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Public Law
123rd Legislature
Second Regular Session

Chapter 597
H.P. 1579 - L.D. 2212

An Act Concerning Public Records Exceptions

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

Sec. 1. 1 MRSA §402, sub-§3, ¶O, as enacted by PL 2005, c. 381, §3, is amended to read:

O. Personal contact information concerning public employees, except when that information is public pursuant to other law. For the purposes of this paragraph:

(1) "Personal contact information" means home address, home telephone number, home facsimile number, home e-mail address and personal cellular telephone number and personal pager number; and

(2) "Public employee" means an employee of a governmental entity, as defined in Title 14, section 8102, subsection 21, except that "public employee" does not include elected officials.

Sec. 2. 4 MRSA §17, sub-§3, as amended by PL 1987, c. 776, §1, is further amended to read:

3. Investigate complaints. Investigate complaints with respect to the operation of the courts and relating to court and judicial security. Notwithstanding any other provision of law, such complaints and investigative files that relate to court and judicial security are confidential. Nothing in this section precludes dissemination of such information to another criminal justice agency;

Sec. 3. 4 MRSA §809, as amended by PL 1977, c. 696, §27, is repealed.

Sec. 4. 5 MRSA §1976, sub-§2, as enacted by PL 2001, c. 388, §14, is amended to read:

2. Public records. Except as provided in subsection 1, any document created or stored on a State Government computer is a public record and must be made available in accordance with Title 1, chapter 13 unless specifically exempted by that chapter.

Sec. 5. 5 MRSA §7070, sub-§1, ¶A, as enacted by PL 1989, c. 402, §1, is amended to read:

A. Notwithstanding any confidentiality provision other than this subsection, 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, except that personal contact information is not a public record as provided in Title 1, section 402, subsection 3, paragraph O.

Sec. 6. 5 MRSA §7070, sub-§2, ¶D-1, as enacted by PL 1997, c. 124, §2, is amended to read:

D-1. Personal information pertaining to the employee's race, color, religion, sex, national origin, ancestry, age, physical disability, mental disability and marital status; social security number; ~~home telephone number and home address~~personal contact information as provided in Title 1, section 402, subsection 3, paragraph O; and personal employment choices pertaining to elected payroll deductions, deferred compensation, savings plans, pension plans, health insurance and life insurance. 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. 7. 5 MRSA §15321, sub-§3, ¶D, as amended by PL 2005, c. 19, §4, is further amended to read:

D. The records and proceedings of the technology centers are ~~not considered public for the purposes of Title 1, chapter 13:~~except that the following records are designated as confidential for the purposes of Title 1, section 402, subsection 3, paragraph A:

(1) A record obtained or developed by a technology center prior to receipt of a written application or proposal in a form acceptable to the technology center for assistance from the technology center. After receipt by the technology center of the application or proposal, a record pertaining to the application or proposal may not be considered confidential unless it is confidential under another provision of this paragraph;

(2) A peer review or analysis or other document related to the evaluation of a grant application or proposal;

(3) A record that the person, including the technology center, to whom the record belongs or pertains has requested be designated confidential and that the technology center has determined contains proprietary information, trade secrets or commercial or financial information, the release of which could be competitively harmful to the submitter of the information, could impair the technology center's ability in the future to obtain similar necessary information solely through the voluntary provision of such information and could affect other technology center interests, such as program effectiveness and compliance. For purposes of this subparagraph, the following terms have the following meanings.

(a) "Commercial or financial information" means information related to businesses, commerce, trade, employment, profits or finances, including personal finances.

(b) "Trade secret" means a secret, commercially valuable plan, formula, process or device that is used for the making, preparing, compounding or processing of trade commodities and that can be said to be the end product of either innovation or substantial effort. There must be a direct relationship between the trade secret and the productive process;

(4) A financial statement, credit report or tax return of an individual or other record obtained or developed by the technology center, the disclosure of which would constitute an invasion of personal privacy as determined by the technology center;

(5) A record, including a financial statement or tax return obtained or developed by the technology center in connection with a monitoring or servicing activity of the technology center, pertaining to financial assistance provided or to be provided by or with the assistance of the technology center;

(6) A record obtained or developed by the technology center that contains an assessment by a person who is not employed by the technology center of the creditworthiness or financial condition of a person or project;

(7) A financial statement or business and marketing plan in connection with a project receiving or to receive financial or other assistance from the technology center, if the person to whom the statement or plan belongs or pertains has requested that the record be designated confidential; and

(8) Those employee personnel records made confidential pursuant to section 957, subsection 5 and section 17057.

Sec. 8. 7 MRSA §607, sub-§5-A, as enacted by PL 2005, c. 620, §6, is amended to read:

5-A. Confidentiality. Notwithstanding Title 1, section 402, data submitted pursuant to subsections 3, 4 and 5 that have been determined confidential by the Administrator of the United States Environmental Protection Agency in accordance with 7 United States Code, Section 136h (2007) are confidential and may not be available for public inspection.

