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Date: (Filing No. H- )

**JUDICIARY**

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**STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
132ND LEGISLATURE  
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT “ ” to H.P. 1421, L.D. 2106, “An Act to Prohibit the Disclosure of Nonpublic Records Without Proper Judicial Review”

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

**'An Act to Limit Consent for Entry into Nonpublic Areas of and to Limit Access to Protected Records Maintained by Certain Public Entities'**

Amend the bill by striking out all of the emergency preamble.

Amend the bill by striking out everything after the enacting clause and inserting the following:

'Sec. 1. 5 MRSA §200-O is enacted to read:

**§200-O. Model policies and guidance for limiting authority to consent for entry or records review**

**1. Model policies and guidance.** No later than 60 days after the effective date of this section, the Attorney General shall publish model policies and guidance for ensuring that facilities providing services to members of the public remain safe and accessible to all state residents regardless of immigration status by limiting, to the fullest extent possible consistent with state and federal law, voluntary consent for entry into nonpublic areas of the facility by law enforcement officers for immigration enforcement purposes and disclosure of protected records held by the facility to law enforcement officers for immigration enforcement purposes. The Attorney General shall review and may amend the published model policies and guidance on a biennial basis.

**2. Mandatory adoption of model policies and guidance.** The following facilities shall adopt the model policies and guidance published by the Attorney General under subsection 1, or establish equivalent policies and guidance, within 3 months of the date that the Attorney General publishes the model policies and guidance applicable to the facility and within 3 months of the date that the Attorney General publishes any amended model policies and guidance applicable to the facility:

**COMMITTEE AMENDMENT**

1 A. Public schools and postsecondary educational institutions as provided in Title 20-A,  
2 section 14;

3 B. State institutions as provided in Title 22, section 1730-B; and

4 C. State libraries as provided in Title 27, section 109-A.

5 **3. Optional adoption of model policies and guidance.** The following facilities may,  
6 but are not required to, adopt the model policies and guidance or an amendment to the  
7 model policies and guidance published by the Attorney General under subsection 1:

8 A. A private preschool, private elementary school, private secondary school or private  
9 postsecondary educational institution that is not subject to Title 20-A, section 14,  
10 subsection 5;

11 B. A health care facility that is not subject to Title 22, section 1730-B, subsection 5.  
12 For purposes of this paragraph, "health care facility" has the same meaning as in section  
13 19201, subsection 2-B;

14 C. A facility that provides residential or community supports for adults or children or  
15 a facility or program that provides health care, assisted living services, behavioral  
16 health services, services to persons with intellectual disabilities, autism spectrum  
17 disorder or acquired brain injuries or similar services that is not subject to Title 22,  
18 section 1730-B, subsection 5;

19 D. A child care facility or family child care provider licensed under Title 22, section  
20 8301-A;

21 E. A public library that is not subject to Title 27, section 109-A, subsection 5. For  
22 purposes of this paragraph, "public library" has the same meaning as in Title 27, section  
23 110, subsection 10; and

24 F. A house of worship or other place where religious services are conducted.

25 **Sec. 2. 20-A MRSA §14** is enacted to read:

26 **§14. Limited authority of public schools and postsecondary educational institutions**  
27 **to consent for entry into nonpublic areas and to access records**

28 **1. Definitions.** As used in this section, unless the context otherwise indicates, the  
29 following terms have the following meanings.

30 A. "Education record" has the same meaning as in the federal Family Educational  
31 Rights and Privacy Act of 1974, 20 United States Code, Section 1232g(a)(4), and its  
32 implementing regulations.

33 B. "Law enforcement officer" has the same meaning as defined in Title 16, section  
34 638, subsection 2 and includes a "federal officer" as defined in Title 25, section  
35 1502-A, subsection 1.

36 C. "Nonpublic area" means an area of a building or facility that the public is not free  
37 to enter or access and includes a restricted access area within a building or facility that  
38 is otherwise predominately open to the public. "Nonpublic area" also includes all areas  
39 within a building or facility during any time that the building or facility is closed for  
40 operation.

1 D. "Public school" means a "public preschool program" as defined in section 1,  
2 subsection 23-A; a "publicly supported secondary school" as defined in section 1,  
3 subsection 23-B; and a "public school" as defined in section 1, subsection 24.

4 E. "State postsecondary educational institution" means a university within the  
5 University of Maine System; a college within the Maine Community College System;  
6 and the Maine Maritime Academy.

