

# MAINE STATE LEGISLATURE

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# 116th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1993

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Legislative Document

No. 903

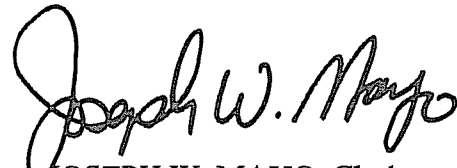
H.P. 665

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.**

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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:

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4 repealed.

6       **Sec. 2. 10 MRSA §1109, sub-§4**, as enacted by PL 1989, c. 750,  
7 is amended to read:

8           **4. Confidentiality.** Information received by the Department  
9 of the Attorney General as a result of this reporting requirement  
10 is a confidential ~~investigative record under~~ in accordance with  
11 Title 5 16, section 200-D 614.

14       **Sec. 3. 10 MRSA §1675**, as enacted by PL 1991, c. 836, §3, is  
15 amended to read:

16       **§1675. Confidentiality**

18           Information received by the Department of the Attorney  
19 General pursuant to sections 1673 and 1674 ~~constitutes--a is~~  
20 confidential ~~investigative record under~~ in accordance with Title  
21 5 16, section 200-D 614.

24       **Sec. 4. 10 MRSA §8003-B, sub-§3**, as enacted by PL 1989, c.  
25 173, is amended to read:

26           **3. Attorney General records.** The provision or disclosure  
27 of investigative records of the Department of the Attorney  
28 General to a departmental employee designated by the commissioner  
29 or to a complaint officer of a board or commission does not  
30 constitute a waiver of the confidentiality, ~~provided under Title~~  
31 ~~5,--section--200-D,~~ of those records for any other purposes.  
32 Further disclosure of those investigative records shall ~~be is~~  
33 subject to Title 16, section 614 and the discretion of the  
34 Attorney General.

36       **Sec. 5. 16 MRSA §611, sub-§4**, as enacted by PL 1979, c. 433,  
37 §2, is amended to read:

40           **4. Criminal justice agency.** "Criminal justice agency" means  
41 a federal, state, district, county or local government agency or  
42 any subunit thereof which that performs the administration of  
43 criminal justice under a statute or executive order, and which  
44 that allocates a substantial part of its annual budget to the  
45 administration of criminal justice. Courts ~~shall-be-deemed-to-be~~  
46 and the Department of the Attorney General are considered  
47 criminal justice agencies.

48       **Sec. 6. 16 MRSA §611, sub-§8**, as amended by PL 1983, c. 787,  
49 §1, is further amended to read:

2           **8. Intelligence and investigative information.**  
4 "Intelligence and investigative information" means information  
6 collected by criminal justice agencies in an effort to  
8 anticipate, prevent or monitor possible criminal activity,  
10 including operation plans of the collecting agency or another  
12 agency, or information compiled in the course of investigation of  
14 known or suspected crimes, civil violations and prospective and  
16 pending civil actions. It "Intelligence and investigative  
18 information" does not include information that is criminal  
20 history record information.

22           **Sec. 7. 16 MRSA §614, sub-§1, as amended by PL 1991, c. 729,**  
24 **§3 and c. 837, Pt. B, §5, is repealed and the following enacted**  
26 **in its place:**

28           **1. Limitation on dissemination of intelligence and**  
30 **investigative information.** Reports or records in the custody of a  
32 local, county or district criminal justice agency; in the custody  
34 of the Bureau of State Police, the Department of the Attorney  
36 General, the Maine Drug Enforcement Agency or the Office of State  
38 Fire Marshal; in the custody of the Department of Corrections; or  
40 in the custody of the criminal law enforcement units of the  
42 Department of Marine Resources or the Department of Inland  
44 Fisheries and Wildlife containing intelligence and investigative  
46 information are confidential and may not be disseminated if there  
48 is a reasonable possibility that public release or inspection of  
50 the reports or records would:

- 30           A. Interfere with law enforcement proceedings;
- 32           B. Result in public dissemination of prejudicial  
34 information concerning an accused person or concerning the  
36 prosecution's evidence that will interfere with the ability  
38 of a court to impanel an impartial jury;
- 40           C. Result in public dissemination of information about the  
42 private life of an individual in which there is no  
44 legitimate public interest that would be offensive to a  
46 reasonable person;
- 48           D. Disclose the identity of a confidential source;
- 50           E. Disclose confidential information furnished only by the  
              confidential source;
- F. Disclose investigative techniques and procedures or  
              security plans and procedures not generally known by the  
              general public; or



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## STATEMENT OF FACT

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

14

16 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.