

MAINE STATE LEGISLATURE

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(New Draft of S.P. 527, L.D. 1579)
FIRST REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

No. 1837

S.P. 626

In Senate, June 12, 1987

Reported by Senator Tuttle of York for the Committee on State and Local Government and printed under Joint Rule 2. Original Bill sponsored by Senator Gill of Cumberland. Cosponsored by: Representative Manning of Portland; Representative Kimball of Buxton, Senator Baldacci of Penobscot.

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 to Establish the Bureau of
2 Intergovernmental Drug Enforcement
3 within the Department of Public
4 Safety.
5

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

8 Sec. 1. 25 MRSA §2901, as amended by PL 1981, c.
9 98, §3, is further amended to read:

10 §2901. Department; commissioner

11 There is hereby created and established the De-
12 partment of Public Safety to coordinate and effi-
13 ciently manage the law enforcement and public safety
14 responsibilities of the State of Maine, to consist of

1 the Commissioner of Public Safety, hereafter in this
2 chapter called "commissioner," who shall be appointed
3 by the Governor, subject to review by the Joint
4 Standing Committee on State Government and to confir-
5 mation by the Legislature, to serve at the pleasure
6 of the Governor, and the following as heretofore cre-
7 ated and established: The Bureau of State Police, the
8 Bureau of Liquor Enforcement, the Office of the State
9 Fire Marshal, the Maine Criminal Justice Academy, the
10 Maine Highway Safety Committee and the ~~Vehiele-Equip-~~
11 ~~ment--Safety--Commission~~ Bureau of Intergovernmental
12 Drug Enforcement.

13 **Sec. 2. 25 MRSA §2902, sub-§4, as amended by PL**
14 **1983, c. 812, §153, is further amended to read:**

15 **4. Maine Highway Safety Committee.** The Maine
16 Highway Safety Committee, as authorized by Title 5,
17 section 12004, subsection 10, which shall be under
18 the direction of the Commissioner of Public Safety.
19 The committee shall consist of not more than 25 mem-
20 bers selected by the Governor from state, civic and
21 industrial organizations and individuals with inter-
22 ests relating to highway safety. The committee mem-
23 bers shall serve at the pleasure of the Governor and
24 shall be compensated in accordance with Title 5,
25 chapter 379. The committee shall stimulate active
26 support for highway safety measures and programs and
27 shall advise the Department of Public Safety regard-
28 ing these issues; and

29 **Sec. 3. 25 MRSA §2902, sub-§5, as amended by PL**
30 **1983, c. 812, §154, is repealed.**

31 **Sec. 4. 25 MRSA §2902, sub-§6 is enacted to**
32 **read:**

33 **6. Bureau of Intergovernmental Drug Enforcement.**
34 **The Bureau of Intergovernmental Drug Enforcement,**
35 **which shall be under the direction of the Bureau of**
36 **Intergovernmental Drug Enforcement.**

37 **Sec. 5. 25 MRSA c. 353 is enacted to read:**

38 CHAPTER 353

39 INTERGOVERNMENTAL DRUG ENFORCEMENT

1 within the State. This effort shall include the in-
2 tegration and coordination of investigative and
3 prosecutorial functions in the State with respect to
4 drug law enforcement. The board shall also make rec-
5 ommendations to the Legislature as it determines to
6 be appropriate for the implementation of an effective
7 drug law enforcement program.

8 The board, in addition to these responsibilities,
9 with the commissioner, shall direct, coordinate and
10 oversee the integration of law enforcement officers
11 from county, municipal and all state law enforcement
12 agencies, into the bureau.

13 §2955. Bureau of Intergovernmental Drug Enforcement

14 The commissioner, in conformity with the advice
15 consultation and direction of the board, shall estab-
16 lish and operate within the Bureau of Intergovernmen-
17 tal Drug Enforcement such regional investigative task
18 forces as he determines, in consultation with the
19 board, are required for effective drug law enforce-
20 ment throughout the State.

