

MAINE STATE LEGISLATURE

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R.S.

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MAJORITY
JUDICIARY

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
116TH LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 665, L.D. 903, Bill, "An Act to Bring the Bureau of State Police, the Department of the Attorney General and the Maine Drug Enforcement Agency into Conformity with the Criminal History Record Information Laws"

Amend the bill by striking out the title and substituting the following:

'An Act to Bring the Department of the Attorney General into Conformity with the Criminal History Record Information Laws'

Further amend the bill in section 2 in subsection 4 by striking out all of the last 2 lines (page 1, lines 11 and 12 in L.D.) and inserting in their place the following: 'is --a-confidential investigative-record-under-Title-5,-section-200-D.'

Further amend the bill in section 3 in that part designated "§1675." in the first paragraph by striking out all of the last 2 lines (page 1, lines 21 and 22 in L.D.) and inserting in their place the following: 'confidential investigative-record-under Title-5,-section-200-D.'

Further amend the bill in section 6 in subsection 8 in the 3rd line (page 2, line 4 in L.D.) by inserting after the following: "agencies" the following: 'or at the direction of criminal justice agencies'

Further amend the bill by striking out all of sections 7 and 8 and inserting in their place the following:

'Sec. 7. 16 MRSA §614, sub-§1, as repealed and replaced by PL 1993, c. 376, §1, is repealed and the following enacted in its place:

COMMITTEE AMENDMENT

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2 1. Limitation on dissemination of intelligence and
3 investigative information. Reports or records that contain
4 intelligence and investigative information and that are prepared
5 by, prepared at the direction of or kept in the custody of a
6 local, county or district criminal justice agency; the Bureau of
7 State Police; the Department of the Attorney General; the Maine
8 Drug Enforcement Agency; the Office of State Fire Marshal; the
9 Department of Corrections; or the criminal law enforcement units
10 of the Department of Marine Resources or the Department of Inland
11 Fisheries and Wildlife are confidential and may not be
12 disseminated if there is a reasonable possibility that public
13 release or inspection of the reports or records would:

- 14 A. Interfere with law enforcement proceedings;
- 15
- 16 B. Result in public dissemination of prejudicial
17 information concerning an accused person or concerning the
18 prosecution's evidence that will interfere with the ability
19 of a court to impanel an impartial jury;
- 20
- 21 C. Constitute an unwarranted invasion of personal privacy;
- 22
- 23 D. Disclose the identity of a confidential source;
- 24
- 25 E. Disclose confidential information furnished only by the
26 confidential source;
- 27
- 28 F. Disclose trade secrets or other confidential commercial
29 or financial information designated as such by the owner or
30 source of the information or by the Department of the
31 Attorney General;
- 32
- 33 G. Disclose investigative techniques and procedures or
34 security plans and procedures not generally known by the
35 general public;
- 36
- 37 H. Endanger the life or physical safety of any individual,
38 including law enforcement personnel;
- 39
- 40 I. Disclose conduct or statements made or documents
41 submitted by any person in the course of any mediation or
42 arbitration conducted under the auspices of the Department
43 of the Attorney General;
- 44
- 45 J. Disclose information designated confidential by some
46 other statute; or
- 47
- 48 K. Identify the source of complaints made to the Department
49 of the Attorney General involving violations of consumer or
50 antitrust laws.

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2 **Sec. 8. 16 MRSA §621**, as amended by PL 1993, c. 376, §2, is
repealed.'

4 Further amend the bill by inserting after section 8 the
6 following:

8 '**Sec. 9. 16 MRSA §623** is enacted to read:

10 **§623. Attorney General fees**

12 The Department of the Attorney General shall establish a fee
14 structure for access and copying of records available to the
16 public under this chapter that produces funds that offset
partially the cost of maintaining the administrative structure
necessary to make those records available.'

