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# JUDICIARY

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## STATE OF MAINE HOUSE OF REPRESENTATIVES 132ND LEGISLATURE FIRST SPECIAL SESSION

COMMITTEE AMENDMENT “ ” to H.P. 626, L.D. 966, “An Act Allowing Access by State Agencies and Hospitals to Certain Confidential Probate Court Records If the Access Is in the Public Interest”

Amend the bill by striking out the title and substituting the following:

**'An Act Allowing Access by State Agencies and Hospitals to Certain Confidential Probate Court Records'**

Amend the bill by inserting after the enacting clause the following:

**'Sec. 1. 18-C MRSA §5-205, sub-§11** is enacted to read:

**11. Access for public interest purposes; confidentiality extended.** Notwithstanding any provision of law to the contrary, an authorized employee or legal counsel of the following may access and review a probate court record related to a minor guardianship proceeding under this Article to carry out an official function, duty or responsibility in the public interest:

A. The Department of Health and Human Services;

B. The Office of the Attorney General;

C. An agency designated by the Governor to provide protection and advocacy for persons with disabilities pursuant to Title 5, section 19502; and

D. A hospital licensed under Title 22, chapter 404 or 405.

A person that receives information or a record under this subsection may use the information or record only for the purpose for which accessing the information or record is intended and shall comply with any confidentiality law, rule or regulation limiting further disclosure of the information or record.'

Amend the bill by striking out all of section 4 and inserting the following:

**'Sec. 4. 18-C MRSA §5-308, sub-§3-A** is enacted to read:

1        **3-A. Access for public interest purposes; confidentiality extended.** An authorized  
2        employee or legal counsel of the following may access and review a probate court record  
3        related to an adult guardianship proceeding under this Article to carry out an official  
4        function, duty or responsibility in the public interest:

5        A. The Department of Health and Human Services;

6        B. The Office of the Attorney General;

7        C. An agency designated by the Governor to provide protection and advocacy for  
8        persons with disabilities pursuant to Title 5, section 19502;

9        D. A hospital licensed under Title 22, chapter 404 or 405; and

10       E. A nonprofit organization that provides civil legal services to elderly residents of the  
11       State and that receives funding from the Maine Civil Legal Services Fund established  
12       in Title 4, section 18-A.

13       A person that receives information or a record under this subsection may use the  
14       information or record only for the purpose for which accessing the information or record is  
15       intended and shall comply with any confidentiality law, rule or regulation limiting further  
16       disclosure of the information or record.

17       **Sec. 5. 18-C MRSA §5-308, sub-§4,** as amended by PL 2023, c. 4, §12, is further  
18       amended to read:

19       **4. Effective date.** This section takes effect ~~April 1, 2025~~ January 15, 2026 or on the  
20       effective date of amendments to the Maine Rules of Probate Procedure incorporating the  
21       substantive requirements of this section, whichever is earlier. The State Court  
22       Administrator shall notify the Secretary of State, the Secretary of the Senate, the Clerk of  
23       the House of Representatives and the Revisor of Statutes when amendments to the Maine  
24       Rules of Probate Procedure incorporating the substantive requirements of this section have  
25       taken effect.'

26       Amend the bill by striking out all of section 8 and inserting the following:

27       'Sec. 8. 18-C MRSA §5-409, sub-§3-A is enacted to read:

28       **3-A. Access for public interest purposes; confidentiality extended.** An authorized  
29       employee or legal counsel of the following may access and review a probate court record  
30       related to a conservatorship proceeding under this Article to carry out an official function,  
31       duty or responsibility in the public interest:

32       A. The Department of Health and Human Services;

33       B. The Office of the Attorney General;

34       C. An agency designated by the Governor to provide protection and advocacy for  
35       persons with disabilities pursuant to Title 5, section 19502;

36       D. A hospital licensed under Title 22, chapter 404 or 405; and

37       E. A nonprofit organization that provides civil legal services to elderly residents of the  
38       State and that receives funding from the Maine Civil Legal Services Fund established  
39       in Title 4, section 18-A.

40       A person that receives information or a record under this subsection may use the  
41       information or record only for the purpose for which accessing the information or record is

1 intended and shall comply with any confidentiality law, rule or regulation limiting further  
2 disclosure of the information or record.

3 **Sec. 9. 18-C MRSA §5-409, sub-§4**, as amended by PL 2023, c. 4, §13, is further  
4 amended to read:

5 **4. Effective date.** This section takes effect ~~April 1, 2025~~ January 15, 2026 or on the  
6 effective date of amendments to the Maine Rules of Probate Procedure incorporating the  
7 substantive requirements of this section, whichever is earlier. The State Court  
8 Administrator shall notify the Secretary of State, the Secretary of the Senate, the Clerk of  
9 the House of Representatives and the Revisor of Statutes when amendments to the Maine  
10 Rules of Probate Procedure incorporating the substantive requirements of this section have  
11 taken effect.'

12 Amend the bill by striking out all of section 12 and inserting the following:

13 '**Sec. 12. 18-C MRSA §5-511, sub-§3-A** is enacted to read:

14 **3-A. Access for public interest purposes; confidentiality extended.** An authorized  
15 employee or legal counsel of the following may access and review a probate court record  
16 related to a protective arrangement under this Article to carry out an official function, duty  
17 or responsibility in the public interest:

18 A. The Department of Health and Human Services;

19 B. The Office of the Attorney General;

20 C. An agency designated by the Governor to provide protection and advocacy for  
21 persons with disabilities pursuant to Title 5, section 19502;

22 D. A hospital licensed under Title 22, chapter 404 or 405; and

23 E. A nonprofit organization that provides civil legal services to elderly residents of the  
24 State and that receives funding from the Maine Civil Legal Services Fund established  
25 in Title 4, section 18-A.

