



# 127th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2015

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Legislative Document

No. 136

H.P. 94

House of Representatives, January 22, 2015

**An Act To Clarify That the Medical Records of Applicants for  
Disability Variances Submitted to Municipal Boards of Appeal Are  
Not Public Records**

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Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script that reads "R B. Hunt".

ROBERT B. HUNT  
Clerk

Presented by Representative MONAGHAN of Cape Elizabeth.

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

2 **Sec. 1. 30-A MRSA §4353, sub-§4-A**, as repealed and replaced by PL 2009, c.  
3 342, §1, is amended to read:

4 **4-A. Disability variance; vehicle storage.** A disability variance may be granted  
5 pursuant to this subsection.

6 A. The board may grant a variance to an owner of a dwelling for the purpose of  
7 making that dwelling accessible to a person with a disability who resides in or  
8 regularly uses the dwelling. The board shall restrict any variance granted under this  
9 paragraph solely to the installation of equipment or the construction of structures  
10 necessary for access to or egress from the dwelling by the person with the disability.

11 The board may impose conditions on the variance granted pursuant to this paragraph,  
12 including limiting the variance to the duration of the disability or to the time that the  
13 person with the disability lives in the dwelling. For the purposes of this paragraph,  
14 the term "structures necessary for access to or egress from the dwelling" is defined to  
15 include railing, wall or roof systems necessary for the safety or effectiveness of the  
16 structure.

17 B. If authorized by the zoning ordinance establishing the board, the board may grant  
18 a variance to an owner of a dwelling who resides in the dwelling and who is a person  
19 with a permanent disability for the construction of a place of storage and parking for  
20 a noncommercial vehicle owned by that person and no other purpose. The width and  
21 length of the structure may not be larger than 2 times the width and length of the  
22 noncommercial vehicle. The owner shall submit proposed plans for the structure  
23 with the request for the variance pursuant to this paragraph to the board.

24 The person with the permanent disability shall prove by a preponderance of the  
25 evidence that the person's disability is permanent.

26 For purposes of this paragraph, "noncommercial vehicle" means a motor vehicle as  
27 defined in Title 29-A, section 101, subsection 42 with a gross vehicle weight of no  
28 more than 6,000 pounds, bearing a disability registration plate issued pursuant to  
29 Title 29-A, section 521 and owned by the person with the permanent disability.

30 The board may impose conditions on the variance granted pursuant to this subsection.

31 Documents submitted to the board that describe or verify a person's disability are not  
32 public records pursuant to Title 1, chapter 13, subchapter 1.

33 For purposes of this subsection, "disability" has the same meaning as a physical or mental  
34 disability under Title 5, section 4553-A.

35 **Sec. 2. 30-A MRSA §4353-A**, as enacted by PL 2013, c. 186, §2, is amended by  
36 adding after the first paragraph a new paragraph to read:

37 Documents submitted to the code enforcement officer that describe or verify a  
38 person's disability are not public records pursuant to Title 1, chapter 13, subchapter 1.

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## **SUMMARY**

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This bill provides that documents submitted to a municipal board of appeals or a municipal code enforcement officer that describe or verify the disability of a person who is seeking a variance from municipal zoning ordinances in order to accommodate the disability are not public records pursuant to the Freedom of Access Act.

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