

MAINE STATE LEGISLATURE

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115th MAINE LEGISLATURE

FIRST REGULAR SESSION-1991

Legislative Document

No. 1786

S.P. 672

In Senate, May 6, 1991

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator BRANNIGAN of Cumberland
Cosponsored by Representative PARADIS of Augusta and Representative COTE of Auburn.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND NINETY-ONE

**An Act to Improve the Execution and Administration of Arrest Warrants
and Implement the Recommendations of the Warrants Subcommittee of
the Commission to Implement the Computerization of Criminal History
Record Information.**

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

4 Sec. 1. 14 MRSA §5532, sub-§2, as enacted by PL 1987, c. 639,
is amended to read:

6 2. Other prisoners. In the case of any prisoner other than
8 a sentenced prisoner, the copy of the warrant or process, which
need not be a true and attested copy, must be delivered within 4
10 hours of the demand.

12 Sec. 2. 15 MRSA Pt. 2, first 2 lines are repealed and the
following enacted in their place:

14 PART 2

16 PROCEEDINGS BEFORE TRIAL

18 CHAPTER 99

20 ARREST WARRANTS

22 §601. Applicability

24 The procedures established by this chapter apply to all
26 warrants for the arrest of individuals, including warrants for
the arrest of persons charged with the commission of a criminal
28 offense and warrants for the arrest of individuals who have
failed to appear or pay a fine. The procedures established by
30 this chapter do not apply to warrants issued by the Governor
pursuant to the United States Constitution and the Uniform
32 Criminal Extradition Act for the extradition of fugitives from
justice, except that the provisions requiring law enforcement
34 officers to be responsible for the execution of warrants are
fully applicable to a Governor's warrant. This chapter does not
36 apply to civil orders of arrest issued pursuant to Title 14,
section 3135.

38 §602. Responsibility to execute arrest warrants

40 It is the responsibility of all law enforcement officers and
42 law enforcement agencies to use all reasonable efforts to execute
any outstanding arrest warrants of which they are aware. It is
44 essential to the integrity of the judicial system that the
execution of arrest warrants as orders of the court receive a
46 high priority from all law enforcement agencies and their
officers.

48 §603. Warrant repository

50 The district attorney of each court district shall
52 designate, with the approval of the resident District Court
Judge, at least one law enforcement agency that is responsible

2 for the maintenance, administration and retention of attested
3 copies of arrest warrants issued by the courts. If a court
4 district encompasses more than one prosecutorial district, the
5 respective district attorneys shall attempt to agree on the
6 designation of an arrest warrant repository. If the district
7 attorney of a court district fails to designate an arrest warrant
8 repository or the district attorneys are unable to agree to the
9 designation of an arrest warrant repository for a court district,
10 the Attorney General shall make the designation for that court
11 district. The district attorney or attorneys shall notify the
12 District Court and the Superior Court of the location of the
13 arrest warrant repository for arrest warrants in the jurisdiction
14 covered by those courts. All attested copies of arrest warrants
15 issued by the District Court and the Superior Court must be
16 directed to the arrest warrant repository designated for those
17 courts except as otherwise provided by this chapter or by the
18 standards adopted by rule of the Attorney General pursuant to
19 this chapter.

20 **§604. Criteria for selection of arrest warrant repository**

21 A district attorney shall select an agency that meets the
22 following minimum characteristics to act as an arrest warrant
23 repository.

24
25 1. Communications capability. The agency must have a
26 24-hour dispatch and communication capability and must connect to
27 the Maine Telecommunications and Radio Operations System by means
28 of certified terminal operators.

29
30 2. Verification. The agency must have the capability and
31 willingness to verify records as requested and perform the
32 mandated verification of National Crime Information Center
33 warrants.

34
35 3. Monitor management. The agency must have the capability
36 and willingness to properly monitor the management of warrants,
37 including:

38
39 A. Immediately notifying the originating agency of an
40 arrest on a warrant that the originating agency obtained;

41
42 B. Cooperating with any investigative agency that may hold
43 a warrant for up to 5 days after its issuance; and

44
45 C. Immediately and properly entering and deleting warrant
46 information in the pertinent data base as required.

47
48 4. Warrant management. The agency must have the capability
49 and willingness to accept the burden and responsibility of
50 warrant management as a full and equal element of its sworn
51 public duty.

2 **5. Review by district attorney.** The agency must have the
3 capability and willingness to accept regular monitoring and
4 review of its warrant files and procedures by the district
5 attorney or the district attorney's designee and by the court or
6 the court's designee, pursuant to standards adopted by the
7 Attorney General. The district attorney shall regularly review
8 the arrest warrant repository's record of performance with a
9 representative of the court.

10 **6. Structured plan.** The agency must develop a structured
11 warrants management plan designed to maximize the execution of
12 outstanding arrest warrants.

13 **§605. Standards by Attorney General**

14 The Attorney General, after notice and public hearing, shall
15 adopt standards for the operation of arrest warrant
16 repositories. These standards must include or provide for, but
17 are not limited to, the following.

18 **1. Copies forwarded to repository.** Except as otherwise
19 provided, all attested copies of arrest warrants must be
20 forwarded to the appropriate arrest warrant repository.

21 **2. Limited physical possession by investigating agency.**
22 The investigating law enforcement agency must have the
23 opportunity to physically possess the attested copy of an
24 investigative arrest warrant for the express purpose of execution
25 of the warrant for a period of 72 hours, after which time the
26 attested copy of the warrant must be forwarded to the appropriate
27 arrest warrant repository. For purposes of this subsection and
28 subsection 3, an "investigative arrest warrant" means a warrant
29 for the arrest of a person charged with a criminal offense as
30 distinguished from a bench warrant for failure to appear or pay a
31 fine.