7 **2. Voluntary consent for entry into nonpublic areas prohibited.** A person acting  
8 on behalf of a public school or state postsecondary educational institution may not provide  
9 voluntary consent permitting a law enforcement officer to enter a nonpublic area of the  
10 public school or state postsecondary educational institution for immigration enforcement  
11 purposes.

12 **3. Voluntary consent to access education records prohibited.** A person acting on  
13 behalf of a public school or state postsecondary educational institution may not provide  
14 voluntary consent permitting a law enforcement officer to access education records for  
15 immigration enforcement purposes. This subsection may not be construed to prevent a  
16 person acting on behalf of a public school or state postsecondary educational institution  
17 from disclosing education records in response to a request from a law enforcement officer  
18 to the extent that the disclosure is required by a court order or by state or federal law.

19 **4. Mandatory compliance activities.** Notwithstanding subsections 2 and 3, if a public  
20 school or state postsecondary educational institution is required by federal law to permit a  
21 law enforcement officer to inspect specific records or to conduct interviews regarding the  
22 eligibility of noncitizens to work in the United States or to attend school in the United  
23 States:

24 A. The public school or state postsecondary educational institution shall designate a  
25 nonpublic area within the public school or state postsecondary educational institution  
26 where federal immigration officials may conduct these inspections and interviews; and

27 B. The public school or state postsecondary educational institution may permit law  
28 enforcement officers to access a specific location to verify eligibility for employment  
29 or school attendance, if federal law requires that law enforcement officers be provided  
30 access to that specific location within the public school or state postsecondary  
31 educational institution when conducting these inspections and interviews.

32 **5. Required policy and guidance.** Each public school and state postsecondary  
33 educational institution in the State shall adopt the model policies and guidance published  
34 by the Attorney General under Title 5, section 200-O or establish equivalent policies and  
35 guidance as required by Title 5, section 200-O, subsection 2.

36 **6. Violation; exemption.** Prior to the date that a public school or state postsecondary  
37 educational institution adopts, or is required to adopt, whichever is earlier, a policy and  
38 guidance pursuant to Title 5, section 200-O, subsection 2, a person acting on behalf of the  
39 public school or state postsecondary educational institution does not violate subsection 2  
40 or subsection 3 if the person provides voluntary consent permitting a law enforcement  
41 officer to enter a nonpublic area of a public school or state postsecondary educational  
42 institution or to access education records and if the person is acting in good faith.

43 **7. Other educational facilities.** A private preschool, private elementary school,  
44 private secondary school or private postsecondary educational institution that is not subject

1 to subsection 5 may, but is not required to, adopt the model policies and guidance or an  
2 amendment to the model policies and guidance published by the Attorney General pursuant  
3 to Title 5, section 200-O, subsection 1.

4 **Sec. 3. 22 MRSA §1730-B** is enacted to read:

5 **§1730-B. Limited authority of certain health care facilities to consent for entry into**  
6 **nonpublic areas and to access records**

7 **1. Definitions.** As used in this section, unless the context otherwise indicates, the  
8 following terms have the following meanings.

9 A. "Health care facility" has the same meaning as in Title 5, section 19201, subsection  
10 2-B.

11 B. "Law enforcement officer" has the same meaning as defined in Title 16, section  
12 638, subsection 2 and includes a "federal officer" as defined in Title 25, section  
13 1502-A, subsection 1.

14 C. "Nonpublic area" means an area of a building or facility that the public is not free  
15 to enter or access and includes a restricted access area within a building or facility that  
16 is otherwise predominately open to the public. "Nonpublic area" also includes all areas  
17 within a building or facility during any time that the building or facility is closed for  
18 operation.

19 D. "Protected health care information" has the same meaning as "health care  
20 information" as defined in section 1711-C, subsection 1, paragraph E and includes  
21 individually identifiable health care information, the disclosure of which is restricted  
22 by the federal Health Insurance Portability and Accountability Act of 1996, Public Law  
23 104-191 and its implementing regulations.

24 E. "State institution" has the same meaning as in Title 34-B, section 1001, subsection  
25 8.

26 **2. Voluntary consent for entry into nonpublic areas prohibited.** A person acting  
27 on behalf of a state institution may not provide voluntary consent permitting a law  
28 enforcement officer to enter a nonpublic area of the state institution for immigration  
29 enforcement purposes.

30 **3. Voluntary consent to access protected health care information prohibited.** A  
31 person acting on behalf of a state institution may not provide voluntary consent permitting  
32 a law enforcement officer to access protected health care information for immigration  
33 enforcement purposes. This subsection may not be construed to prevent a person acting on  
34 behalf of a state institution from disclosing protected health care information in response  
35 to a request from a law enforcement officer to the extent that the disclosure is required by  
36 a court order or by state or federal law.

