

# MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION  
2

3 ONE HUNDRED AND TWELFTH LEGISLATURE  
4

5 Legislative Document

No. 1091

6  
7 S.P. 392

In Senate, March 21, 1985

8 Submitted by the Department of Public Safety pursuant to Joint Rule 24.  
9 Referred to the Committee on Judiciary. Sent down for concurrence and  
ordered printed.

10 JOY J. O'BRIEN, Secretary of the Senate

Presented by Senator Chalmers of Knox.

11 Cosponsored by Senator Carpenter of Aroostook, Representative Allen of  
Washington and Representative Stetson of Damariscotta.

12 STATE OF MAINE  
13

14 IN THE YEAR OF OUR LORD  
15 NINETEEN HUNDRED AND EIGHTY-FIVE  
16

17 AN ACT Concerning Compelling Evidence in  
18 Criminal Proceedings.  
19

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

22 15 MRSA §1314-A, as enacted by PL 1967, c. 526,  
23 is amended to read:

24 §1314-A. Compelling evidence in criminal proceed-  
25 ings; immunity

26 In any criminal proceeding before a court or  
27 grand jury, if a person refuses to answer questions  
28 or produce evidence of any kind on the ground that he  
29 may be incriminated thereby, and if the prosecuting  
30 attorney, in writing, and with the written approval  
31 of the Attorney General, requests the court to order  
32 that person to answer the questions or produce the  
33 evidence, and the court after notice to the witness  
34 and hearing shall so order, unless it finds to do so  
35 would be clearly contrary to the public interest,

1 that person shall comply with the order. After com-  
2 plying, and if, but for this section, he would have  
3 had the right to withhold the answers given or the  
4 evidence produced by him, that person shall not be  
5 prosecuted or subjected to penalty or forfeiture for  
6 or on account of any transaction, matter or thing  
7 concerning which, in accordance with the order, he  
8 gave answer or produced evidence. Failure to answer  
9 questions or produce evidence as ordered by the court  
10 following notice and hearing shall constitute con-  
11 tempt of court. He may nevertheless be prosecuted or  
12 subjected to penalty or forfeiture for any perjury,  
13 false swearing or contempt committed in answering, or  
14 failing to answer, or in producing or failing to  
15 produce evidence, in accordance with the order.

16

STATEMENT OF FACT

17 This bill removes the requirement that the Attor-  
18 ney General provide written approval before the pros-  
19 ecuting attorney in a criminal case may request the  
20 court to order a person to answer questions or  
21 produce evidence. Such a requirement is burdensome  
22 and unnecessary and only serves to delay the criminal  
23 proceeding. This bill would allow district attorneys  
24 to exercise their discretion in handling witnesses  
25 during trial, without having to seek prior approval  
26 from the Attorney General.

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