21 The investigative component of each task force
22 shall be comprised of law enforcement officers drawn
23 from municipal, county and state law enforcement
24 agencies, who, during the period in which they serve
25 in the task force, shall be placed in a leave of ab-
26 sence status by their employing law enforcement agen-
27 cies and in the nonclassified positions within the
28 bureau as established. All bureau investigative per-
29 sonnel shall act in accordance with such rules as may
30 be promulgated by the commissioner and subject to po-
31 licies and procedures established by the board. In
32 determining the number, areas of responsibility and
33 investigative complement of these task forces, the
34 commissioner shall take into account geography, popu-
35 lation, the need for service and the advice, consul-
36 tation and direction provided by the board.

37 1. Director. The bureau shall be managed by a
38 director who shall report to the commissioner. The
39 director must be an experienced law enforcement offi-
40 cer. The director shall be appointed by the commis-
41 sioner from a list of at least 3 persons recommended
42 by the board and shall serve at the pleasure of the

1 commissioner. Eligibility for this appointment shall
2 not be dependent upon the parent law enforcement
3 agency, if any, of the person selected. The director
4 shall be compensated in a manner equivalent to that
5 of other bureau directors within the Department of
6 Public Safety. If the person selected is currently
7 an employee of any state, county or local law en-
8 forcement agency, the person shall be placed in a
9 leave of absence status by the person's employing
10 agency and shall report directly to the commissioner
11 and outside of any existing command structure of the
12 person's employing agency. Notwithstanding any other
13 provision of law, the person shall retain and contin-
14 ue to accrue seniority and retirement rights and ben-
15 efits within the person's employing agency for the
16 time in which the person serves as director.

17 2. Assistant director. The director of the bu-
18 reau shall be assisted by an assistant director. The
19 assistant director must be an experienced law en-
20 forcement officer and may exercise any of the powers
21 of the director as the director may delegate to him.
22 The assistant director shall be appointed by and
23 serve at the pleasure of the commissioner acting upon
24 the recommendation of the board.

25 Eligibility for the selection shall not be dependent
26 upon the parent law enforcement agency, if any, of
27 the person selected. The assistant director shall be
28 compensated in a manner equivalent to that of other
29 assistant bureau directors within the Department of
30 Public Safety. If the person selected is currently
31 an employee of any state, county or local law en-
32 forcement agency, the person shall be placed in a
33 leave of absence status by the person's employing
34 agency and shall report directly to the director and
35 outside of any existing command structure of the
36 person's employing agency. Notwithstanding any other
37 provision of law, the person shall retain and contin-
38 ue to accrue seniority and retirement rights and ben-
39 efits within the person's employing agency for the
40 the time in which the person serves as assistant di-
41 rector.

42 3. Task force investigative supervisors. Each
43 task force shall be supervised by a task force inves-
44 tigative supervisor. Each supervisor must be an ex-

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1 perienced law enforcement officer appointed by the
2 director with the concurrence of the commissioner and
3 shall serve at the pleasure of the director. The ap-
4 pointment of supervisors shall not be dependent upon
5 the parent law enforcement agency, if any, of the
6 person selected. Supervisors shall be compensated
7 from the budget of the bureau in a manner equivalent
8 to that of a sergeant assigned to the Drug Enforce-
9 ment Unit of the Maine State Police. If the person
10 selected is currently an employee of any state, coun-
11 ty or local law enforcement agency, the person shall
12 be placed in a leave of absence status by the
13 person's employing agency and shall report directly
14 to the director or assistant director and outside of
15 any existing command structure of the person's em-
16 ploying agency. Notwithstanding any other provision
17 of law, the person shall retain and continue to ac-
18 cruce seniority and retirement rights and benefits
19 within the person's employing agency for the time in
20 which the person serves as supervisor.