37 **4. Mandatory compliance activities.** Notwithstanding subsection 2, if a state  
38 institution is required by federal law to permit a law enforcement officer to inspect specific  
39 records that do not contain protected health care information or to conduct interviews  
40 regarding the eligibility of noncitizens to work in the United States:

41 A. The state institution shall designate a nonpublic area within the state institution  
42 where federal immigration officials may conduct these inspections and interviews; and

1 B. The state institution may permit law enforcement officers to access a specific  
2 location to verify eligibility for employment, if federal law requires that law  
3 enforcement officers be provided access to that specific location within the state  
4 institution when conducting these inspections and interviews.

5 **5. Required policy and guidance; licensure.** Each state institution shall adopt the  
6 model policies and guidance published by the Attorney General under Title 5, section  
7 200-O or establish equivalent policies and guidance as required by Title 5, section 200-O,  
8 subsection 2. Beginning January 1, 2027, the department may verify compliance with this  
9 requirement as part of any applicable initial licensure or license renewal process under this  
10 Title.

11 **6. Violation; exemptions.** The following provisions govern violations of this section.

12 A. Violations of this section are not subject to section 47, subsections 3 and 4.

13 B. Prior to the date that a state institution adopts, or is required to adopt, whichever is  
14 earlier, a policy and guidance pursuant to Title 5, section 200-O, subsection 2, a person  
15 acting on behalf of the state institution does not violate subsection 2 or subsection 3 if  
16 the person provides voluntary consent permitting a law enforcement officer to enter a  
17 nonpublic area of a state institution or to access protected health care information for  
18 immigration purposes and if the person is acting in good faith.

19 **7. Other facilities.** A health care facility or a facility providing residential or  
20 community supports for adults or children or a facility or program that provides health care,  
21 assisted living services, behavioral health services, services to persons with intellectual  
22 disabilities, autism spectrum disorder or acquired brain injuries or similar services that is  
23 not subject to subsection 5 may, but is not required to, adopt the model policies and  
24 guidance or an amendment to the model policies and guidance published by the Attorney  
25 General pursuant to Title 5, section 200-O, subsection 1.

26 **Sec. 5. 27 MRSA §109-A** is enacted to read:

27 **§109-A. Limited authority of certain libraries to consent for entry into nonpublic**  
28 **areas and to access records**

29 **1. Definitions.** As used in this section, unless the context otherwise indicates, the  
30 following terms have the following meanings.

31 A. "Law enforcement officer" has the same meaning as defined in Title 16, section  
32 638, subsection 2 and includes a "federal officer" as defined in Title 25, section 1502-  
33 A, subsection 1.

34 B. "Nonpublic area" means an area of a building or facility that the public is not free  
35 to enter or access and includes a restricted access area within a building or facility that  
36 is otherwise predominately open to the public. "Nonpublic area" also includes all  
37 otherwise public areas within a building or facility during any time that the building or  
38 facility is closed for operation.

39 C. "Protected patron record" means a record maintained by a state library or public  
40 library that is confidential pursuant to section 121, subsection 1.

41 D. "Public library" has the same meaning as in section 110, subsection 10.

1 E. "State library" means the Maine State Library; the Law and Legislative Reference  
2 Library; and a library of the University of Maine System, the Maine Community  
3 College System and the Maine Maritime Academy.

4 **2. Voluntary consent for entry into nonpublic areas prohibited.** A person acting  
5 on behalf of a state library may not provide voluntary consent permitting a law enforcement  
6 officer to enter a nonpublic area of the state library for immigration enforcement purposes.

7 **3. Voluntary consent to access protected patron records prohibited.** A person  
8 acting on behalf of a state library may not provide voluntary consent permitting a law  
9 enforcement officer to access protected patron records for immigration enforcement  
10 purposes. This subsection may not be construed to prevent a person acting on behalf of a  
11 state library from disclosing protected patron records in response to a request from a law  
12 enforcement officer to the extent that the disclosure is required by a court order or by state  
13 or federal law.

14 **4. Mandatory compliance activities.** Notwithstanding subsection 2, if a state library  
15 is required by federal law to permit a law enforcement officer to inspect specific records  
16 other than protected patron records or to conduct interviews regarding the eligibility of  
17 noncitizens to work in the United States:

18 A. The state library shall designate a nonpublic area within the state library where law  
19 enforcement officers may conduct these inspections and interviews; and

20 B. The state library may permit law enforcement officers to access a specific location  
21 to verify eligibility for employment if federal law requires that law enforcement  
22 officers be provided access to that specific location within the state library when  
23 conducting these inspections and interviews.

