

# MAINE STATE LEGISLATURE

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STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
115TH LEGISLATURE  
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 1629, L.D. 2292, Bill, "An Act Concerning the Bureau of Intergovernmental Drug Enforcement"

Amend the bill by striking out all of section 3 and inserting in its place the following:

Sec. 3. 5 MRSA §200-A, as enacted by PL 1967, c. 58, §1, is amended by adding at the end a new paragraph to read:

The Attorney General has full responsibility for the direction of any criminal investigation of an official holding a partisan public office when the alleged crime is a violation of Title 17-A, chapter 25 or when, in the Attorney General's opinion, the alleged crime may affect the official's performance in office. Any law enforcement agency investigating an alleged crime that may result in formal charges against an official holding partisan public office shall, as soon as practicable, notify the Attorney General of the investigation. The Attorney General may, after review, designate any law enforcement agency to complete the investigation and direct its completion.

Sec. 4. 25 MRSA §2901, as amended by PL 1989, c. 648, §2, is further amended to read:

**§2901. Department; commissioner**

There is created and established the Department of Public Safety to coordinate and efficiently manage the law enforcement and public safety responsibilities of the State, to consist of the Commissioner of Public Safety, in this chapter called "commissioner," who shall--be is appointed by the Governor, subject to review by the joint standing committee of the Legislature having jurisdiction over state and local government and to confirmation by the Legislature, to serve at the pleasure

of the Governor, and the following as created and established:  
the Bureau of State Police, the Bureau of Liquor Enforcement, the  
Office of the State Fire Marshal, the Maine Criminal Justice  
Academy, the Maine Highway Safety Commission, the Bureau of  
Highway Safety and the Bureau--of--Intergovernmental Maine Drug  
Enforcement Agency.'

Further amend the bill in section 4 in subsection 4 in the  
last line (page 3, line 24 in L.D.) by striking out the  
following: "and"

Further amend the bill by inserting after section 5 the  
following:

**'Sec. 6. 25 MRSA §2902, sub-§6-A is enacted to read:**

**6-A. Maine Drug Enforcement Agency. The Maine Drug  
Enforcement Agency, which is under the direction of the Director  
of the Maine Drug Enforcement Agency; and'**

Further amend the bill by striking out all of sections 7 to  
11 and inserting in their place the following:

**'Sec. 7. 25 MRSA §2953, as enacted by PL 1987, c. 411, §5, is  
amended to read:**

**§2953. Policy**

The Legislature finds that the distribution of scheduled  
drugs into, out of and within the State presents an unprecedented  
threat to the health and safety of this State. To meet this  
threat, this Act is established to develop a statewide drug  
enforcement program and strategy based upon--principals on  
principles of integration and unification at all levels of law  
enforcement, including federal, state, county and municipal  
levels and including both prosecutorial as well as investigative  
agencies.

**Sec. 8. 25 MRSA §2954, as amended by PL 1987, c. 666, §6, is  
further amended to read:**

**§2954. Maine Drug Enforcement Agency Advisory Board**

In order to develop, coordinate and carry out a statewide  
drug enforcement program and strategy, there is established an  
Intergovernmental the Maine Drug Enforcement Policy Agency  
Advisory Board which shall consist of the Attorney General; the  
Chief of the Maine State Police; the United States Attorney for  
the District of Maine; 3 other members appointed by the Governor  
for terms of 2 years, one of whom shall be a representative of

2 municipal-law-enforcement,--one-of-whom-shall-be-a-representative  
3 of-the-sheriffs-of-the-respective-counties-and-one-of-whom-shall  
4 be-a-representative-of-the-district-attorneys-of-the-respective  
5 counties,--and-the-commissioner-who-shall-serve-ex-officio. The  
6 board-shall-provide-advice,--consultation-and-direction-for-the  
7 drug-law-enforcement-effort-within-the-State.--This-effort-shall  
8 include-the-integration-and-coordination-of-investigative--and  
9 prosecutorial-functions-in-the-State-with-respect-to-drug-law  
10 enforcement.--The-board-shall-also-make-recommendations-to-the  
11 Legislature--as--it--determines--to--be--appropriate--for--the  
12 implementation-of-an-effective-drug-law-enforcement-program. The  
13 board consists of the Attorney General or a designee; the Chief  
14 of the State Police; a state law enforcement officer selected by  
15 the Chief of the State Police; a district attorney selected by  
16 the Maine Prosecutors Association; the United States Attorney for  
17 the District of Maine or a designee; 3 municipal police chiefs  
18 selected by the Maine Chiefs of Police Association; a county  
19 sheriff selected by the Maine Sheriffs' Association; the  
20 Commissioner of Corrections or a designee; and 2 citizens, one of  
21 whom has experience with drug treatment and education programs,  
22 appointed for 2-year terms by the Governor.

