# 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)



## 116th MAINE LEGISLATURE

### FIRST REGULAR SESSION-1993

#### Legislative Document

No. 903

H.P. 665

House of Representatives, March 15, 1993

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.

Reference to the Committee on Judiciary suggested and ordered printed.

JOSEPH W. MAYO, Clerk

Presented by Representative PARADIS of Augusta.
Cosponsored by Representatives: ADAMS of Portland, CARROLL of Gray, CATHCART of Orono, CLOUTIER of South Portland, CONSTANTINE of Bar Harbor, COTE of Auburn, DAGGETT of Augusta, ERWIN of Rumford, FAIRCLOTH of Bangor, GWADOSKY of Fairfield, JOSEPH of Waterville, KERR of Old Orchard Beach, KETTERER of Madison, LIPMAN of Augusta, O'GARA of Westbrook, PLOWMAN of Hampden, TUFTS of Stockton Springs, ZIRNKILTON of Mount Desert, Senators: CONLEY of Cumberland, DUTREMBLE of York.

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

- Sec. 1. 5 MRSA §200-D, as enacted by PL 1975, c. 715, §1, is repealed.
  - Sec. 2. 10 MRSA §1109, sub-§4, as enacted by PL 1989, c. 750, is amended to read:
- 4. Confidentiality. Information received by the Department of the Attorney General as a result of this reporting requirement is a confidential investigative-record-under in accordance with Title 5 16, section 200-D 614.
- Sec. 3. 10 MRSA §1675, as enacted by PL 1991, c. 836, §3, is amended to read:

### §1675. Confidentiality

16

18

26

36

38

50

Information received by the Department of the Attorney

20 General pursuant to sections 1673 and 1674 eenstitutes--a is
confidential investigative-record-under in accordance with Title

22 5 16, section 200-D 614.

- Sec. 4. 10 MRSA §8003-B, sub-§3, as enacted by PL 1989, c. 173, is amended to read:
- 3. Attorney General records. The provision or disclosure of investigative records of the Department of the Attorney General to a departmental employee designated by the commissioner or to a complaint officer of a board or commission does not constitute a waiver of the confidentiality,-provided-under-Title 5,--seetien--200-D, of those records for any other purposes. Further disclosure of those investigative records shall--be is subject to Title 16, section 614 and the discretion of the Attorney General.
  - Sec. 5. 16 MRSA §611, sub-§4, as enacted by PL 1979, c. 433, §2, is amended to read:
- 4. Criminal justice agency. "Criminal justice agency" means a federal, state, district, county or local government agency or any subunit thereof which that performs the administration of criminal justice under a statute or executive order, and which that allocates a substantial part of its annual budget to the administration of criminal justice. Courts shall-be-deemed-to-be and the Department of the Attorney General are considered criminal justice agencies.
  - Sec. 6. 16 MRSA §611, sub-§8, as amended by PL 1983, c. 787, §1, is further amended to read:

2	8. Intelligence and investigative information.
	"Intelligence and investigative information" means information
4	collected by criminal justice agencies in an effort to
	anticipate, prevent or monitor possible criminal activity,
6	including operation plans of the collecting agency or another
	agency, or information compiled in the course of investigation of
8	known or suspected crimes, civil violations and prospective and
Ü	pending civil actions. It "Intelligence and investigative
10	<u>information</u> does not include information that is criminal
1.0	
10	history record information.
1.2	C A 14 BATOCA C414
	Sec. 7. 16 MRSA §614, sub-§1, as amended by PL 1991, c. 729,
14	$\S 3$ and c. 837, Pt. B, $\S 5$ , is repealed and the following enacted
	in its place:
16	
	1. Limitation on dissemination of intelligence and
- 1.8	investigative information. Reports or records in the custody of a
	local, county or district criminal justice agency; in the custody
20	of the Bureau of State Police, the Department of the Attorney
	General, the Maine Drug Enforcement Agency or the Office of State
22	Fire Marshal; in the custody of the Department of Corrections; or
	in the custody of the criminal law enforcement units of the
24	
24	Department of Marine Resources or the Department of Inland
2.0	Fisheries and Wildlife containing intelligence and investigative
26	information are confidential and may not be disseminated if there
	is a reasonable possibility that public release or inspection of
28	the reports or records would:
30	A. Interfere with law enforcement proceedings;
32	B. Result in public dissemination of prejudicial
	information concerning an accused person or concerning the
34	prosecution's evidence that will interfere with the ability
	of a court to impanel an impartial jury;
36	
	C. Result in public dissemination of information about the
38	private life of an individual in which there is no
50	legitimate public interest that would be offensive to a
40	
40	reasonable person;
42	D. Disclose the identity of a confidential source;
44	E. Disclose confidential information furnished only by the
	<pre>confidential source;</pre>
46	
	F. Disclose investigative techniques and procedures or
48	security plans and procedures not generally known by the
	general public; or
50	

2	G. Endanger the life or physical safety of law enforcement personnel.
4	Sec. 8. 16 MRSA §621, as enacted by PL 1979, c. 433, §2, is repealed.
б	
8	Sec. 9. 22 MRSA §1885, sub-§1, as enacted by PL 1991, c. 814, §1, is amended to read:
1.0	1. Investigative powers. The Attorney General, at any time
12	after an application is filed under section 1883, subsection 2, may require by subpoena the attendance and testimony of witnesses and the production of documents in Kennebec County or the county
14	in which the applicants are located for the purpose of
1.6	investigating whether the cooperative agreement satisfies the standards set forth in section 1883, subsection 4. All documents
1.8	produced and testimony given to the Attorney General are investigative-records-under governed by Title 5 16, section 200-E 614. The Attorney General may seek an order from the Superior
20	Court compelling compliance with a subpoena issued under this section.
22	Sec. 10. 25 MRSA §1631, as amended by PL 1991, c. 729, §§4
24	and 5, is repealed.
26	Sec. 11. 25 MRSA §1631-A is enacted to read:
28	§1631-A. Records
30	Notwithstanding Title 5, chapter 372, subchapter II and Title 16, chapter 3, the following records are available for
32	public inspection:
34	1. Operational reports. Operational reports by the Bureau of State Police;
36	or Beace rotice,
38	2. Activity reports. Activity reports by the Bureau of State Police;
40	3. Statistical reports. Statistical reports on truck
42	weights, public utility enforcement and beano by the State Bureau of Identification and the criminal investigation division and the
44	special services division within the Bureau of State Police; and
46	4. Names of applicants. Names of applicants for the State Police.
48	Sec. 12. 25 MRSA §2957, as amended by PL 1991, c. 837, Pt. B, §15 and c. 841, §13, is repealed.

50

#### STATEMENT OF FACT

4

This bill repeals the separate sections of Maine law dealing with the access to criminal, investigative or administrative records of the Bureau of State Police, the Department of the Attorney General and the Maine Drug Enforcement Agency and brings them into conformity with the criminal history record information laws that other criminal justice enforcement agencies use. The bill also allows access to those records of the State Police currently available to the public but not covered by other laws.

12 14

16

10

This bill also resolves conflicting amendments to the Maine Revised Statutes, Title 16, section 614 created by the enactments of Public Law 1991, chapters 729 and 837.