24 **5. Required policy and guidance.** Each state library shall adopt the model policies  
25 and guidance published by the Attorney General under Title 5, section 200-O or establish  
26 equivalent policies and guidance as required by Title 5, section 200-O, subsection 2.

27 **6. Violation; exceptions.** Prior to the date that a state library adopts, or is required to  
28 adopt, whichever is earlier, a policy and guidance pursuant to Title 5, section 200-O,  
29 subsection 2, a person acting on behalf of the state library does not violate subsection 2 or  
30 subsection 3 if the person provides voluntary consent permitting a law enforcement officer  
31 to enter a nonpublic area of a state library or to access protected patron records for  
32 immigration purposes and if the person is acting in good faith.

33 **7. Other public libraries.** A public library that is not subject to subsection 5 may, but  
34 is not required to, adopt the model policies and guidance or an amendment to the model  
35 policies and guidance published by the Attorney General pursuant to Title 5, section 200-O,  
36 subsection 1.'

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

39 **SUMMARY**

40 This amendment, which is the majority report of the committee, replaces the bill and  
41 changes the title. The amendment directs the Attorney General to publish model policies  
42 and guidance for ensuring that public schools and postsecondary educational institutions,  
43 state health institutions and certain public libraries remain safe and accessible to all state

1 residents regardless of immigration status by limiting each of these covered facilities'  
2 authority to voluntarily consent for law enforcement entry into nonpublic areas of the  
3 facility or law enforcement access to the facility's records for immigration enforcement  
4 purposes to the fullest extent possible consistent with state and federal law. Within 3  
5 months of the date that the applicable model policy and guidance is published, each covered  
6 facility must adopt the published policy and guidance or establish an equivalent policy and  
7 guidance. The amendment also authorizes, but does not require, adoption of the model  
8 policy and guidance by private educational facilities; health care facilities that are not state  
9 institutions; facilities providing residential or community supports for adults or children;  
10 programs that provide health care, assisted living services, behavioral health services,  
11 services to persons with intellectual disabilities, autism spectrum disorder or acquired brain  
12 injuries or similar services; other public libraries; child care facilities and family child care  
13 providers; and houses of worship and other places where religious services are conducted.  
14 The affected facilities may, but are not required to, adopt these model policies and  
15 guidance.

16 The amendment also directs that a person acting on behalf of a public school or state  
17 postsecondary educational institution, a state health institution or certain public libraries  
18 may not provide voluntary consent permitting a law enforcement officer to enter a  
19 nonpublic area of the public school or state postsecondary educational institution, state  
20 health institution or public library for immigration enforcement purposes. A person acting  
21 on behalf of a public school or state postsecondary educational institution, a state health  
22 institution or certain public libraries also may not provide voluntary consent permitting a  
23 law enforcement officer to access education records, protected health care information or  
24 protected patron records unless disclosure of the information is required by a court order  
25 or by state or federal law. Before the date that the covered facility adopts, or is required to  
26 adopt, whichever is earlier, the model policy and guidance published by the Attorney  
27 General, a person acting on behalf of the covered facility does not violate the prohibitions  
28 in the amendment if the person is acting in good faith.

29 The amendment further directs that if federal law requires a public school or state  
30 postsecondary educational institution, a state health institution or certain public libraries to  
31 permit a law enforcement officer to inspect specific records or to conduct interviews  
32 regarding the eligibility of noncitizens to work in the United States, or if federal law  
33 requires a public school or state postsecondary educational institution to permit a law  
34 enforcement officer to inspect specific records or conduct interviews regarding the  
35 eligibility of noncitizens to attend school in the United States, the affected facility must  
36 designate a nonpublic area within the facility where federal immigration officials may  
37 conduct these inspections and interviews. If federal law requires that law enforcement  
38 officers be provided access to specific locations when conducting these inspections and  
39 interviews, the facility may permit law enforcement officers to access those specific  
40 locations.

41 Finally, the amendment provides that, as part of any applicable initial licensure or  
42 license renewal process, the Department of Health and Human Services may verify a state  
43 institution's compliance with the requirement to either adopt the model policy and guidance  
44 published by the Attorney General or to establish an equivalent policy and guidance.

45 **FISCAL NOTE REQUIRED**

46 **(See attached)**