

# MAINE STATE LEGISLATURE

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# 117th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1995

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Legislative Document

No. 1515

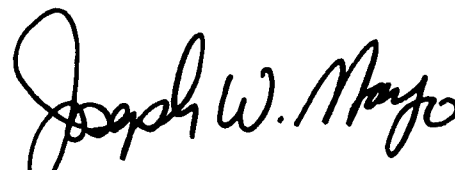
H.P. 1076

House of Representatives, May 10, 1995

**An Act Authorizing the Judicial Supervision of the Disclosure of Utility  
Records to the Attorney General.**

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Submitted by the Department of the Attorney General pursuant to Joint Rule 24.  
Reference to the Committee on Judiciary suggested and ordered printed.

  
JOSEPH W. MAYO, Clerk

Presented by Representative THOMPSON of Naples.

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

4 **Sec. 1. 5 MRSA §200-B**, as repealed and replaced by PL 1987,  
5 c. 769, Pt. A, §9, is repealed and the following enacted in its  
6 place:

7 **§200-B. Authority of Attorney General to request utility records**

8  
9 **1. Public utility services.** As used in this section, the  
10 term "public utility services" means services furnished by a  
11 public utility as defined in Title 35-A, section 102, subsections  
12 5, 7, 8, 12, 14, 15, 17, 19 and 22 whether or not subject to the  
13 jurisdiction of the Public Utilities Commission.

14  
15 **2. Demand for utility records; cause.** The Attorney  
16 General, a deputy attorney general or a district attorney may  
17 demand, in writing, all the records or information in the  
18 possession of the public utility relating to the furnishing of  
19 public utility services to a person or a location if the attorney  
20 has reasonable grounds to believe that the services furnished to  
21 a person or to a location by a public utility are being or may be  
22 used for, or to further, an unlawful purpose. Upon a showing of  
23 cause to any Justice of the Superior Court or Judge of the  
24 District Court, the justice or judge must approve the demand.  
25 Showing of cause must be by the affidavit of any law enforcement  
26 officer.

27  
28 **3. Release of other information.** An order approving a  
29 demand for utility records may include a provision prohibiting  
30 the public utility from releasing the fact of the request or that  
31 the records or information will be or have been supplied. The  
32 public utility may not release the fact or facts without  
33 obtaining a court order to that effect.

34  
35 **4. Production of utility records.** Upon receipt of a  
36 demand, approved by a justice or judge, the public utility shall  
37 immediately deliver to the attorney, or the attorney's designee  
38 or agent, making the request all the records or information  
39 demanded. A public utility or employee of that public utility is  
40 not criminally or civilly liable for furnishing any records or  
41 information in compliance with the order approving the demand.

42  
43 **5. Orders permitted under federal law.** The Attorney  
44 General, a deputy attorney general or a district attorney may,  
45 upon an affidavit of an investigating law enforcement officer,  
46 make application to any Justice of the Superior Court or any  
47 Judge of the District Court for any order permitted pursuant to  
48 18 United States Code, Section 3122(a)(2).

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## STATEMENT OF FACT

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This bill expands the ability of the Attorney General and district attorneys, with the approval of a justice or judge, to acquire records from a broader range of public utilities than is presently authorized under current law. Under current law, prosecutors may, with prior approval of the court, acquire telephone or telegraph utility records if needed for a criminal investigation. Under current law, prosecutors may obtain all other utility records through the use of a grand jury subpoena. This bill creates a uniform, predictable procedure concerning prior judicial review for acquiring records from all utilities.

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This bill also affirmatively empowers the court to issue orders relating to telephone "trap and trace" and telephone "pen registers." "Trap and trace" and "pen register" court orders authorize the collection of numbers dialed to or from a specific telephone, but do not authorize the interception of the substance of any communications to or from that telephone. These types of orders can already be acquired currently by state law enforcement officers but only under federal law from a federal judge. This bill authorizes a state court to issue orders for state law enforcement officers pursuant to federal law. This bill designates Justices of the Superior Court and Judges of the District Court as judicial officers of "a court of competent jurisdiction" under 18 United States Code, Sections 3122(a)(2) and 3127(2).

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