18 Further amend the bill in section 9 in subsection 1 in the
20 3rd and 4th lines from the end (page 3, lines 18 and 19 in L.D.)
22 by striking out the following: "governed by Title 5 16, section
200-D 614" and inserting in its place the following: 'Title-5,
section-200-D confidential'

24 Further amend the bill by striking out all of sections 10 to
26 12 and inserting in their place the following:

28 '**Sec. 10. Effect of repeal of Maine Revised Statutes, Title 5, section**
30 **200-D.** Reports and records that were created prior to the
32 effective date of this Act that were confidential pursuant to the
34 Maine Revised Statutes, Title 5, section 200-D at the time of
their creation continue to be confidential after the effective
date of this Act as provided in former Title 5, section 200-D.
The confidentiality of intelligence and investigative information
contained in reports and records prepared by or at the direction
of the Department of the Attorney General after the effective
date of this Act is governed by Title 16, section 614.

38 **Sec. 11. Appropriation.** The following funds are appropriated
40 from the General Fund to carry out the purposes of this Act.

	1994-95
ATTORNEY GENERAL,	
DEPARTMENT OF THE	
Administration - Attorney General	
48 Positions	(1.0)
Personal Services	\$48,808

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COMMITTEE AMENDMENT "A" to H.P. 665, L.D. 903

2	All Other	12,500
	Capital Expenditures	1,000
4	Provides funds for a full-time Paralegal position and general operating expenses to	
6	review certain investigative documents contained in the Department of the Attorney	
8	General.	

10	DEPARTMENT OF THE ATTORNEY GENERAL	
12	TOTAL	<u>\$62,308'</u>

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

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

18 **FISCAL NOTE**

22 **1994-95**

24 **APPROPRIATIONS/ALLOCATIONS**

26	General Fund	\$62,308
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28 **REVENUES**

30	General Fund	\$20,800
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32 Changing the confidentiality procedures of certain investigative records managed by the Department of the Attorney General utilizing a prospective application will require an additional General Fund appropriation of \$62,308 in fiscal year 1994-95. This appropriation will provide funds for a Paralegal position and general operating expenses.

38 Authorizing the Department of the Attorney General to establish a fee for access to and copying of records to partially offset the above-mentioned General Fund costs will increase General Fund revenue by \$20,800 in fiscal year 1994-95.'

46 **STATEMENT OF FACT**

48 This amendment is the majority report of the Joint Standing Committee on Judiciary.

2 The amendment removes provisions from the bill relating to
4 agencies other than the Department of the Attorney General
because the other agencies were addressed in a separate bill
enacted last year.

6 The amendment includes the Attorney General's investigative
8 records under the provisions of the criminal history record
information laws. It includes records relating to civil
10 violations and civil actions within the definition of
"intelligence and investigative information." The amendment also
12 modifies and clarifies situations when records containing
intelligence and investigative records may not be disseminated.
14 The amendment provides confidentiality for records, the
disclosure of which would constitute an unwarranted invasion of
16 personal privacy. This standard is comparable to the federal
Freedom of Information Act.

18 The amendment retains confidential status for records of the
20 Department of the Attorney General that contain investigative
information relating to trade secrets or other confidential
22 commercial or financial information, the identity of complainants
involving consumer or antitrust violations and information
24 received under the Petroleum Market Share Act and the Hospital
Cooperation Act of 1992.

26 The change in treatment of records of the Department of the
28 Attorney General is made prospective with respect to complaints
and investigative records formerly covered by the Maine Revised
Statutes, Title 5, section 200-D. Under this amendment, records
30 created prior to the effective date of the bill remain subject to
the confidentiality provisions of former Title 5, section 200-D,
32 and Attorney General records created after the effective date of
the bill are subject to Title 16, section 614.

34 This amendment authorizes the Attorney General to establish
36 a fee for access to and copying of records that will partially
offset the cost of maintaining the administrative structure
38 necessary to make those records available.

40 The amendment also adds an appropriation section and a
42 fiscal note to the bill.