

# Special Review Processes of Committees

Maine law and the Joint Rules require certain proposals to be reviewed by specific joint standing committees before being considered by the Legislature as a whole.

- New public records exceptions must be reviewed by the Judiciary Committee pursuant to the Freedom of Access Act, 1 MRSA §434.
- Provisions affecting the Fund for a Healthy Maine must be reviewed by the Health and Human Services Committee pursuant to 22 MRSA §1511, sub-§14 and Joint Rule 317.
- Provisions that propose to expedite, establish or adjust the priority of judicial proceedings must be reviewed by the Judiciary Committee pursuant to Joint Rule 318.
- Provisions creating or enhancing criminal penalties must be reviewed by the Criminal Justice and Public Safety Committee pursuant to Joint Rule 319.

## ➤ Freedom of Access Act – public records exception review

**1 MRSA §434.** Review of proposed exceptions to public records

- If the majority of a committee supports a bill that proposes a new public records exception, the committee must request a Judiciary Committee (JUD) review and evaluation.
- A proposed exception may not be enacted into law unless reviewed and evaluated by JUD. JUD uses statutory list of criteria to evaluate the exception.

**Full text – 1 MRSA §434.** Review of proposed exceptions to public records; accessibility of public records

**1. Procedures before legislative committees.** Whenever a legislative measure containing a new public records exception is proposed or a change that affects the accessibility of a public record is proposed, the joint standing committee of the Legislature having jurisdiction over the proposal shall hold a public hearing and determine the level of support for the proposal among the members of the committee. If there is support for the proposal among a majority of the members of the committee, the committee shall request the review committee to review and evaluate the proposal pursuant to subsection 2 and to report back to the committee of jurisdiction. A proposed exception or proposed change that affects the accessibility of a public record may not be enacted into law unless review and evaluation pursuant to subsections 2 and 2-B have been completed.

**2. Review and evaluation.** Upon referral of a proposed public records exception from the joint standing committee of the Legislature having jurisdiction over the proposal, the review committee shall conduct a review and evaluation of the proposal and shall report in a timely manner to the committee to which the proposal was referred. The review committee shall use the following criteria to determine whether the proposed exception should be enacted:

- A. Whether a record protected by the proposed exception needs to be collected and maintained;
- B. The value to the agency or official or to the public in maintaining a record protected by the proposed exception;
- C. Whether federal law requires a record covered by the proposed exception to be confidential;
- D. Whether the proposed exception protects an individual's privacy interest and, if so, whether that interest substantially outweighs the public interest in the disclosure of records;
- E. Whether public disclosure puts a business at a competitive disadvantage and, if so, whether that business's interest substantially outweighs the public interest in the disclosure of records;
- F. Whether public disclosure compromises the position of a public body in negotiations and, if so, whether that public body's interest substantially outweighs the public interest in the disclosure of records;

G. Whether public disclosure jeopardizes the safety of a member of the public or the public in general and, if so, whether that safety interest substantially outweighs the public interest in the disclosure of records;

H. Whether the proposed exception is as narrowly tailored as possible; and

I. Any other criteria that assist the review committee in determining the value of the proposed exception as compared to the public's interest in the record protected by the proposed exception.

**2-A. Accountability review of agency or official.** In evaluating each proposed public records exception, the review committee shall, in addition to applying the criteria of subsection 2, determine whether there is a publicly accountable entity that has authority to review the agency or official that collects, maintains or uses the record subject to the exception in order to ensure that information collection, maintenance and use are consistent with the purpose of the exception and that public access to public records is not hindered.

**2-B. Accessibility of public records.** In reviewing and evaluating whether a proposal may affect the accessibility of a public record, the review committee may consider any factors that affect the accessibility of public records, including but not limited to fees, request procedures and timeliness of responses.

**3. Report.** The review committee shall report its findings and recommendations on whether the proposed exception or proposed limitation on accessibility should be enacted to the joint standing committee of the Legislature having jurisdiction over the proposal.