Sec. 9. 7 MRSA §2992-A, sub-§1, ¶C, as corrected by RR 1997, c. 2, §30, is amended to read:

C. Notwithstanding paragraphs A and B:

(1) Employees of the board, including employees hired after July 1, 1996, are state employees for the purposes of the state retirement provisions of Title 5, Part 20 and the state employee health insurance program under Title 5, chapter 13, subchapter H~~2~~;

(2) All meetings and records of the board are subject to the provisions of Title 1, chapter 13, subchapter H~~1~~, except that, by majority vote of those members present recorded in a public session, records and meetings of the board may be closed to the public when public disclosure of the subject matter of the records or meetings would adversely affect the competitive position

of the milk industry of the State or segments of that industry. The Commissioner of Agriculture, Food and Rural Resources and those members of the Legislature appointed to serve on the joint standing committee of the Legislature having jurisdiction over agricultural, conservation and forestry matters have access to all material designated confidential by the board;

(3) For the purposes of the Maine Tort Claims Act, the board is a governmental entity and its employees are employees as those terms are defined in Title 14, section 8102;

(4) Funds received by the board pursuant to chapter 611 must be allocated to the board by the Legislature in accordance with Title 5, section 1673; and

(5) Except for representation of specific interests required by subsection 2, members of the board are governed by the conflict of interest provisions set forth in Title 5, section 18.

Sec. 10. 7 MRSA §2998-B, sub-§1, ¶C, as corrected by RR 1997, c. 2, §31, is amended to read:

C. Notwithstanding paragraphs A and B:

(1) Employees of the council, including employees hired after July 1, 1996, are state employees for the purposes of the state retirement provisions of Title 5, Part 20 and the state employee health insurance program under Title 5, chapter 13, subchapter H~~2~~;

(2) All meetings and records of the council are subject to the provisions of Title 1, chapter 13, subchapter H~~1~~, except that, by majority vote of those members present recorded in a public session, records and meetings of the ~~board~~council may be closed to the public when public disclosure of the subject matter of the records or meetings would adversely affect the competitive position of the milk industry of the State or segments of that industry. The Commissioner of Agriculture, Food and Rural Resources and those members of the Legislature appointed to serve on the joint standing committee of the Legislature having jurisdiction over agricultural, conservation and forestry matters have access to all material designated confidential by the council;

(3) For the purposes of the Maine Tort Claims Act, the council is a governmental entity and its employees are employees as those terms are defined in Title 14, section 8102;

(4) Funds received by the council pursuant to chapters 603 and 611 must be allocated to the board by the Legislature in accordance with Title 5, section 1673; and

(5) Except for representation of specific interests required by subsection 2, members of the council are governed by the conflict of interest provisions set forth in Title 5, section 18.

Sec. 11. 9-B MRSA §226, sub-§1, as enacted by PL 1975, c. 500, §1, is amended to read:

1. Requirement. Except as provided in subsections 2 and 3, the following information derived by or communicated to the superintendent or to any employee of the bureau shall be confidential and may not be disclosed or made public:

- A. Information designated confidential under federal law or regulations;
- B. Examination and investigative working papers and reports;
- C. Personal identifying information of consumers and other complainants who contact the bureau;
- D. Personal identifying information of the governing body organizers and the proposed investors of a financial institution contained in an application filed with the bureau;
- E. Privileged trade secrets, detailed business plans and commercial or financial information that, if disclosed to the public, would cause detriment to the financial institution; and
- F. Information other than that in paragraphs A to E for which the superintendent determines that confidential treatment is necessary and appropriate for the supervision of a specific financial institution or for state-chartered financial institutions in general.

Sec. 12. 9-B MRSA §226, sub-§3, ¶F, as amended by PL 1995, c. 628, §14, is further amended to read:

- F. To those persons or entities necessary in order to comply with provisions of this Title relating to legal or regulatory proceedings and to disclosure or publication of certain applications, reports, statistics and information.

Sec. 13. 9-B MRSA §226, sub-§4, as enacted by PL 1975, c. 500, §1, is repealed and the following enacted in its place:

4. Penalty. A person who intentionally or knowingly discloses confidential information in violation of this section commits a Class E crime.

Sec. 14. 20-A MRSA c. 304-A is enacted to read:

CHAPTER 304-A

BAXTER COMPENSATION AUTHORITY RECORDS

§ 7451. Baxter Compensation Authority records confidential

1. Application. This section governs all records of the former Baxter Compensation Authority, as established under former Title 5, section 22002, referred to in this section as "the authority." These records may be released only with the approval of the Attorney General as authorized in this section.

2. Designation of information. All records of the authority that are in any way related to a claimant or a claimant's family are confidential, except that the following information is a public record:

- A. The claimant's name;
- B. The claimant's eligibility for compensation;

C. The amount of the compensation award, if any; and

D. A summary of the compensation panel's rationale in deciding eligibility and the compensation award amount.

All information other than that described in paragraphs A to D supporting or corroborating a claim continues to be confidential until those records are destroyed. This confidential information may be released only to the Attorney General, the Governor and the chairs of the joint standing committee of the Legislature having jurisdiction over judiciary matters and remains confidential in their custody.

Sec. 15. Retroactivity. That section of this Act that enacts the Maine Revised Statutes, Title 20-A, chapter 304-A applies retroactively to July 1, 2007.