

MAINE STATE LEGISLATURE

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ONE HUNDRED AND SIXTH LEGISLATURE

Legislative Document

No. 1795

S. P. 583

In Senate, April 11, 1973

Reported by Eight Members in Report A from Committee on Judiciary
and printed under Joint Rules No. 18.

HARRY N. STARBRANCH, Secretary

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-THREE

AN ACT Creating the Free Flow of Information Act.

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

R. S., T. I, c. 14, additional. Title I of the Revised Statutes is amended by adding a new chapter 14 to read as follows:

CHAPTER 14

FREE FLOW OF INFORMATION ACT

§ 511. Free flow of information

No person shall be required to disclose to any proceeding, either

1. Source. The source of any published or unpublished news or other information obtained in the gathering, receiving or processing of news for dissemination through any medium of communication to the public, or

2. — other information. Any unpublished news or other information obtained in the gathering, receiving or processing of news for dissemination through any medium of communication to the public.

§ 512. Definitions

As used in this chapter, unless the context otherwise indicates, the following words shall have the following meanings.

1. Medium of communication. "Medium of communication" includes, but is not limited to, any newspaper, magazine or other periodical, book, pamphlet, news service, wire service, news syndicate, broadcast news service, cablecast news service, broadcast station or network or cable television system.

2. Proceeding. "Proceeding" includes any proceeding or investigation before or by any state judicial, legislative or administrative body.

3. News or other information. "News or other information" includes any written, oral or pictorial news or other information or material.

4. Published news or other information. "Published news or other information" includes any information disseminated through a medium of communication to the public.

5. Unpublished news or other information. "Unpublished news or other information" includes information not disseminated through any medium of communication to the public, whether or not related information has been so disseminated.

§ 513. Hearing

1. Application. In any case where a person claims the privilege conferred by this chapter, the person or party, body or officer, seeking the information so privileged, may apply to the Superior Court in the county where the proceeding in which the information is sought for an order divesting the person named therein of such privilege and ordering him to disclose his source of the information.

2. —allegations. The application to the Superior Court provided in subsection 1 shall allege: The name of the person claiming the privilege and of the medium of communication with which he was connected at the time the information sought was obtained; the specific information sought and its relevancy to the proceedings; the disclosure of the information or source of information cannot be obtained from alternative sources outside of the communications media; and, a specific public interest which would be adversely affected if the factual information sought were not disclosed.

3. —rules. All proceedings in connection with obtaining an adjudication upon the application provided by this chapter shall be governed by the Maine Rules of Civil Procedure, unless otherwise provided in this chapter.

4. Considerations. In granting or denying divestiture of the privilege provided in this chapter, the court shall have due regard to the nature of the proceedings, the merits of the claim or defense, the adequacy of the remedy otherwise available, if any, the relevancy of the source, and the possibility of establishing by other means that which it is alleged the source requested will tend to prove.

5. Findings. An order granting divestiture of the privilege provided in this chapter shall be granted only if the court, after hearing the parties, shall find:

A. That the information sought does not concern matters or details in any proceeding required to be kept secret under the laws of this State or of the Federal Government; and

B. That all other available sources of information have been exhausted and disclosure of the information sought is essential to the protection of the public interest involved.

If the court enters an order divesting the person of the privilege granted in this chapter, it shall also order the person to disclose the information it has determined should be disclosed.

6. **Appeal.** An order entered under this chapter is appealable in the same manner as a comparable order in a civil case under the Maine Rules of Civil Procedure and is subject to being stayed. In case of an appeal, the privilege conferred by this chapter remains in full force and effect during the pendency of such appeal.

7. A person refusing to testify or otherwise comply with the order to disclose the source of the information as specified in such order, after such order has become final, may be adjudged in contempt of court and punished accordingly.