23 The board shall provide advice and consultation to the  
24 Commissioner of Public Safety for the drug law enforcement effort  
25 within the State. This effort must include the integration and  
26 coordination of investigative and prosecutorial functions in the  
27 State with respect to drug law enforcement. The board shall also  
28 make recommendations to the Legislature as it determines to be  
29 appropriate for the implementation of an effective drug law  
30 enforcement program.

31 The board, in addition to these responsibilities, with shall  
32 provide advice to the commissioner,--shall-direct,--coordinate-and  
33 oversee regarding the integration of law enforcement officers  
34 from county, municipal and all state law enforcement agencies,  
35 into the bureau.

36  
37 **Sec. 9. 25 MRSA §2955**, as amended by PL 1991, c. 154, §§1 and  
38 2, is further amended to read:

39 **§2955. Maine Drug Enforcement Agency**

40  
41 The commissioner,--in-conformity-with-the-advice-consultation  
42 and-direction-of-the-board, shall establish and operate within  
43 the Bureau--of--Intergovernmental--Drug--Enforcement Maine Drug  
44 Enforcement Agency such regional investigative task forces as he  
45 the commissioner determines, in consultation with the board, are  
46 required for effective drug law enforcement throughout the State.  
47  
48

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2 The investigative component of each task force shall ~~be~~ is  
3 comprised of law enforcement officers drawn from municipal,  
4 county and state law enforcement agencies, who, during the period  
5 in which they serve in the task force, shall ~~must~~ be placed on a  
6 temporary assignment by their employing law enforcement agencies  
7 and in the nonclassified positions within the bureau as  
8 established. All bureau agency investigative personnel shall not  
9 be state employees, as defined in Title 26, section 979-A,  
10 subsection 6. All bureau agency investigative personnel shall  
11 act in accordance with such rules as ~~may be promulgated by the~~  
12 ~~commissioner and subject to~~, policies and procedures established  
13 by the board commissioner. In determining the number, areas of  
14 responsibility and investigative complement of these task forces,  
15 the commissioner shall take into account geography, population,  
16 the need for service and the advice, ~~consultation and direction~~  
provided by the board.

18 1. Director. The bureau ~~shall be~~ agency is managed by a  
19 director who shall report to the commissioner. The director must  
20 be an experienced law enforcement officer. The director shall ~~be~~  
21 is appointed by the commissioner ~~from a list of at least 3~~  
22 ~~persons recommended by the board and shall serve at the pleasure~~  
23 ~~of the commissioner, subject to review by the joint standing~~  
24 committee of the Legislature having jurisdiction over state and  
25 local government matters and to confirmation by the Legislature,  
26 for a term of 3 years, unless removed for cause. Eligibility for  
27 this appointment shall ~~is~~ not be dependent upon the parent law  
28 enforcement agency, if any, of the person selected. If the  
29 person selected is currently an employee of any state, county or  
30 local law enforcement agency, the person shall ~~must~~ be placed on  
31 a temporary assignment by the person's employing agency. The  
32 director shall ~~report~~ reports directly to the commissioner,  
33 notwithstanding any existing command structure of the person's  
34 employing agency. Notwithstanding any other provision of law,  
35 the person shall ~~retain~~ retains and ~~continue~~ continues to accrue  
36 seniority and retirement rights and benefits within the person's  
37 employing agency for the time in which the person serves as  
38 director.

40 2. Assistant director. The director of the bureau ~~shall be~~  
41 agency is assisted by an assistant director. The assistant  
42 director must be an experienced law enforcement officer and may  
43 exercise any of the powers of the director as the director may  
44 delegate. The assistant director shall ~~be~~ is appointed by and  
45 serve ~~at the pleasure of the commissioner acting upon the~~  
46 ~~recommendation of the board.~~

48 Eligibility for the selection shall ~~is~~ not be dependent upon the  
49 parent law enforcement agency, if any, of the person selected.  
50 The assistant director shall ~~be~~ is compensated in a manner  
equivalent to that of a captain in the State Police, with respect

2 to both regular and overtime compensation. If the person  
 4 selected is currently an employee of any state, county or local  
 6 law enforcement agency, the person shall must be placed on a  
 8 temporary assignment by the person's employing agency. The  
 10 assistant director shall ~~report~~ reports directly to the director,  
 12 notwithstanding any existing command structure of the person's  
 14 employing agency. Notwithstanding any other provision of law,  
 16 the person shall ~~retain~~ retains and ~~continue~~ continues to accrue  
 18 seniority and retirement rights and benefits within the person's  
 20 employing agency for the time in which the person serves as  
 22 assistant director.

