

# MAINE STATE LEGISLATURE

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(New Draft of S.P. 289, L.D. 816)  
FIRST REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

No. 1739

S.P. 587

In Senate, June 4, 1987

Reported by Senator Black of Cumberland for the Committee on Judiciary and printed under Joint Rule 2. Original Bill sponsored by Senator Brannigan of Cumberland. Cosponsored by: Senator Sewall of Lincoln, Representative Paradis of Augusta, Representative Lacroix.

JOY J. O'BRIEN, Secretary of the Senate

STATE OF MAINE

IN THE YEAR OF OUR LORD  
NINETEEN HUNDRED AND EIGHTY-SEVEN

1 AN ACT Concerning the Taking of Fingerprints  
2 and Submission to the State Bureau of  
3 Identification.  
4

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

7 Sec. 1. 25 MRSA §1541, sub-§4-A is enacted to  
8 read:

9 4-A. Responsibility. The commanding officer  
10 shall collect and maintain fingerprints and other  
11 criminal history record information pertinent to the  
12 identification of individuals who have been arrested  
13 as fugitives from justice or who have been arrested  
14 or charged with any criminal offense under the laws  
15 of this State, except a violation of Title 12 or 29.

1 The commanding officer may collect and maintain finger-  
2 prints and other criminal history record informa-  
3 tion that may be related to other offenses or to the  
4 performance of his obligations under state laws and  
5 under agreements with agencies of the United States  
6 or any other jurisdiction.

7       Sec. 2. 25 MRSA §1542, as amended by PL 1981, c.  
8 493, §101, is repealed.

9       Sec. 3. 25 MRSA §1542-A is enacted to read:

10 §1542-A. Appointment

11       1. Duty to take fingerprints. The law enforce-  
12 ment agency designated in subsection 3 shall take the  
13 fingerprints of any person:

14       A. Charged with the commission of a criminal of-  
15 fense other than a crime found in Title 12 or 29;

16       B. Arrested as a fugitive from justice;

17       C. Named on a search warrant which directs that  
18 such person's fingerprints be taken;

19       D. Named in a Maine Rules of Criminal Procedure  
20 16A order which directs that such person's fin-  
21 gerprints be taken;

22       E. Who dies under circumstances of death consti-  
23 tuting a medical examiner case under Title 22,  
24 section 3025, if sought pursuant to Title 22,  
25 section 3025, subsection 3, or at the request of  
26 the Chief Medical Examiner or the Attorney Gener-  
27 al; or

28       F. Whose fingerprints have been ordered by a  
29 court.

30       2. Palm prints, footprints and photographs.  
31 Whenever fingerprints are to be taken pursuant to  
32 subsection 1, paragraph A or B, palm prints, foot-  
33 prints and photographs may also be taken. Whenever  
34 palm prints, footprints or photographs are ordered to  
35 be obtained pursuant to subsection 1, paragraph C, D  
36 or F, or are sought pursuant to paragraph E, the palm  
37 prints, footprints or photographs shall be taken.

1           3. Duty to take fingerprints. The duty to take  
2           fingerprints is imposed as follows.

3           A. The law enforcement agency having primary re-  
4           sponsibility for the criminal investigation and  
5           prosecution shall take or cause to be taken the  
6           fingerprints of the person named in subsection 1,  
7           paragraph A. If the offender is subjected to a  
8           custodial arrest, fingerprints shall be taken  
9           prior to that person being released from custody.  
10           If the offender is summonsed to appear or, rela-  
11           tive to a Class D or Class E crime, released at  
12           the scene by a law enforcement officer after tak-  
13           ing the personal recognizance of any such person  
14           for his appearance, fingerprints shall be taken  
15           within 5 days at a time and place specified by  
16           the responsible agency. The offender shall appear  
17           at the specified time and place and shall submit  
18           to the process. To the extent possible, the  
19           fingerprinting shall occur prior to arraignment.  
20           At the time of arraignment, the court shall in-  
21           quire as to whether fingerprints have been taken  
22           or as to whether arrangements have been made for  
23           fingerprinting. If this has not occurred, the  
24           court shall instruct both the responsible law en-  
25           forcement agency and the person charged as to  
26           their respective obligations in this regard.

