

MAINE STATE LEGISLATURE

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R.S.

L.D. 903

DATE: 3/28/94

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M I N O R I T Y
J U D I C I A R Y

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

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'Sec. 7. 16 MRSA §614, sub-§1, as repealed and replaced by PL 1993, c. 376, §1, is repealed and the following enacted in its place: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

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

14 A. Interfere with law enforcement proceedings;

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 C. Constitute an unwarranted invasion of personal privacy;

22 D. Disclose the identity of a confidential source;

24 E. Disclose confidential information furnished only by the
26 confidential source;

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 G. Disclose investigative techniques and procedures or
33 security plans and procedures not generally known by the
34 general public;

36 H. Endanger the life or physical safety of any individual,
37 including law enforcement personnel;

38 I. Disclose conduct or statements made or documents
39 submitted by any person in the course of any mediation or
40 arbitration conducted under the auspices of the Department
41 of the Attorney General;

42 J. Disclose information designated confidential by some
43 other statute; or

44 K. Identify the source of complaints made to the Department
45 of the Attorney General involving violations of consumer or
46 antitrust laws.

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

6 Further amend the bill by inserting after section 8 the
8 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 are
18 substantially equivalent to the cost of maintaining the
20 administrative structure necessary to make those records
22 available.'

24 Further amend the bill in section 9 in subsection 1 in the
26 3rd and 4th lines from the end (page 3, lines 18 and 19 in L.D.)
28 by striking out the following: "governed by Title 5 16, section
30 200-D 614" and inserting in its place the following: 'Title-5,
32 section-200-D confidential'

34 Further amend the bill by striking out all of sections 10 to
36 12 and inserting in their place the following:

38 '**Sec. 10. Appropriation.** The following funds are appropriated
40 from the General Fund to carry out the purposes of this Act.

1994-95

32 **ATTORNEY GENERAL,**
34 **DEPARTMENT OF THE**

36 **Administration - Attorney General**

38	Positions	(1.5)
	Personal Services	\$73,150
40	All Other	15,000
	Capital Expenditures	1,000

42 Provides funds for a full-time Paralegal
44 position, a part-time Assistant Attorney
46 General position and general operating
48 expenses to review certain investigative
documents contained in the Department of the
Attorney General.

RES

DEPARTMENT OF THE ATTORNEY GENERAL TOTAL

\$89,150'

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

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

FISCAL NOTE

1994-95

APPROPRIATIONS/ALLOCATIONS

General Fund \$89,150

REVENUES

General Fund \$89,150

Changing the confidentiality procedures of certain investigative records managed by the Department of the Attorney General utilizing a retroactive application will require an additional General Fund appropriation of \$89,150 in fiscal year 1994-95. This appropriation will provide funds for a Paralegal position, a part-time Assistant Attorney General position and general operating expenses.

Authorizing the Department of the Attorney General to establish a fee for access to and copying of records to produce funds that are substantially equivalent to the cost to make these records available will increase General Fund revenue by \$89,150 in fiscal year 1994-95. The ability of the Department of the Attorney General to continue to generate the level of revenue necessary to offset these additional expenditures is uncertain.'

STATEMENT OF FACT

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

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

R. of S.

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

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

13
14 The amendment retains confidential status for records of the
15 Department of the Attorney General that contain investigative
16 information relating to trade secrets or other confidential
17 commercial or financial information, the identity of complainants
18 involving consumer or antitrust violations and information
19 received under the Petroleum Market Share Act and the Hospital
20 Cooperation Act of 1992.

21
22 This amendment authorizes the Attorney General to establish
23 a fee for access to and copying of records that is substantially
24 equivalent to the cost of maintaining the administrative
25 structure necessary to make those records available.

26 The amendment also adds an appropriation section and a
27 fiscal note to the bill.
28

COMMITTEE AMENDMENT