



128th MAINE LEGISLATURE

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Legislative Document

No. 146

H.P. 104

House of Representatives, January 19, 2017

**An Act To Protect the Confidentiality of Local Government
Employees' Private Information**

Reference to the Committee on Judiciary suggested and ordered printed.

Handwritten signature of Robert B. Hunt in cursive.

ROBERT B. HUNT
Clerk

Presented by Representative McCREIGHT of Harpswell.
Cosponsored by Senator CARSON of Cumberland and
Representatives: BABBIDGE of Kennebunk, BATTLE of South Portland, BEEBE-CENTER
of Rockland, COREY of Windham, MONAGHAN of Cape Elizabeth, PIERCE of Dresden,
SIMMONS of Waldoboro, Senator: VITELLI of Sagadahoc.

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

2 **Sec. 1. 30-A MRSA §2702, sub-§1**, as amended by PL 1997, c. 770, §3, is
3 further amended to read:

4 **1. Confidential records.** The following records are confidential and not open to
5 public inspection. They are not "public records" as defined in Title 1, section 402,
6 subsection 3. These records include:

7 A. Except as provided in this paragraph, applications, resumes, letters and notes of
8 reference, working papers, research materials, records, examinations and any other
9 documents or records and the information they contain, solicited or prepared either by
10 the applicant or the municipality for use in the examination or evaluation of
11 applicants for positions as municipal employees.

12 (1) Notwithstanding any confidentiality provision other than this paragraph,
13 applications, resumes and letters and notes of reference, other than those letters
14 and notes of reference expressly submitted in confidence, pertaining to the
15 applicant hired are public records after the applicant is hired.

16 (2) Telephone numbers are not public records if they are designated as
17 "unlisted" or "unpublished" in an application, resume or letter or note of
18 reference.

19 (3) This paragraph does not preclude union representatives from access to
20 personnel records ~~which that~~ may be necessary for the bargaining agent to carry
21 out its collective bargaining responsibilities. Any records available to union
22 representatives ~~which that~~ are otherwise covered by this subsection ~~shall~~ must
23 remain confidential and are not open to public inspection;

24 B. Municipal records pertaining to an identifiable employee and containing the
25 following:

26 (1) Medical information of any kind, including information pertaining to
27 diagnosis or treatment of mental or emotional disorders;

28 (2) Performance evaluations and personal references submitted in confidence;

29 (3) Information pertaining to the creditworthiness of a named employee;

30 (4) Information pertaining to the personal history, general character or conduct
31 of members of an employee's immediate family; ~~and~~

32 (5) Complaints, charges or accusations of misconduct, replies to those
33 complaints, charges or accusations and any other information or materials that
34 may result in disciplinary action. If disciplinary action is taken, the final written
35 decision relating to that action is no longer confidential after the decision is
36 completed if it imposes or upholds discipline. The decision must state the
37 conduct or other facts on the basis of which disciplinary action is being imposed
38 and the conclusions of the acting authority as to the reasons for that action. If an
39 arbitrator completely overturns or removes disciplinary action from an employee
40 personnel file, the final written decision is public except that the employee's
41 name must be deleted from the final written decision and kept confidential. If the

1 employee whose name was deleted from the final written decision discloses that
2 the employee is the person who is the subject of the final written decision, the
3 entire final written report, with regard to that employee, is public.

4 For purposes of this subparagraph, "final written decision" means:

5 (a) The final written administrative decision that is not appealed pursuant to
6 a grievance arbitration procedure; or

7 (b) If the final written administrative decision is appealed to arbitration, the
8 final written decision of a neutral arbitrator.

9 A final written administrative decision that is appealed to arbitration is no longer
10 confidential 120 days after a written request for the decision is made to the
11 employer if the final written decision of the neutral arbitrator is not issued and
12 released before the expiration of the 120 days; and

13 (6) Personal information, including that which pertains to the employee's:

14 (a) Age;

15 (b) Ancestry, ethnicity, genetic information, national origin, race or skin
16 color;

17 (c) Marital status;

18 (d) Mental or physical disabilities;

19 (e) Personal contact information, as described in Title 1, section 402,
20 subsection 3, paragraph O;

21 (f) Personal employment choices pertaining to elected payroll deductions,
22 deferred compensation, saving plans, pension plans, health insurance and life
23 insurance;

24 (g) Religion;

25 (h) Sex or sexual orientation; or

26 (i) Social security; and

27 C. Other information to which access by the general public is prohibited by law.

28 SUMMARY

29 This bill clarifies that certain personal information of municipal employees is
30 confidential and the record or the portion of the record containing that information in the
31 possession of a municipal government is not a public record. The types of information
32 protected include that which pertains to age, ancestry, ethnicity, genetics, national origin,
33 race, skin color, marital status, mental or physical disabilities, personal contact
34 information, religion, sex, sexual orientation, social security and personal employment
35 choices pertaining to elected payroll deductions, deferred compensation, savings plans,
36 pension plans, health insurance and life insurance.