27           B. The law enforcement agency which arrests a  
28           fugitive from justice shall take or cause to be  
29           taken the fingerprints of that person.

30           C. The law enforcement agency having primary re-  
31           sponsibility for the criminal investigation and  
32           prosecution shall take or cause to be taken the  
33           fingerprints of the person named in subsection 1,  
34           paragraph D.

35           D. The law enforcement agency or individual  
36           identified in the warrant or order shall take or  
37           cause to be taken the fingerprints of the person  
38           named in subsection 1, paragraph C or F.

39           E. The law enforcement agency of which the re-  
40           quest is made shall take or cause to be taken the  
41           fingerprints of the person named in subsection 1,  
42           paragraph E.

1           4. Duty to submit to State Bureau of Identifica-  
2 tion. It is the duty of the law enforcement agency  
3 taking the fingerprints as required by subsection 3,  
4 paragraphs A and B, to transmit forthwith to the  
5 State Bureau of Identification the criminal finger-  
6 print record. Fingerprints taken pursuant to subsec-  
7 tion 1, paragraph C, D, E or F, or pursuant to sub-  
8 section 5, shall not be submitted to the State Bureau  
9 of Identification unless an express request is made  
10 by the commanding officer of the State Bureau of  
11 Identification.

12           5. Right to take fingerprints. A law enforcement  
13 officer designated in subsection 7 may take the fin-  
14 gerprints of any person:

15           A. Charged with the commission of a juvenile of-  
16 fense;

17           B. Charged with the commission of a criminal of-  
18 fense found in Title 12 or 29;

19           C. Who is in a state correctional facility or  
20 county institution or facility in execution of a  
21 sentence for a crime or in execution of an order  
22 involving an institutional disposition for a ju-  
23 venile crime; or

24           D. Who voluntarily submits to fingerprinting for  
25 any law enforcement purpose.

26           6. Palm prints, footprints and photographs.  
27 Whenever fingerprints are taken pursuant to subsec-  
28 tion 5, paragraph A, B or C, palm prints, footprints  
29 and photographs may also be taken. In addition, palm  
30 prints, footprints or photographs may also be taken  
31 for any law enforcement purpose when a person volun-  
32 tarily submits to them.

33           7. Upon whom the right to take fingerprints is  
34 given. Any law enforcement officer may take or cause  
35 to be taken the fingerprints of any person named in  
36 subsection 5. Any corrections officer or the person  
37 in charge of a state correctional facility or county  
38 institution or facility may take or cause to be taken  
39 the fingerprints of any person named in subsection 5,  
40 paragraph C or D.

1           8. Fingerprint record forms. Fingerprints taken  
 2 pursuant to subsection 1, paragraphs A, B and D, and  
 3 subsection 5, paragraphs B, C and D, shall be taken  
 4 on a form furnished by the State Bureau of Identifi-  
 5 cation, such form to be known as the Criminal Finger-  
 6 print Record. Fingerprints taken pursuant to subsec-  
 7 tion 1, paragraph E, shall be taken on a form fur-  
 8 nished by the bureau, such form to be known as the  
 9 Noncriminal Fingerprint Record. Fingerprints taken  
 10 pursuant to subsection 5, paragraph A, shall be taken  
 11 on a form furnished by the State Bureau of Identifi-  
 12 cation, such form to be known as the Juvenile Crime  
 13 Fingerprint Record. Fingerprints taken pursuant to  
 14 subsection 1, paragraphs C or F, shall be taken upon  
 15 the form appropriate for that purpose.

16           **Sec. 4. Appropriation.** The following funds are  
 17 appropriated from the General Fund to carry out the  
 18 purposes of this Act.

| 19                                  | <u>1987-88</u> | <u>1988-89</u>  |
|-------------------------------------|----------------|-----------------|
| 20 <u>PUBLIC SAFETY, DEPARTMENT</u> |                |                 |
| 21 <u>OF</u>                        |                |                 |
| 22       State Police               |                |                 |
| 23           Positions              | (1)            | (2)             |
| 24           Personal Services      | \$3,246        | \$ 9,338        |
| 25           All Other              | 346            | 924             |
| 26           Capital Expenditures   | 397            | 397             |
| 27                                  |                |                 |
| 28       Total                      | <u>\$3,989</u> | <u>\$10,659</u> |

1 Provides funds for  
 2 the 25% General Fund  
 3 share for one Fin-  
 4 gerprint Classifier  
 5 II position in fis-  
 6 cal year 1987-88; 2  
 7 Fingerprint Classi-  
 8 fier II positions in  
 9 fiscal year 1988-89;  
 10 and general operat-  
 11 ing expenses to as-  
 12 sist with the antic-  
 13 ipated additional  
 14 workload.

