



MAINE PRESS ASSOCIATION

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Sen. Carney, Rep. Kuhn, members of the Joint Standing Committee on Judiciary, my name is Judith Meyer. I offer testimony on behalf of the Maine Press Association against LD 1824, An Act to Prohibit the Public Release of Information Regarding a Railroad Fatality.

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When crafting Maine's Freedom of Access Act, it was the intention of the Legislature that actions of government entities be taken openly and that records of their actions be open to public inspection. That includes records created and maintained by law enforcement agencies for accidents on our roads, in our forests, along waterways and railways, in our airways and anywhere an accident may occur.

Law enforcement agencies – which includes railroad police under Title 23 – are required to produce accident reports as a permanent record of the circumstances of an accident, the people involved and the public response in the form of police, fire and rescue personnel. Many of these records are later used as the foundation for civil or criminal actions against others, and as a measure of accountability of public response.

The bill before you would require that any law enforcement agency that responds to an accident that results in a fatality involving a railroad or railroad line to "maintain such reports and records in a manner that ensures confidentiality of the reports and records" except for the railroad company involved or to someone who may obtain a court order for access. This confidentiality requirement is so broad it could include arrest records, should there be an arrest connected to a fatal accident, which are specifically defined as "public" records under Maine's Criminal History Record Information Act.

Accident reports are currently defined as public records under Title 29-A. Any law enforcement agency may disclose the "date, time and location of the accident and the names and addresses of operators, owners, injured persons, witnesses and the investigating officer" for all accidents, and may also, on written request, "furnish a photocopy of the investigating officer's report." These guaranteed disclosures serve the public's right to inspect governmental records.

The bill before you also captures active investigative records, which may include communications between law enforcement and a railroad company employee, but the bill's requirement to maintain confidentiality during investigations is already guaranteed under Title 16, Chapter 9, of Maine's Intelligence and Investigative Record Information Act and is redundant here.

The proposal to create a special exception for any and all reports around an accident involving a fatality just because it involved a railroad or occurred on a railroad line is a huge departure from

current access to accident reports and goes against the intent of Maine's FOAA to provide access to these records as a matter of public accountability. And what of records created for a non-fatal railroad-involved accident? Those would remain public?

Maine Press also has questions and concerns about whether this confidentiality proposal would conflict with preliminary and final accident reports and investigations available to the public through the National Transportation Safety Board, all of which are records created in cooperation with local law enforcement agencies and officials and may very well contain bits and pieces of locally-produced reports.

The Maine Press Association requests that a proposal of this magnitude be researched and reviewed by the Right to Know Advisory Committee, which could make a recommendation on the critical public access this bill intends to alter.

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The **Maine Press Association**, founded in 1864, is one of the oldest professional news organizations in the nation. Our goals, as spelled out in our charter and by-laws are: To promote and foster high ethical standards and the best interests of the newspapers, journalists, and media organizations of the state of Maine that constitute its membership; to encourage improved business and editorial practices and better media environment in the state; and to improve the conditions of journalism and journalists by promoting and protecting the principles of freedom of speech and of the press and the public's right to know.