12 2-A. **Commanders.** There shall may be ~~2--regional~~ no more  
 14 than 3 commanders within the bureau agency who may exercise any  
 16 powers the director may delegate. Each ~~regional~~ commander must  
 18 be an experienced law enforcement officer appointed by the  
 20 director with the concurrence of the commissioner and shall ~~serve~~  
 22 serves at the pleasure of the director. The appointment of  
 24 ~~regional~~ commanders shall is not be dependent upon the parent law  
 26 enforcement agency, if any, of the person selected. ~~Regional~~  
 28 ~~commanders shall be~~ Commanders are compensated from the budget of  
 30 the bureau agency in a manner equivalent to that of a lieutenant  
 32 in the State Police, with respect to both regular and overtime  
 34 compensation. If the person selected is currently an employee of  
 any state, county or local law enforcement agency, the person  
 shall must be placed on a temporary assignment by the person's  
 employing agency. A ~~regional~~ commander shall ~~report~~ reports  
 directly to the director or assistant director, notwithstanding  
 any existing command structure of the person's employing agency.  
 Notwithstanding any other provision of law, the person shall  
~~retain~~ retains and ~~continue~~ continues to accrue seniority and  
 retirement rights and benefits within the person's employing  
 agency for the time in which the person serves as ~~regional~~  
 commander.

36 3. **Task force investigative supervisors.** Each task force  
 38 shall ~~be~~ is supervised by a task force investigative supervisor.  
 40 Each supervisor must be an experienced law enforcement officer  
 42 appointed by the director with the concurrence of the  
 44 commissioner and shall ~~serve~~ serves at the pleasure of the  
 46 director. The appointment of supervisors shall is not be  
 48 dependent upon the parent law enforcement agency, if any, of the  
 50 person selected. Supervisors shall ~~be~~ are compensated from the  
 budget of the bureau agency in a manner equivalent to that of a  
 sergeant assigned to the ~~drug unit of~~ the State Police, with  
 respect to both regular and overtime compensation. If the person  
 selected is currently an employee of any state, county or local  
 law enforcement agency, the person shall must be placed on a  
 temporary assignment by the person's employing agency. A  
 supervisor shall ~~report~~ reports directly to the ~~regional~~

2 assistant director or a commander, notwithstanding any existing  
command structure of the person's employing agency.  
4 Notwithstanding any other provision of law, the person shall  
~~retain~~ retains and ~~continue~~ continues to accrue seniority and  
6 retirement rights and benefits within the person's employing  
agency for the time in which the person serves as supervisor.

8 4. **Task force investigative agents.** The investigative  
complement of each task force shall ~~be~~ is comprised of task force  
10 investigative agents. Agents may be selected from municipal,  
county and state law enforcement agencies within the State and  
12 other state agencies, provided the prospective agent has ~~been~~ is  
certified pursuant to section 2803 2803-A, subsection 1; or may  
14 be other experienced law enforcement officers, provided each has  
been is certified pursuant to section 2803 2803-A, subsection 1.  
16 Agents shall ~~be~~ are selected and appointed at the discretion of  
the director with the concurrence of the commissioner from among  
18 those persons nominated by the chief administrative officer of a  
prospective agent's employing agency and other experienced law  
20 enforcement officers who apply. Agents shall serve at the  
pleasure of the director. Agents shall receive compensation,  
22 paid from the budget of the bureau agency, equivalent to that of  
a detective in the State Police, with respect to both regular and  
24 overtime compensation with the additional credit given to  
seniority based upon law enforcement experience. If the person  
26 selected as an agent is currently an employee of any municipal,  
county or state law enforcement agency, or any other state  
28 agency, the person shall ~~must~~ be placed on a temporary assignment  
by the person's employing agency. An agent shall ~~report~~ reports  
30 directly to the task force supervisor, notwithstanding any  
existing command structure of the person's employing agency.  
32 Notwithstanding any other provisions of law, the person shall  
~~retain~~ retains and ~~continue~~ continues to accrue seniority and  
34 retirement rights and benefits within the person's employing  
agency for the time in which the person serves as an agent.

36 Any person employed as a senior agent or special agent  
38 investigator within the State Police may be temporarily assigned  
to the bureau agency. During such temporary assignment, the  
40 State Police shall ~~retain~~ retains the positions of senior agent  
and special agent investigator.

42 5. **Authority of agency officers.** The director, assistant  
44 director, ~~regional~~ commanders, supervisors and agents are vested  
at the discretion of the commissioner with the following:

46 A. The authority throughout the State to arrest pursuant to  
48 Title 17-A, section 15;

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2 B. The same powers and duties throughout the several  
3 counties of the State as sheriffs have in their respective  
4 counties to serve criminal process, to investigate and  
5 prosecute violators of any law of this State and to arrest  
6 without warrant and detain persons found violating or  
7 attempting to violate any other penal law of the State until  
8 a warrant can be obtained. They have the same rights as  
9 sheriffs to require aid in executing the duties of their  
10 office; and

11 C. The same powers and duties throughout the several  
12 counties of the State as sheriffs have in their respective  
13 counties to serve civil process in all matters relating to  
14 investigations or violations of Title 17-A, chapter 45 or  
15 actions arising under or initiated pursuant to Title 15,  
16 chapter 517.

