

Members of the Right to Know Advisory Committee:

In our discussions about an amendment to the FOAL that would cause a different result in the type of matter addressed by the Law Court in *Moore v. Abbott*, we have been unable to come up with language that would capture records of various private groups acting to provide input or advice to government without being overbroad. For example, I have not understood anyone to be advocating that if a legislative committee directs a number of stakeholders to get together and work out proposed compromise legislation, or if a school board suggests that parents talk to their friends and seek input on a controversial proposal, that the records of these groups should be required to be public. As a result, it was suggested that I draft a proposal that addresses the specific situation of an internal review undertaken by private citizen(s).

I would add this to 1 MRSA § 402(3-A), rewriting the existing language without substantive change, along the following lines. For clarity, I have italicized the part that addresses the *Moore v. Abbott* issue and have drafted this in a way that is designed to show what's changed and what is the same as current law.

**3-A. Public records further defined.** "Public records" also includes the following:

A. Criminal justice agency records:

1. Records relating to prisoner furloughs to the extent they pertain to a prisoner's identity, conviction data, address of furlough and dates of furlough;

2. Records relating to out-of-state adult probationer or parolee supervision to the extent they pertain to a probationer's or parolee's identity, conviction data, address of residence and dates of supervision; and

3. Records to the extent they pertain to a prisoner's, adult probationer's or parolee's identity, conviction data and current address or location, unless the Commissioner of Corrections determines that it would be detrimental to the welfare of a client to disclose the information.

*B. Records of an individual or group charged by the governing body or head of an agency of government with undertaking a review of the agency's conduct with respect to an identified matter and making findings or recommendations, except those records that are otherwise confidential under this chapter.*

This approach is intended to preserve application of other confidentiality provisions, such as the personnel laws, which should not be preempted.

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