

# MAINE STATE LEGISLATURE

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# 119th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1999

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Legislative Document

No. 627

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H.P. 464

House of Representatives, January 26, 1999

**An Act to Require the Legislature to Examine Executive Orders for  
Violations of Separation of Powers.**

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Reference to the Committee on State and Local Government suggested and ordered printed.

A handwritten signature in black ink that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative JOY of Crystal.  
Cosponsored by Representatives: BERRY of Belmont, CAMPBELL of Holden, CLARK of  
Millinocket, MACK of Standish, MURPHY of Kennebunk, PLOWMAN of Hampden,  
WATERHOUSE of Bridgton, Senator: CAREY of Kennebec.

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

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3  
4       **Sec. 1. 1 MRSA §521, sub-§3** is enacted to read:

5       3. **Emergency requirement.** The Governor shall document the  
6 emergency that necessitates the issuance of an executive order.  
7 The executive order remains in effect only for the duration of  
8 the emergency documented by the Governor.

9  
10       **Sec. 2. 3 MRSA c. 5-A** is enacted to read:

11                               CHAPTER 5-A  
12                               REVIEW OF EXECUTIVE ORDERS

13       §131. Definitions

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15       As used in this chapter, unless the context otherwise  
16 indicates, the following terms have the following meanings:

17  
18       1. **Committee.** "Committee" means a joint standing committee  
19 of the Legislature having jurisdiction over the subject matter to  
20 which an executive order pertains.

21  
22       2. **Executive director.** "Executive director" means the  
23 Executive Director of the Legislative Council.

24  
25       3. **Executive order.** "Executive order" means an executive  
26 order submitted to the Legislative Council under Title 1, section  
27 521, subsection 2.

28  
29       § 132. Review for constitutional violation

30  
31       1. **Committee member review.** The executive director shall  
32 refer each executive order to each committee member for review.  
33 Each member who determines that the order may violate the  
34 separation of powers established by the Constitution of Maine  
35 shall notify the executive director within 15 days after the  
36 executive director referred the order. If 1/3 or more of the  
37 committee members notify the executive director, the executive  
38 director shall notify the committee chairs.

39  
40       2. **Committee review.** Upon receipt of notification from the  
41 executive director under subsection 1, the committee chairs shall  
42 call a meeting of the committee to review the executive order.  
43 If the committee, by majority vote, determines that the executive  
44 order may violate the separation of powers established by the  
45 Constitution of Maine, the committee shall report out an order  
46 propounding this question to the Justices of the Supreme Judicial  
47 Court. The committee shall determine by majority vote whether to  
48 submit the order to the Senate or to the House of Representatives.  
49  
50

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## SUMMARY

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6       This bill establishes a mechanism for the Legislature and  
8       the Supreme Judicial Court to review the constitutionality of  
10       executive orders issued by the Governor. The bill also requires  
      the Governor to document the emergency that gave rise to the  
      executive order and limits the effect of the executive order to  
      the duration of the emergency.