26 A person that receives information or a record under this subsection may use the  
27 information or record only for the purpose for which accessing the information or record is  
28 intended and shall comply with any confidentiality law, rule or regulation limiting further  
29 disclosure of the information or record.

30 **Sec. 13. 18-C MRSA §5-511, sub-§4**, as amended by PL 2023, c. 4, §14, is further  
31 amended to read:

32 **4. Effective date.** This section takes effect ~~April 1, 2025~~ January 15, 2026 or on the  
33 effective date of amendments to the Maine Rules of Probate Procedure incorporating the  
34 substantive requirements of this section, whichever is earlier. The State Court  
35 Administrator shall notify the Secretary of State, the Secretary of the Senate, the Clerk of  
36 the House of Representatives and the Revisor of Statutes when amendments to the Maine  
37 Rules of Probate Procedure incorporating the substantive requirements of this section have  
38 taken effect.'

39 Amend the bill by striking out all of section 13 and inserting the following:

40 '**Sec. 13. Rules.** The Supreme Judicial Court shall adopt amendments to the Maine  
41 Rules of Probate Procedure to carry out the provisions of this Act. The amendments to the

1 Maine Rules of Probate Procedure must include provisions specifying, with respect to the  
2 Maine Revised Statutes, Title 18-C, section 5-205, subsection 11; section 5-308, subsection  
3 3-A; section 5-409, subsection 3-A; and section 5-511, subsection 3-A, referred to in this  
4 section as "the specified sections of the Maine Uniform Probate Code":

5 1. How an entity or agency described in the specified sections of the Maine Uniform  
6 Probate Code shall designate an employee as authorized to access and to review probate  
7 court records to carry out an official function, duty or responsibility in the public interest;

8 2. The process by which an entity or agency must communicate to the register of  
9 probate and any electronic filing system its designation of an employee who must have the  
10 ability to access and to review probate court records pursuant to the specified sections of  
11 the Maine Uniform Probate Code; and

12 3. The process by which a register of probate shall provide access to individuals  
13 authorized to access probate court records pursuant to the specified sections of the Maine  
14 Uniform Probate Code.

15 **Sec. 14. Reports required.** The Supreme Judicial Court shall submit an initial  
16 report to the Joint Standing Committee on Judiciary no later than May 1, 2025 and a 2nd  
17 report to the Joint Standing Committee on Judiciary no later than June 1, 2025, each of  
18 which must:

19 1. Summarize the Supreme Judicial Court's progress toward adopting amendments to  
20 the Maine Rules of Probate Procedure as required by this Act; and

21 2. Identify the estimated date by which those amendments to the Maine Rules of  
22 Probate Procedure required by this Act will take effect.

23 The Joint Standing Committee on Judiciary may report out legislation in response to  
24 either report to any regular or special session of the 132nd Legislature.'

25 Amend the bill by relettering or renumbering any nonconsecutive Part letter or section  
26 number to read consecutively.

## 27 SUMMARY

28 This amendment makes the following changes to the bill.

29 1. It clarifies that only an authorized employee or legal counsel of the Department of  
30 Health and Human Services, the Office of the Attorney General, an agency designated by  
31 the Governor to provide protection and advocacy for persons with disabilities, a private  
32 mental hospital or a hospital may access confidential probate court records in adult or minor  
33 guardianship, conservatorship and protective arrangement proceedings if the access is to  
34 carry out an official function, duty or responsibility in the public interest.

35 2. It permits an authorized employee or legal counsel of a nonprofit organization that  
36 provides civil legal services to elderly residents of the State and that receives funding from  
37 the Maine Civil Legal Services Fund to access confidential probate court records in adult  
38 guardianship, conservatorship and protective arrangement proceedings if the access is to  
39 carry out an official function, duty or responsibility in the public interest.

40 3. It delays the April 1, 2025 effective date of the statutes governing the confidentiality  
41 of records in adult and minor guardianship, conservatorship and protective arrangement  
42 proceedings. Under the amendment, these statutes take effect on January 15, 2026 or on

1 the effective date of amendments to the Maine Rules of Probate Procedure incorporating  
2 the substantive requirements of this legislation, whichever is earlier.

3 4. It directs the Supreme Judicial Court to specify, when it adopts amendments to the  
4 Maine Rules of Probate Procedure to carry out the provisions of this legislation, how an  
5 entity described in this legislation may designate an employee who must have the ability  
6 to access and to review probate court records to carry out an official function, duty or  
7 responsibility in the public interest; the process by which a register of probate shall ensure  
8 that an individual seeking access to probate court records is authorized to access those  
9 records; and the process by which the register shall provide access to those records.

10 5. It requires the Supreme Judicial Court to submit reports by May 1, 2025 and by June  
11 1, 2025 describing the progress made toward adopting amendments to the Maine Rules of  
12 Probate Procedure to carry out the provisions of this legislation and identifying the  
13 estimated date by which those amended rules will take effect.