32 **3. Extended possession by agency.** The Attorney General, a
33 district attorney or their designees may permit a law enforcement
34 agency to possess the attested copy of an investigative arrest
35 warrant for a period not to exceed 5 days for the express purpose
36 of execution of the warrant if the Attorney General or the
37 district attorney determines that the likelihood of warrant
38 execution will be substantially increased by permitting a law
39 enforcement agency to possess the warrant prior to forwarding it
40 to the appropriate arrest warrant repository.

41 **4. Content of warrant.** A warrant must contain information
42 concerning the identity of the subject, if available, including,
43 but not limited to, the name, town, county, geographic codes,
44 date of birth, photographs and other distinguishing physical
45 information.

2 characteristics that will aid in the location of the subject and
3 the execution of the warrant.

4 5. Computer entry. An arrest warrant must be promptly
5 entered in the State's wanted and missing persons computer data
6 base by the arrest warrant repository upon receipt of the warrant.

8 6. National Crime Information Center. A warrant may not be
9 entered in the National Crime Information Center data base
10 without authorization from the Attorney General, a district
11 attorney or their designees.

12 7. Storage. An original warrant must be physically stored
13 at the court from which it has been issued and an attested copy
14 of a warrant must be physically stored at the appropriate arrest
15 warrant repository, except as otherwise permitted under this
16 chapter.

18 8. Validation by court. A procedure must be established
19 whereby the courts shall validate arrest warrants.

22 9. Removal from data base. When arrest warrants are
23 executed, cancelled or recalled, they must be immediately removed
24 from the computer data base by the appropriate arrest warrant
25 repository and the issuing court.

26 10. State Police data base. The State Police are
27 responsible for maintaining a computerized data base, including
28 computer entry standards, and administering the warrants data
29 base, including printing and mailing geographical code lists to
30 police agencies and printing and mailing repository validation
31 lists.

34 11. Periodic listing of warrants. Each arrest warrant
35 repository must periodically generate lists of all warrants
36 stored at that location, including those entered on the State's
37 wanted and missing persons data base, and provide them to the
38 originating agencies and the issuing courts.

40 12. Telecommunications system. A procedure governing the
41 entry of warrants through the State Police telecommunications
42 system must be established to require entry when the established
43 criteria are met.

44 **§606. Responsibility of court**

46 The court is responsible for:

48 1. Complete information. Issuing warrants with information
49 that is as complete as possible and that maximizes the likelihood
50 that the warrants will be successfully executed;

52

2 2. Copy and original. Issuing only one attested copy of a
warrant and maintaining the original;

4 3. Directing to repository. Directing all warrants to the
appropriate arrest warrant repository;

6 4. Notice to repository. Notifying the appropriate arrest
8 warrant repository when arrest warrants have been directed to
10 other agencies in accordance with instructions from the Attorney
General or a district attorney in accordance with the standards
12 adopted pursuant to section 605;

14 5. Recall notice. Immediately sending recall notices to
the appropriate arrest warrant repository or the law enforcement
16 agency holding an attested copy of an arrest warrant; and

18 6. Outstanding warrant list. Maintaining an outstanding
warrant list.

20 **§607. Rulemaking**

22 The Supreme Judicial Court may adopt rules to provide that a
24 person who is the subject of a warrant for the commission of a
Class D or Class E crime, the failure to appear for a Class D or
26 Class E crime, a civil violation, or the failure to pay a fine
for any offense or for a civil violation who is arrested in a
28 county or district other than the county or district whose court
issued the warrant may waive trial, venue and return to the court
30 that issued the warrant and plead guilty and be sentenced, pay a
fine or otherwise have the matter disposed of by the appropriate
32 court in the arresting district.

34 **§608. Bail commissioners in indigent cases**

36 The Chief Judge of the District Court may adopt procedures
requiring a bail commissioner to appear and set bail regardless
38 of whether the defendant is indigent and unable to pay the bail
commissioner's fee. The Chief Judge of the District Court may
40 also adopt procedures governing the manner in which a bail
commissioner is paid in the event an indigent person is released
42 on bail and is unable to pay the bail commissioner's fee.

44 Sec. 3. Implementation dates. The Attorney General shall adopt
standards as required by the Maine Revised Statutes, Title 15,
46 chapter 99 no later than 6 months after the effective date of
this Act.

48 District attorneys shall designate arrest warrant
repositories as required by Title 15, chapter 99 and those
50 repositories must be operational no later than June 1, 1992.

2 All law enforcement agencies holding attested copies or
original arrest warrants issued prior to June 1, 1992 shall make
4 a complete review of any outstanding warrants and shall transfer
any outstanding warrants issued prior to June 1, 1992 to the
6 appropriate arrest warrant repository no later than September 1,
1992, except that any original arrest warrant must be returned to
the issuing court.

8
10
12 **STATEMENT OF FACT**

14 This bill implements several of the recommendations of the
Warrants Subcommittee of the Commission to Implement the
16 Computerization of Criminal History Record Information as
established by the 112th Legislature. The bill provides a
uniform and consistent procedure for the courts and various law
18 enforcement agencies to follow regarding the identification and
location of warrants, their prompt and efficient enforcement and
20 their prompt and accurate cancellation and recall.