17 **6. Task force attorneys.** The Attorney General, the United  
18 States Attorney for the District of Maine and the respective  
19 district attorneys may assign as many of their assistants and  
20 special assistants as they determine to be appropriate to each of  
21 the task forces or to the bureau agency generally. The attorneys  
22 shall must be available to the bureau agency officers for  
23 purposes of ongoing consultation and advice on the propriety and  
24 legal consequences of methods of investigation and are  
25 responsible for coordinating, with the regional commanders and  
26 supervisors, the prosecutorial and investigative priorities of  
27 the task forces ~~in conformity with the advice, consultation and~~  
28 ~~direction provided by the board and the policies, practices and~~  
29 ~~procedures of the bureau.~~ The Attorney General shall appoint one  
30 assistant attorney general as a full-time coordinator of drug  
31 prosecution matters. That assistant attorney general is  
32 responsible to coordinate the efforts of each of the attorneys  
33 assigned to the agency.

34 **7. Compensation; State Police personnel.** Notwithstanding  
35 any other provision in this section, Maine State Police officers,  
36 senior agents and special investigative agents who are  
37 temporarily assigned to the bureau ~~will~~ agency continue to be  
38 paid from the budget of the Bureau of State Police, except that  
39 any additional compensation arising from such temporary  
40 assignment shall must be paid from the budget of the bureau  
41 agency.

42 **Sec. 10. 25 MRSA §2956,** as amended by PL 1987, c. 666, §10,  
43 is further amended to read:

44 **§2956. Authority of commissioner**



1. **Rules.** The commissioner may ~~shall~~, with the advice of the board, adopt rules, practices and policies respecting the administration of the bureau agency. The rules, practices and policies of the bureau ~~shall~~ agency must be in conformity with state law and ~~with the advice, consultation and direction provided by the board and shall~~ must accomplish the goal of an integrated drug enforcement effort. These rules, practices and policies may include:

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

B. Protection as to financial and employment security for any law enforcement officer selected as any official of the bureau agency with respect to the person's position with any municipal, county or state law enforcement policy or political subdivision;

C. Standard operating procedures for the bureau agency;

D. Procurement procedures; or

E. Procedures for dissemination of records.

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

3. **Contracts or agreements.** The commissioner may enter into contracts and agreements with municipal, county and state law enforcement agencies to accomplish the goal of the bureau agency and carry out the rules, policies and practices of the board agency.

Sec. 11. 25 MRSA §2957, as enacted by PL 1987, c. 411, §5, is amended to read:

**§2957. Confidentiality**

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

Sec. 12. 25 MRSA §2958 is enacted to read:

**§2958. Prosecution protocol**

2 The Attorney General, after consultation with the 8 district  
3 attorneys, the United States Attorney for the District of Maine  
4 and the board, shall establish a protocol that governs the  
5 selection of the state or federal court system for prosecution of  
6 drug cases investigated by the agency.'

7  
8 Further amend the bill by renumbering the sections to read  
9 consecutively.

10 Further amend the bill by inserting at the end before the  
11 statement of fact the following:

12  
13  
14 **FISCAL NOTE**

15  
16 The Department of Public Safety will incur some additional  
17 administrative costs to implement the new Maine Drug Enforcement  
18 Agency including changing the name of the agency and establishing  
19 the Maine Drug Enforcement Agency Advisory Board. The  
20 Legislature will incur some minor additional administrative costs  
21 to confirm the director of the agency. The Department of the  
22 Attorney General will incur additional costs to direct  
23 investigations and establish protocols. These costs can be  
24 absorbed by the respective departments within existing budgeted  
25 resources.'

26  
27  
28 **STATEMENT OF FACT**

29  
30 This amendment retains the name change from the original  
31 bill, but keeps the Maine Drug Enforcement Agency established  
32 within the Department of Public Safety. Changes are also made in  
33 the membership of the Maine Drug Enforcement Agency Advisory  
34 Board and confidentiality provisions. The amendment also  
35 requires that the Attorney General develop a protocol to govern  
36 the selection of the state or federal court system for the  
prosecution of drug cases investigated by the agency.

Reported by the Majority of the Committee on State and Local Government  
Reproduced and distributed under the direction of the Clerk of the  
House  
3/12/92 (Filing No. H-1106)