



Janet T. Mills
Governor

Michael J. Sauschuck
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STATE OF MAINE
Department of Public Safety
MAINE STATE POLICE

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William Ross
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LTC. Brian P. Scott
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Testimony of Director Rebecca J. Graham
Maine State Police

In Neither For Nor Against

An Act to Implement the Recommendations of the Right To Know Advisory Committee Concerning Certain Existing Public Records Exceptions

Sponsored by Rep. Kuhn
Committee on Judiciary

Senator Carney, Representative Kuhn, and honorable members of the Committee on Judiciary:

My name is Rebecca Graham and I am the Director of Policy, FOAA & Legislative Affairs for the Department of Public Safety and the Maine State Police. I am providing testimony on behalf of the Maine State Police and the Maine Department of Public Safety neither for nor against, *“An Act to Implement the Recommendations of the Right To Know Advisory Committee Concerning Certain Existing Public Records Exceptions”*

While much of the legislation makes technical updates to the laws governing confidential information collected by state agencies, I would like to focus my remarks on Section 8 of the bill, which amends 29-A MRSA §2251, subsection 7-A, paragraph C.

The original “may” language in this statute was intentionally crafted as permissive. It was established to allow the Maine State Police to develop a process for handling commercial bulk requests for accident data without overburdening staff resources and while limiting the extraction of personally identifiable information. The goal was clear: enable access to appropriate data while protecting individuals involved in motor vehicle accidents from having their personal information used for direct marketing or other unintended purposes.

Currently, individual accident reports contain personally identifiable information, including names of involved parties, dates of birth, accident location, and investigating agency details. These reports are available to requestors who can provide known facts linking them to the accident, at a cost of \$10 per report. As this personally identifying information is required to be provided by those involved in an accident and is now contained in a statewide database, it is also important for us to protect this data. It became clear as soon as the database was established that it contained information of commercial value to industries seeking to market services often engaged post-accident, clearly beyond the legislative intent of Maine’s Freedom of Access Act to provide information of the operations of government not the individuals that must involuntarily interact with government in the case of a reportable accident.

In 2011, the Legislature added language allowing for a bulk data request process that would strip out personally identifiable information and provide the agency discretion in managing such releases. That discretion has been important. Today, InforME provides the back-end service for bulk data distribution. Under the current system, commercial requestors may receive bulk data extracts that automatically exclude certain personally identifiable fields. This is

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information that could otherwise be available in an individual report but is intentionally withheld in the bulk process to limit potential harm and likely be cost prohibitive to retrieve for marketing purposes.

Operationally, removing the permissive “may” language in Section 8 is unlikely to immediately change how the agency processes bulk requests. However, the removal could narrow agency discretion in the future. While the amended language does not create an affirmative obligation to provide bulk data, eliminating “may” may reduce the agency’s flexibility to suspend or decline bulk nonpersonal data releases if unforeseen circumstances arise—such as the loss of technical capacity or other operational constraints.

Preserving discretion is important. It ensures that the agency can continue to balance transparency, operational realities, and the protection of Maine citizens’ information as technology and circumstances evolve.

Finally, the Office of the Attorney General has identified a technical correction needed in Section 1 of the bill under 5 MRSA §1577, subsection 2. The reference on line 15 to the “Maine Rules of Evidence” should be corrected to “Maine Rules of Criminal Procedure.” The Department recommends that this technical amendment be adopted to ensure statutory accuracy and clarity for disclosure of DNA evidence collected by our crime lab.

On behalf of the State Police and the Department of Public Safety, we appreciate your careful consideration of these issues. Thank you for your time and I would be happy to answer any questions at this time.

Respectfully,

Rebecca J. Graham