21 4. Task force investigative agents. The inves-
22 tigative complement of each task force shall be com-
23 prised of task force investigative agents who shall
24 be selected from municipal, county and state law en-
25 forcement agencies within the State. Agents shall be
26 selected and appointed at the discretion of the di-
27 rector with the concurrence of the commissioner from
28 among those officers nominated by the chief adminis-
29 trative officer of a prospective agent's employing
30 agency. Agents shall serve at the pleasure of the
31 director. Persons appointed shall receive compensa-
32 tion, paid from the budget of the bureau, equivalent
33 to that of a detective in the Maine State Police as-
34 signed to the Drug Enforcement Unit with the addi-
35 tional credit given to seniority based upon law en-
36 forcement experience. All personnel selected as
37 agents, whether from a municipal, county or state law
38 enforcement agency, shall be placed in a leave of ab-
39 sence status by the person's employing agency and
40 shall report directly to their supervisor and outside
41 of any existing command structure of the person's em-
42 ploying agency. Notwithstanding any other provisions
43 of law, the person shall retain and continue to ac-
44 cruce seniority and retirement rights and benefits
45 within the person's employing agency for the time in
46 which the person serves as an agent.

1 5. Authority of bureau officers. The director,
2 assistant director, supervisors and agents at the
3 discretion of the commissioner shall be vested with
4 the same powers and duties throughout the several
5 counties of the State as sheriffs have in their re-
6 spective counties to serve criminal processes, to in-
7 vestigate and prosecute violators of any law of this
8 State and to arrest without warrant and detain per-
9 sons found violating or attempting to violate any
10 other penal law of the State until a warrant can be
11 obtained. They shall have the same rights as sher-
12 iffs to require aid in executing the duties of their
13 office.

14 6. Task force attorneys. The Attorney General,
15 the United States Attorney for the District of Maine
16 and the respective district attorneys may assign as
17 many of their assistants and special assistants as
18 they determine to be appropriate to each of the task
19 forces. The attorneys shall be available to the su-
20 pervisors for purposes of ongoing consultation and
21 advice and shall be responsible for coordinating,
22 with the supervisor, the prosecutorial and investiga-
23 tive priorities of the task force in conformity with
24 the advice, consultation and direction provided by
25 the board and the policies, practices and procedures
26 of the bureau.

27 §2956. Authority of commissioner

28 1. Rules. Notwithstanding any other provisions
29 of law, the commissioner may adopt rules as to poli-
30 cies and practices in accordance with the Maine Ad-
31 ministrative Procedure Act, Title 5, chapter 375, re-
32 specting the administration of the bureau. The
33 rules, practices and policies of the bureau shall be
34 in conformity with state law and with the advice,
35 consultation and direction provided by the board and
36 shall accomplish the goal of an integrated drug en-
37 forcement effort. These rules, practices and poli-
38 cies may include:

39 A. The qualifications, hiring, term of service
40 and disciplinary standards for supervisors and
41 agents;

1 B. Protection as to financial and employment se-
2 curity for any law enforcement officer selected
3 as any official of the bureau with respect to the
4 person's position with any municipal, county or
5 state law enforcement policy or political subdi-
6 vision;

7 C. Standard operating procedures for the bureau;

8 D. Procurement procedures; or

9 E. Procedures for dissemination of records.

10 2. Grants and property. The commissioner may
11 accept grants and property decreed forfeit by any
12 court of competent jurisdiction.

13 3. Contracts or agreements. The commissioner
14 may enter into contracts and agreements with municip-
15 al, county and state law enforcement agencies to ac-
16 complish the goal of the bureau and carry out the
17 rules, policies and practices of the board.

18 §2957. Confidentiality

19 Notwithstanding any other provisions of law, the
20 investigative records of the bureau shall be and are
21 declared to be confidential and all meetings of the
22 board, as well as meetings of the bureau shall not be
23 subject to Title 1, sections 401 to 410.

