

MAINE STATE LEGISLATURE

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

COMMITTEE AMENDMENT "^B" 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:
2 the Bureau of State Police, the Bureau of Liquor Enforcement, the
3 Office of the State Fire Marshal, the Maine Criminal Justice
4 Academy, the Maine Highway Safety Commission, the Bureau of
5 Highway Safety and the Bureau--of--Intergovernmental Maine Drug
6 Enforcement Agency.'

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

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

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

16 6-A. Maine Drug Enforcement Agency. The Maine Drug
17 Enforcement Agency, which is under the direction of the Director
18 of the Maine Drug Enforcement Agency; and'
19

20 Further amend the bill by striking out all of sections 7 to
21 11 and inserting in their place the following:

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

24 **§2953. Policy**

25 The Legislature finds that the distribution of scheduled
26 drugs into, out of and within the State presents an unprecedented
27 threat to the health and safety of this State. To meet this
28 threat, this Act is established to develop a statewide drug
29 enforcement program and strategy based upon--principals on
30 principles of integration and unification at all levels of law
31 enforcement, including federal, state, county and municipal
32 levels and ~~including~~-both prosecutorial as well as investigative
33 agencies.
34

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

37 **§2954. Maine Drug Enforcement Agency Advisory Board**

38 In order to develop, coordinate and carry out a statewide
39 drug enforcement program and strategy, there is established an
40 Intergovernmental the Maine Drug Enforcement Policy Agency
41 Advisory Board which ~~shall consist of the Attorney General, the~~
42 ~~Chief of the Maine State Police, the United States Attorney for~~
43 ~~the District of Maine, 3 other members appointed by the Governor~~
44 ~~for terms of 2 years, one of whom shall be a representative of~~
45

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

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

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

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

40 **§2955. Maine Drug Enforcement Agency**

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

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, each of whom must be recommended by a 2/3~~
24 vote of the board. The director serves a term coterminous with
25 the Governor, unless removed for cause. Eligibility for this
26 appointment shall is not be dependent upon the parent law
27 enforcement agency, if any, of the person selected. If the
28 person selected is currently an employee of any state, county or
29 local law enforcement agency, the person shall must be placed on
30 a temporary assignment by the person's employing agency. The
31 director shall ~~report~~ reports directly to the commissioner,
32 notwithstanding any existing command structure of the person's
33 employing agency. Notwithstanding any other provision of law,
34 the person shall ~~retain~~ retains and ~~continue~~ continues to accrue
35 seniority and retirement rights and benefits within the person's
36 employing agency for the time in which the person serves as
37 director.

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

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

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

13
14 2-A. **Commanders.** There shall ~~may~~ be ~~2--regional~~ no more
15 than 3 commanders within the bureau agency who may exercise any
16 powers the director may delegate. Each ~~regional~~ commander must
17 be an experienced law enforcement officer appointed by the
18 director with the concurrence of the commissioner and shall ~~serve~~
19 serves at the pleasure of the director. The appointment of
20 ~~regional~~ commanders shall is not be dependent upon the parent law
21 enforcement agency, if any, of the person selected. ~~Regional~~
22 ~~commanders shall be~~ Commanders are compensated from the budget of
23 the bureau agency in a manner equivalent to that of a lieutenant
24 in the State Police, with respect to both regular and overtime
25 compensation. If the person selected is currently an employee of
26 any state, county or local law enforcement agency, the person
27 shall must be placed on a temporary assignment by the person's
28 employing agency. A ~~regional~~ commander shall ~~report~~ reports
29 directly to the director or assistant director, notwithstanding
30 any existing command structure of the person's employing agency.
31 Notwithstanding any other provision of law, the person shall
32 ~~retain~~ retains and ~~continue~~ continues to accrue seniority and
33 retirement rights and benefits within the person's employing
34 agency for the time in which the person serves as ~~regional~~
35 commander.

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

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

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

11
12
13 **FISCAL NOTE**

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

22
23 **STATEMENT OF FACT**

24 This amendment retains the name change from the original
25 bill, but keeps the Maine Drug Enforcement Agency established
26 within the Department of Public Safety. Changes are also made in
27 the membership of the Maine Drug Enforcement Agency Advisory
28 Board and confidentiality provisions. The amendment requires
29 that the director of the agency be selected from a list of at
30 least 3 persons recommended by the board, but does not require
31 that the selected person be confirmed by the Legislature. It
32 also requires that the Attorney General develop a protocol to
33 govern the selection of the state or federal court system for the
34 prosecution of drug cases investigated by the agency.

35 Reported by the Minority of the Committee on State and Local Government
36 Reproduced and distributed under the direction of the Clerk of the
37 House

38 3/12/92

(Filing No. H-1107)