

# MAINE STATE LEGISLATURE

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ONE HUNDRED AND FIFTH LEGISLATURE

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**Legislative Document**

**No. 180**

S. P. 86

In Senate, January 14, 1971

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

HARRY N. STARBRANCH, Secretary

Presented by Senator Harding of Aroostook.

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STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-ONE

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**AN ACT** Relating to Waiver of Complaint in the District Court and Waiver of Indictment in the Superior Court.

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

**Sec. 1. R. S., T. 4, § 152, amended.** The first sentence of section 152 of Title 4 of the Revised Statutes, as amended by chapter 236 of the public laws of 1965, is further amended to read as follows:

The District Court shall possess the civil and criminal jurisdiction exercised by all trial justices and municipal courts in the State on September 16, 1961, and in addition, original jurisdiction, concurrent with that of the Superior Court of all civil actions in which neither damages in excess of \$10,000 nor equitable relief is demanded, of actions for divorce or annulment of marriage and of proceedings under Title 19, and concurrent jurisdiction with the Superior Court in waiver of indictment and original jurisdiction, concurrent with that of the probate court, of actions for separation.

**Sec. 2 R. S., T. 4, § 171-A, additional.** Title 4 of the Revised Statutes is amended by adding a new section 171-A, to read as follows:

**§ 171-A. Complaint and the information**

1. **Use of complaint or information.** All felony proceedings originating in the District Court shall be prosecuted by complaint, unless indictment in the Superior Court is waived, in which case prosecution may be by information.

2. **Waiver of indictment.** Any offense, except one punishable by life imprisonment, may be prosecuted by information upon request of the defendant, if the defendant, after being advised by the court of the nature of the

charge and of his rights, shall in writing signed by him waive prosecution in the Superior Court by indictment. Such waiver with the approval of the court endorsed thereon shall be annexed to the information. The information may charge the defendant with any lesser offense which is contained in the greater offense intended to be charged in the complaint.

The attorney for the State upon investigation may elect to charge the defendant with another offense or offenses not punishable by life imprisonment and not alleged in the complaint upon which such defendant has been bound over, in which event he may, before consenting to proceeding by information, prepare and sign an information or informations setting forth such offense or offenses, file the same with the clerk of the District Court and cause the defendant to be served with an attested copy thereof in order that the defendant may have an opportunity to waive indictment in the Superior Court upon such other offense or offenses, and a written waiver of indictment by the defendant shall be presented to the court whereupon the case may proceed as provided.

3. Nature and contents. An information shall be signed by the attorney for the State and certified on information and belief. The complaint or the information shall be a plain, concise and definite written statement of the essential facts constituting the offense charged. It need not contain a formal commencement, a formal conclusion, or any other matter not necessary to such statement. Allegations made in one count may be incorporated by reference in another count. It may be alleged in a single count that the means by which the defendant committed the offense are unknown or that he committed it by one or more specified means. The complaint or information shall state for each count the official or customary citation of the statute, rule, regulation or other provision of law which the defendant is alleged therein to have violated. Error in the citation of a statute or its omission shall not be grounds for the dismissal of the complaint or information or for reversal of a conviction if the error or omission did not mislead the defendant to his prejudice.

4. Surplusage. The court on motion of the defendant may strike surplusage from the complaint or information.

5. Amendment of information and complaint. The court may permit an information or complaint to be amended at any time before verdict or finding if no additional or different offense is charged and if substantial rights of the defendant are not prejudiced.

#### STATEMENT OF FACT

The purpose of the bill is to permit waiver of complaint in the District Court comparable to waiver of indictment in the Superior Court.