

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)



115th MAINE LEGISLATURE

SECOND REGULAR SESSION-1992

Legislative Document

No. 2320

S.P. 901

In Senate, February 11, 1992

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.
Reference to the Committee on State and Local Government 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 MATTHEWS of Kennebec

Cosponsored by President PRAY of Penobscot, Representative HANLEY of Paris and
Representative NORTON of Winthrop.

STATE OF MAINE

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

**An Act to Establish the Fraud Investigation Division within the
Department of Audit.**



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

2
4 Sec. 1. 5 MRSA §200-C, as enacted by PL 1975, c. 715, §1, is repealed.

6 Sec. 2. 5 MRSA §247 is enacted to read:

8 §247. Fraud Investigation Division

10 1. Establishment; composition. The Fraud Investigation
12 Division, referred to in this section as the "division," is
14 established within the Department of Audit. The State Auditor
16 shall appoint a Director of the Fraud Investigation Division to
18 serve at the State Auditor's pleasure. The director must be
20 appointed without reference to political affiliation and solely
 on the ground of fitness to perform the duties of director. The
 director must be a member of the state bar. The director may
 employ and assign to the division such investigators and
 employees as the director determines appropriate.

22 2. Purpose. The purpose of the division is to investigate
24 reported incidents or acts of fraud, attempted fraud or
26 commingling or misapplication of funds in connection with, but
 not limited to, the requesting, obtaining, receiving,
 withholding, recording, reporting, expending or handling of funds
 of the State or any department, agency or commission of the State.

28 3. Cooperation; information. All agencies of the State and
30 municipal governments shall cooperate fully with the division,
32 rendering any assistance requested by the division. Every head
34 of a department, bureau, division, commission or any other unit
 of State Government shall report in writing to the division any
 suspected act of fraud or attempted fraud or violation of any law
 in connection with funds of the State.

36 All information in the files of any department, commission or
38 agency of State Government, regardless of any statute relating to
40 confidentiality, must be available to the division for use in
 connection with its official purpose.

42 4. Public assistance fraud; access to financial records.
44 In cases of investigation of fraud or attempted fraud involving
46 public assistance including, but not limited to, investigations
48 to aid in prosecution under or enforcement of Title 22, section
50 15, 3182, 3184 or 3756, the State Auditor may request financial
 information pursuant to this subsection. Upon written request
 from the State Auditor and at the expense of the division, a
 financial institution in this State shall match its records of
 deposit accounts against information provided to the financial
 institution by the division and shall compile for the division a

2 list of accounts that, as a result of the match, appear to be
4 owned in whole or in part by recipients of or applicants for
6 public assistance. The list of accounts must include the name
8 and social security number of each matched applicant or recipient
10 and the type of deposit account, the account number and the
12 account balance that appear in the records of the financial
14 institution. The division is responsible for making its computer
16 data compatible with the data of any financial institution with
18 which a match is sought. For purposes of this subsection the
20 definitions set out in Title 22, section 16, subsection 1, apply
22 to this subsection.

24 **5. Violation of law; action.** Whenever the director of the
26 division determines that there is a probability that a fraud,
28 attempted fraud or a violation of law has occurred, the director
30 may:

32 A. Resolve the violation through an administrative consent
34 agreement approved by the Attorney General; or

36 B. Refer the violation to the Attorney General for
38 prosecution as a civil action for recovery of funds or a
40 criminal prosecution, or both.

42 **6. Confidentiality.** Investigative records of the division
44 are confidential.

46 **Sec. 3. 22 MRSA §13,** as enacted by PL 1975, c. 715, §3, is
48 repealed.

1 **Sec. 4. Transition.** The State Auditor shall appoint the
3 Director of the Fraud Investigation Division within 10 days of
5 the effective date of this Act. All equipment, property and
7 records of the State Fraud Division, Department of the Attorney
9 General and the Human Services Fraud Investigation Unit,
11 Department of Human Services are transferred to the Fraud
13 Investigation Division, Department of Audit on the effective date
15 of this Act.

17 **Sec. 5. Appropriation.** The following funds are appropriated
19 from the General Fund to carry out the purposes of this Act.

21 **1992-93**

23 **ATTORNEY GENERAL, DEPARTMENT OF THE**
25 **Administration - Attorney General**

27 All Other

29 (\$48,000)

2	Provides for the deappropriation of funds	
4	due to the abolishment of the Medicaid Fraud	
6	Unit within the Department of the Attorney	
8	General.	
10	DEPARTMENT OF THE ATTORNEY GENERAL	
12	TOTAL	<u>(\$48,000)</u>
14	AUDIT, DEPARTMENT OF	
16	Fraud Investigation Division	
18	Positions - Legislative Count	(3.0)
20	Personal Services	\$99,326
22	All Other	5,000
24	Provides for the appropriation of funds for	
26	one Director of Fraud Investigation position	
28	and 2 Fraud Investigator positions to	
30	investigate all instances of fraud,	
32	attempted fraud and related acts against the	
34	State.	
36	DEPARTMENT OF AUDIT	
38	TOTAL	<u>\$104,326</u>
40	HUMAN SERVICES, DEPARTMENT OF	
42	Administration - Income Maintenance	
44	Positions - Legislative Count	(-2.0)
46	Personal Services	(\$107,373)
48	All Other	(5,000)
50	Provides for the deappropriation of funds	
52	due to the abolishment of the Fraud	
54	Investigation Unit within the Department of	
56	Human Services, to include the elimination	
58	of the project position of Director of Fraud	
60	Investigation and 2 Fraud Investigator	
62	positions.	
64	DEPARTMENT OF HUMAN SERVICES	
66	TOTAL	<u>(\$112,373)</u>
68	TOTAL APPROPRIATIONS	<u>(\$56,047)</u>

Investigation Unit within the Department of
Human Services to include the elimination of
5 Fraud Investigator positions.

DEPARTMENT OF HUMAN SERVICES
TOTAL

(\$131,682)

TOTAL ALLOCATIONS

-0-

STATEMENT OF FACT

This bill abolishes the State Fraud Division within the Department of the Attorney General and the Human Services Fraud Investigation Unit in the Department of Human Services and establishes a central agency, the Fraud Investigation Division, in the Department of Audit to investigate all instances of fraud, attempted fraud and related acts against the State. The new division has the same powers originally assigned to a fraud investigation unit located in the Department of Audit by Private and Special Law 1971, chapter 179; except that, for a violation, the Director of the Fraud Investigation Division may resolve the violation through an administrative consent agreement or refer the case to the Attorney General for prosecution. Additionally, the new division is given authority to allow access to certain financial records in cases involving public assistance fraud similar to the authority given to the Department of Human Services in the Maine Revised Statutes, Title 22, section 16. The bill also provides that investigative records of the Fraud Investigation Division are confidential.