MAINE STATE LEGISLATURE

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117th MAINE LEGISLATURE

SECOND REGULAR SESSION-1996

Legislative Document   **No. 1885**

H.P. 1377   House of Representatives, March 28, 1996

An Act Regarding the State Government Computer System.

(AFTER DEADLINE)

(EMERGENCY)

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27. Reference to the Committee on State and Local Government suggested and ordered printed.

JOSEPH W. MAYO, Clerk

Presented by Speaker GWADOSKY of Fairfield.
Cosponsored by President BUTLAND of Cumberland.

Emergency preamble. Whereas, Acts of the Legislature do not
become effective until 90 days after adjournment unless enacted
as emergencies; and

Whereas, the Legislature must immediately change the
statutory guidelines concerning the use of the state government
computer system and remove inconsistencies in the current law; and

Whereas, in the judgment of the Legislature, these facts
create an emergency within the meaning of the Constitution of
Maine and require the following legislation as immediately
necessary for the preservation of the public peace, health and
safety; now, therefore,

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

Sec. 1. 5 MRSA §1890-B, as amended by PL 1991, c. 340, is
repealed and the following enacted in its place:

§1890-B. Misuse of State Government computer system

    1. Violation. A person is guilty of misuse of a State
Government computer system if that person knowingly uses a
computer system operated by a state department or agency, the
Judicial Department or the Legislature:

        A. To prepare materials with the intent to expressly
advocate, to those eligible to vote, for the election or
defeat of any candidate for a federal office, a
constitutional office, or any candidate for elective
municipal, county or state office, including leadership
positions in the Senate and the House of Representatives; or

        B. With the intent to solicit contributions reportable
under Title 21-A, chapter 13.

    1-A. Definitions. As used in this section, unless the
context otherwise indicates, the following terms have the
following meanings.

        A. "Computer system" has the same meaning as in Title 17-A,
section 431.

        B. "Leadership positions" includes the presiding officers
of each House, party leaders, the Clerk of the House and
Assistant Clerk of the House and the Secretary of the Senate
and the Assistant Secretary of the Senate.

    2. Penalty. Misuse of a State Government computer system
is a Class C crime.

2   **4. Confidentiality.** Computer programs, technical data, logic diagrams and source code related to data processing or

4   telecommunications are confidential and are not public records as defined in Title 1, section 402, subsection 3 to the extent of

6   the identified trade secrets. To qualify for confidentiality under this subsection, computer programs, technical data, logic

8   diagrams and source code must:

10   A. Contain trade secrets as defined in Title 10, section 1542, subsection 4 held in private ownership; and

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        B. Have been provided to a state agency by an authorized

14   independent vendor or contractor under an agreement by which:

16   (1) All trade secrets that can be protected are identified without disclosing the secret;

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            (2) The vendor or contractor retains all intellectual

20   property rights in those trade secrets; and

22   (3) The state agency agrees to hold and use the programs, data, diagrams or source code without

24   disclosing any identified trade secrets.

26   **5. Public records.** Except as provided in subsection 4, any document created or stored on a State Government computer is a

28   public record and must be made available in accordance with Title 1, chapter 13 unless specifically exempted by that chapter.

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    Sec. 2. Application. This Act applies to employees of the

32   executive, the judicial or the legislative branch on or after the effective date of this Act.

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    Emergency clause. In view of the emergency cited in the

36   preamble, this Act takes effect when approved.

38   **FISCAL NOTE**

40   This bill may increase prosecutions for Class C crimes. Sentences of more than 9 months imposed for Class C crimes must

42   be served in a state correctional institution. The cost to the State per sentence is $55,711 based upon an average length of

44   stay of one year and 10 months. The State also must reimburse counties for sentences served in county jails of 9 months or less

46   for Class C crimes.

48   The Judicial Department may require additional General Fund appropriations to cover indigent defense costs related to these

new cases. The amounts can not be estimated at this time. The
2   additional workload and administrative costs associated with the
minimal number of new cases filed in the court system can be
4   absorbed   within   the   budgeted   resources   of   the   Judicial
Department. The collection of additional fines may also increase
6   General Fund revenue by minor amounts.

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STATEMENT OF FACT
10
This bill addresses a problem with the current law cited by
12   the office of the Attorney General, in a memorandum dated August
11, 1995.   The bill prohibits the use of the state computer
14   system to advocate for the election or defeat of any elected
municipal, county or state candidate, including leadership
16   positions,   any   constitutional   officers   or   federal
representatives.   The bill also clarifies that any document
18   created or stored on a State Government computer system must be
made available in compliance with the Maine Revised Statutes,
20   Title 1, chapter 13.