15 **Sec. 5. Allocation.** The following funds are al-  
 16 located from the Highway Fund to carry out the pur-  
 17 poses of this Act.

| 18                                  | <u>1987-88</u>  | <u>1988-89</u>  |
|-------------------------------------|-----------------|-----------------|
| 19 <u>PUBLIC SAFETY, DEPARTMENT</u> |                 |                 |
| 20 <u>OF</u>                        |                 |                 |
| 21 State Police                     |                 |                 |
| 22 Personal Services                | \$ 9,739        | \$28,014        |
| 23 All Other                        | 1,039           | 2,773           |
| 24 Capital Expenditures             | 1,192           | 1,192           |
| 25                                  |                 |                 |
| 26 Total                            | <u>\$11,970</u> | <u>\$31,979</u> |

27 Provides funds for  
 28 the 75% Highway Fund  
 29 share for one Fin-  
 30 gerprint Classifier  
 31 II position in fis-  
 32 cal year 1987-88; 2  
 33 Fingerprint Classi-  
 34 fier II positions in  
 35 fiscal year 1988-89;  
 36 and general operat-  
 37 ing expenses.

1

STATEMENT OF FACT

2           Section 1 of this new draft makes it clear that  
3 the State Bureau of Identification has the primary  
4 responsibility to collect and maintain consolidated  
5 identification and criminal record information and  
6 such information for those arrested as fugitives from  
7 justice. The Secretary of State maintains the records  
8 of the Maine Revised Statutes, Title 29 motor vehicle  
9 violations and the Commissioner of Marine Resources  
10 and the Commissioner of Inland Fisheries and Wildlife  
11 do so for their respective portions of Title 12. Be-  
12 cause most motor vehicle, fish and game and marine  
13 violations are categorically distinct from other  
14 criminal conduct and because those other agencies are  
15 required to keep this information for other purposes,  
16 there is no need to require the State Bureau of Identifi-  
17 cation to maintain those records and there is no  
18 benefit in duplication. The State Bureau of Identifi-  
19 cation is authorized to collect such information when  
20 appropriate to its other functions. An example might  
21 be information pertaining to motor vehicle offenses  
22 punishable by imprisonment for one year or more.

23           Section 2 repeals the existing provisions con-  
24 cerning the duty to fingerprint.

25           Section 3 enacts a new section describing  
26 fingerprinting duties. Section 3 also makes it clear  
27 that fingerprints must be taken of certain persons  
28 involved in the criminal justice system and that fin-  
29 gerprints may be taken of certain other persons in-  
30 volved in that system.

31           The Maine Revised Statutes, Title 25, section  
32 1542-A, subsection 1, requires, among other require-  
33 ments, that a law enforcement agency take the finger-  
34 prints of persons charged with any criminal offense,  
35 other than a crime under Title 12 or 29.

36           Title 25, section 1542-A, subsection 2, provides  
37 authority for the taking of palm prints, footprints  
38 and photographs.

39           Title 25, section 1542-A, subsection 3, estab-  
40 lishes which law enforcement agency is responsible



1000 TO 1000000000

1 for securing mandatory fingerprints under various  
2 circumstances.

3 Title 25, section 1542-A, subsection 4, estab-  
4 lishes the duty of the law enforcement agency taking  
5 fingerprints to submit the prints to the State Bureau  
6 of Identification.

7 Title 25, section 1542-A, subsections 5, 6 and 7,  
8 address the discretionary taking of fingerprints.

9 Title 25, section 1542-A, subsection 8, estab-  
10 lishes 3 types of fingerprint record forms for use in  
11 submitting prints to the State Bureau of Identifica-  
12 tion.

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