governing the Maine Dairy Promotion Board and the Maine Dairy and Nutrition Council to remove references to a particular segment or segments of the milk industry.

Part B directs the Office of Policy and Legal Analysis, in consultation with the Office of the Revisor of Statutes and the Right To Know Advisory Committee, to examine inconsistencies in statutory language related to the designation of information and records as confidential or not subject to public disclosure and to recommend standardized language for use in drafting statutes to clearly delineate what information is confidential and the circumstances under which that information may appropriately be released. The Office of Policy and Legal Analysis is required to submit a report with its recommendations to the Right To Know Advisory Committee on or before September 1, 2021.