24 FISCAL NOTE

25 This new draft results in a total cost to the De-
26 partment of Public Safety in the amount of \$2,056,903
27 for fiscal year 1987-88, and \$2,117,856 for fiscal
28 year 1988-89. Funding for this new draft comes from
29 existing resources, federal funds and Part II General
30 Fund requests as follows:

31 1987-88 1988-89

1	1. LD 538 - Part II-		
2	General Fund (not acted		
3	upon yet)	\$ 410,000	\$ 410,000
4	2. LD 673 - Federal		
5	block grant allocation		
6	(still to be approved)	1,222,000	1,222,000
7	3. Already appropriated		
8	in Part I	<u>424,903</u>	<u>485,856</u>
9	Total	\$2,056,903	\$2,117,856

10 Due to the temporary nature of the federal funds,
11 this new draft will result in a future cost to the
12 General Fund. The Attorney General's office will be
13 able to absorb its role specified in the bill by uti-
14 lizing existing resources.

15 STATEMENT OF FACT

16 No one investigative or prosecutorial agency can
17 operate independently in the effort to interdict and
18 eradicate the drug problem confronting the citizens
19 of the State. Drug smuggling cartels and drug traf-
20 ficking organizations are not hindered by barriers
21 such as state or county boundaries or separate chains
22 of command. On the contrary, drug smugglers and drug
23 traffickers, who profit at the expense of the moral,
24 mental and physical health of the citizens of this
25 State, are well organized, coordinated and inte-
26 grated, often on a regional, national or even inter-
27 national basis. If the State is to be successful in
28 its efforts to interdict and finally eradicate drug
29 smuggling and drug trafficking within its boundaries,
30 a cohesive and integrated working law enforcement
31 partnership of federal, state and local prosecutive
32 and investigative agencies must be developed, funded
33 and coordinated.

34 The purpose of this new draft is to create, coord-
35 inate and manage regional drug task forces at the
36 state level by creating a new Bureau of Intergovern-
37 mental Drug Enforcement within the Department of Pub-
38 lic Safety. This new bureau, in conjunction with an

1 Intergovernmental Drug Enforcement Policy Board, will
2 administer regional task force programs comprised of
3 municipal, county, state and federal law enforcement
4 personnel. The new draft contemplates the direct in-
5 volvement by the Department of the Attorney General
6 and the United States Attorney for the District of
7 Maine.

8 The Bureau of Intergovernmental Drug Enforcement
9 will consist of a director, an assistant director,
10 task force investigative supervisors and task force
11 investigative agents. In addition, the Attorney Gen-
12 eral and the United States Attorney for the District
13 of Maine may assign task force attorneys to assist in
14 the effort. The Intergovernmental Drug Enforcement
15 Policy Board shall consist of, ex officio, the Com-
16 mission of Public Safety, the Attorney General, the
17 Chief of the Maine State Police and the United States
18 Attorney for the District of Maine. The board's mem-
19 bership also shall include 2 members to be appointed
20 by the Governor.

21 The new draft adds the following.

22 1. References in the law which create the Vehi-
23 cle Equipment Safety Commission have been repealed
24 because that bureau no longer exists within the De-
25 partment of Public Safety.

26 2. The seniority and retirement rights of those
27 officers who take a leave of absence from their em-
28 ploying agency to participate in the activities of
29 the bureau have been preserved.

30 3. Supervisors and agents will be compensated in
31 a manner similar to that of sergeants and detectives,
32 respectively, in the Drug Enforcement Unit of the
33 Maine State Police rather than the Criminal Investi-
34 gation Division.

35 4. District attorneys, in addition to the Attor-
36 ney General and the United States Attorney for the
37 District of Maine, may assign their assistants to the
38 drug task forces to provide advice and assistance.

39 5. The Commissioner of Public Safety may enter
40 into contracts and agreements with municipal, county

1 and state law enforcement agencies to carry out the
2 practices, policies and rules of the Intergovernmental
3 Drug Enforcement Policy Board.

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