

# MAINE STATE LEGISLATURE

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ONE - HUNDRETH LEGISLATURE

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Legislative Document

No. 1377

H. P. 990

House of Representatives, February 8, 1961

Referred to Committee on Judiciary. Sent up for concurrence and ordered printed.

HARVEY R. PEASE, Clerk

Presented by Mr. Berman of Auburn.

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STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SIXTY-ONE

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AN ACT Relating to the Admissibility of Records in Evidence.

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Be it enacted by the People of the State of Maine, as follows:

**Sec. 1. R. S., c. 113, § 133, repealed and replaced.** Section 133 of chapter 113 of the Revised Statutes is repealed and the following enacted in place thereof:

**‘Sec. 133. Admissibility of records in evidence. In any court in the State of Maine and in any court established by act of the Legislature in the State of Maine, any writing or record, whether in the form of an entry in a book or otherwise, made as a memorandum or record of any act, transaction, occurrence or event, shall be admissible in any civil proceeding as evidence of such act, transaction, occurrence or event, if made in regular course of any business and if it was the regular course of such business to make such memorandum or record at the time of such act, transaction, occurrence or event or within a reasonable time thereafter.**

All other circumstances of the making of such writing or record, including lack of personal knowledge by the entrant or maker, may be shown to affect its weight, but such circumstances shall not affect its admissibility.

The term “business,” as used in this section, includes business, profession, occupation and calling of every kind.

If any business, institution, member of a profession or calling, or any department or agency of government, in the regular course of business or activity has kept or recorded any memorandum, writing, entry, print, representation or combination thereof, of any act, transaction, occurrence or event, and in the regular course of business has caused any or all of the same to be recorded, copied or

reproduced by any photographic, photostatic, microfilm, micro-card, miniature photographic, or other process which accurately reproduces or forms a durable medium for so reproducing the original, the original may be destroyed in the regular course of business unless held in a custodial or fiduciary capacity or unless its preservation is required by law. Such reproduction, when satisfactorily identified, is as admissible in evidence as the original itself in any judicial or administrative proceeding whether the original is in existence or not and an enlargement or facsimile of such reproduction is likewise admissible in evidence if the original reproduction is in existence and available for inspection under direction of court. The introduction of a reproduced record, enlargement or facsimile does not preclude admission of the original. This paragraph shall not be construed to exclude from evidence any document or copy thereof which is otherwise admissible under the rules of evidence.'

Sec. 2. R. S., c. 148, § 23-A, additional. Chapter 148 of the Revised Statutes is amended by adding a new section 23-A, to read as follows:

'Sec. 23-A. Admissibility of records in criminal proceeding. In any court in the State of Maine and in any court established by act of the Legislature in the State of Maine, any writing or record, whether in the form of an entry in a book or otherwise, made as a memorandum or record of any act, transaction, occurrence or event, shall be admissible in any criminal proceeding as evidence of such act, transaction, occurrence or event, if made in regular course of any business and if it was the regular course of such business to make such memorandum or record at the time of such act, transaction, occurrence or event or within a reasonable time thereafter.

All other circumstances of the making of such writing or record, including lack of personal knowledge by the entrant or maker, may be shown to affect its weight, but such circumstances shall not affect its admissibility.

The term "business," as used in this section, includes business, profession, occupation and calling of every kind.

If any business, institution, member of a profession or calling, or any department or agency of government, in the regular course of business or activity has kept or recorded any memorandum, writing, entry, print, representation or combination thereof, of any act, transaction, occurrence or event, and in the regular course of business has caused any or all of the same to be recorded, copied or reproduced by any photographic, photostatic, microfilm, micro-card, miniature photographic, or other process which accurately reproduces or forms a durable medium for so reproducing the original, the original may be destroyed in the regular course of business unless held in a custodial or fiduciary capacity or unless its preservation is required by law. Such reproduction, when satisfactorily identified, is as admissible in evidence as the original itself in any judicial or administrative proceeding whether the original is in existence or not and an enlargement or facsimile of such reproduction is likewise admissible in evidence if the original reproduction is in existence and available for inspection under direction of court. The introduction of a reproduced record, enlargement or facsimile does not preclude admission of the original. This paragraph shall not be construed to exclude from evidence any document or copy thereof which is otherwise admissible under the rules of evidence.'