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Date: (Filing No. H-)

JUDICIARY

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
127TH LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT “ ” to H.P. 802, L.D. 1171, Bill, “An Act To Protect Certain Information under the Maine Human Rights Act”

Amend the bill in section 1 in paragraph B in the 8th line (page 1, line 11 in L.D.) by inserting after the following: "investigation." the following: 'The commission may direct that information designated confidential under subsection 5 be redacted from records and documents before those records and documents are provided to the commission.'

Amend the bill by striking out all of section 2 and inserting the following:

'Sec. 2. 5 MRSA §4612, sub-§5, as amended by PL 2011, c. 613, §20 and affected by §29, is repealed and the following enacted in its place:

5. Confidentiality. The Legislature finds that a person who participates in the commission's investigative process as a complainant, a respondent or otherwise has a right to privacy in certain information the person provides to the commission. This subsection governs the confidentiality of certain information.

A. The following information is confidential and may not be disclosed:

- (1) The identity of a person who is not a party to a complaint;
- (2) Medical, counseling, psychiatric and other records revealing a person's medical or mental health condition or disability;
- (3) The identity of a minor, including a minor who is a party to a complaint;
- (4) Personnel records, including payroll records;
- (5) Social security numbers, personal telephone numbers and home addresses, unless a home address is a material fact at issue in an investigation;
- (6) Banking and financial information, including credit checks, unless such information is directly related to an undue burden defense or other material fact at issue in an investigation;
- (7) Criminal history record information that is not otherwise made public by law;

COMMITTEE AMENDMENT

1 (8) Evidence of conduct or statements made in compromise settlement
2 negotiations, offers of settlement and any final agreements made prior to the
3 conclusion of an investigative process, unless the parties otherwise agree in
4 writing; and

5 (9) The identity of a complainant or a 3rd-party witness who has established a
6 compelling and immediate need to proceed with or participate in an investigation
7 with anonymity or a pseudonym. This need must be determined necessary by the
8 commission or its executive director to avoid imminent and serious harm.

9 B. Information designated as confidential in paragraph A may not be released
10 without the written authorization of the person who is the subject of the information,
11 except that during an investigation conducted pursuant to subsection 1, if the case
12 relates to the complainant's medical diagnosis or disability, the respondent is entitled
13 to receive unredacted copies of the complainant's medical records, medical diagnoses,
14 medical information and information regarding any disability experienced by the
15 complainant. Information under this paragraph may be released by the commission
16 to the respondent only if:

17 (1) The complainant authorizes that disclosure to the respondent by signing a
18 medical release form provided by the commission; and

19 (2) The respondent signs a nondisclosure agreement provided by the commission
20 and agrees to keep all medical, counseling, psychiatric or other records that
21 reveal that person's medical or mental health condition or disability confidential
22 during the pendency of the investigation and after the investigation has
23 concluded.

24 C. Nothing in this subsection may be construed to limit the ability of the commission
25 during the pendency of an investigation or during its deliberations in a complaint at a
26 public hearing to consider or discuss information designated confidential under this
27 subsection, if that information is relevant to consideration of and deliberation in the
28 complaint.

29 D. At the close of the investigation, the signed report of the investigator is a public
30 record. Drafts of the report of the investigator are not public records except that if the
31 final recommendation to the commission has been changed during the editing
32 process, the final draft containing the earlier recommendation is a public record.

33 E. Nothing in this subsection may be construed to limit the ability of a person to
34 provide written authorization to disclose information about that person that is
35 designated confidential by this section.'

36 **SUMMARY**

37 This amendment is the majority report of the committee. It replaces section 2 of the
38 bill but, like the bill, it revises the confidentiality provisions of the Maine Human Rights
39 Act. This amendment protects from public disclosure information in the records of the
40 Maine Human Rights Commission that identifies a minor, a person's medical condition or
41 disability, the identity of a person not a party to a complaint at the commission, personnel
42 records, social security numbers, residential addresses and personal phone numbers,

1 banking and financial information, criminal history information not otherwise made
2 public by law and the identity of a person who has established a compelling and
3 immediate need to proceed with or participate in a commission investigation with
4 anonymity.

5 **FISCAL NOTE REQUIRED**

6 **(See attached)**