## ➤ **Fund for a Healthy Maine**

**22 MRSA §1511, sub-§14 and Joint Rule 317.** Review of provisions affecting the Fund for a Healthy Maine

- If the majority of a committee supports a legislative proposal in a resolve or bill, including a budget bill, that affects the Fund for a Healthy Maine under the Maine Revised Statutes, Title 22, section 1511, or involves funding from the Fund for a Healthy Maine, the committee must request the Health and Human Services Committee (HHS) review and evaluation of the proposal as it pertains to the Fund for a Healthy Maine.
- HHS Committee shall conduct the review and report back to the committee of jurisdiction and to the Appropriations and Financial Affairs Committee.

**Full text – 22 MRSA §1511, sub-§14.** Review of provisions affecting the Fund for a Healthy Maine

**14. Legislative committee review of legislation.** Whenever a proposal in a resolve or bill before the Legislature, including but not limited to a budget bill, affects the fund, the joint standing committee of the Legislature having jurisdiction over the proposal shall hold a public hearing and determine the level of support for the proposal among members of the committee. If there is support for the proposal among a majority of the members of the committee, the committee shall request the joint standing committee of the Legislature having jurisdiction over health and human services matters to review and evaluate the proposal as it pertains to the fund. The joint standing committee of the Legislature having jurisdiction over health and human services matters shall conduct the review and report to the committee of jurisdiction and to the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs.

**Full text – Joint Rule 317.** Review of provisions affecting the Fund for a Healthy Maine

Whenever a legislative proposal in a resolve or bill, including a budget bill, affects the Fund for a Healthy Maine under the Maine Revised Statutes, Title 22, section 1511, or involves funding from the Fund for a Healthy Maine, the joint standing committee of the Legislature having jurisdiction over the proposal shall hold a public hearing and determine the level of support for the proposal among members of the committee. If there is support for the proposal among a majority of the members of the committee, the committee shall request the joint standing committee of the Legislature having jurisdiction over health and human services matters to review and evaluate the proposal as it pertains to the Fund for a Healthy Maine. The joint standing committee of the Legislature having jurisdiction over health and human services matters shall conduct the

review and report back to the committee of jurisdiction and to the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs.

### ➤ **Judicial proceeding priorities**

**Joint Rule 318.** Review of judicial proceeding priorities

- If the majority of a committee supports a legislative measure that proposes to expedite, establish or adjust the priority of judicial proceedings, the committee must request JUD review and evaluation of the proposal as it pertains to the appropriate priority and timing of judicial proceedings in all state courts.
- JUD must conduct the review and report back to the committee of jurisdiction.

**Full text – Joint Rule 318.** Review of judicial proceeding priorities

Whenever a legislative measure is proposed that contains a provision to expedite, establish or adjust the priority of judicial proceedings, the joint standing committee of the Legislature having jurisdiction over the proposal shall hold a public meeting on the proposal and determine the level of support for the proposal among members of the committee. If there is support for the proposal among a majority of the members of the committee, the committee shall request the joint standing committee of the Legislature having jurisdiction over judiciary matters to review and evaluate the proposal as it pertains to the appropriate priority and timing of judicial proceedings in all state courts. Information may be requested from the Judicial Branch. The joint standing committee of the Legislature having jurisdiction over judiciary matters shall conduct the review and report back to the committee of jurisdiction.

### ➤ **New crimes and increased criminal penalties**

**Joint Rule 319.** Review of provisions creating or enhancing criminal penalties

- If the majority of a committee supports a legislative proposal in a resolve or bill, including a budget bill, that proposes to enact a new crime or increase the penalty for an existing crime, the committee must request Criminal Justice and Public Safety Committee (CJPS) review and evaluation of the proposal for its impact on the criminal justice system.
- CJPS Committee shall conduct the review and report back to the joint standing committee of jurisdiction and to the AFA Committee.

**Full text - Joint Rule 319.** Review of provisions creating or enhancing criminal penalties

Whenever a legislative proposal in a resolve or bill, including a budget bill, enacts a new crime or increases the penalty for an existing crime, the joint standing committee of the Legislature having jurisdiction over the proposal shall hold a public hearing and determine the level of support for the proposal among members of the committee. If there is support for the proposal among a majority of the members of the committee, the committee shall request the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters to review and evaluate the proposal for its impact on the criminal justice system. The joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters shall conduct the review and report back to the joint standing committee of jurisdiction and to the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs.