

MAINE STATE LEGISLATURE

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118th MAINE LEGISLATURE

FIRST REGULAR SESSION-1997

Legislative Document

No. 1223

S.P. 364

In Senate, February 25, 1997

An Act to Expand the Monitoring of the Conversations of Prisoners.

Submitted by the Department of Corrections pursuant to Joint Rule 204.
Reference to the Committee on Criminal Justice suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator MURRAY of Penobscot.
Cosponsored by Representative POVICH of Ellsworth and
Senator MITCHELL of Penobscot, Representatives: FRECHETTE of Biddeford,
McALEVEY of Waterboro, WHEELER of Bridgewater.

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

2 Sec. 1. 15 MRSA §709, sub-§4-A, as enacted by PL 1987, c. 680,
4 §1, is further amended to read:

6 4-A. **Investigative officer.** "Investigative officer" means
8 a ~~corrections officer~~ employed by an employee of the Department
10 of Corrections and designated by the Commissioner of Corrections
12 as having the authority to conduct investigations of offenses
relating to the security or orderly management of a ~~correctional~~
facility administered by the department.

14 Sec. 2. 15 MRSA §712, sub-§2, as amended by PL 1995, c. 182,
§1, is further amended to read:

16 2. **Investigative officers.** It is not a violation of this
18 chapter for an investigative officer, as defined in this chapter,
18 or for an employee of the Department of Corrections acting at the
20 direction of an investigative officer, to intercept, disclose or
22 use that communication in the normal course of employment while
engaged in any activity which that is a necessary incident to the
administration of criminal justice, if:

24 A. Either the sender or receiver of that communication is a
26 person ~~committed to the custody of the Department of~~
28 ~~Corrections under a term of imprisonment which is being~~
~~served~~ residing in a an adult correctional facility
administered by the department Department of Corrections; and

30 B. Notice of the possibility of interception is provided in
32 a way sufficient to make the parties to the communication
aware of the possibility of interception, and .

34 C. ~~Probable cause exists that a criminal offense related to~~
36 ~~the security of a correctional facility administered by the~~
~~department has been, is in the process of being or is about~~
~~to-be-committed-by-a-party-to-the-conversation.~~

38 (1) ~~Prior to the interception, the grounds for that~~
40 ~~probable cause shall be documented in a sworn affidavit~~
42 ~~which shall be submitted to a Judge of the District~~
~~Court or Justice of the Superior Court to determine if~~
~~that-probable-cause-exists.~~

44 (2) ~~Prior authorization for the submission to the~~
46 ~~Judge or Justice must be given by the Commissioner of~~
~~Corrections-and-the-Attorney-General.~~

48 This subsection shall does not authorize any interference with
50 the attorney-client privilege.

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SUMMARY

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6 This bill permits the Department of Corrections to monitor
8 the conversations of prisoners without requiring the department
10 to have probable cause to believe that a party to a specific
12 conversation is involved in a criminal offense. It permits the
14 monitoring of all conversations of prisoners, except those
 involving attorney-client privilege, as is permitted in other
 jurisdictions in the United States. It also clarifies that
 prisoners originally sentenced to the department, as well as
 prisoners transferred to a department facility, are subject to
 monitoring.