

MAINE STATE LEGISLATURE

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119th MAINE LEGISLATURE

FIRST REGULAR SESSION-1999

Legislative Document

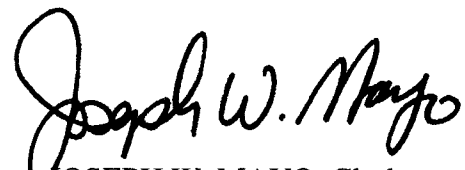
No. 1672

H.P. 1161

House of Representatives, March 4, 1999

An Act Concerning Service Relating to the Disclosure of Financial Records.

Reference to the Committee on Judiciary suggested and ordered printed.


JOSEPH W. MAYO, Clerk

Presented by Representative POVICH of Ellsworth.
Cosponsored by Representative TOBIN of Dexter, Senator: DAVIS of Piscataquis.

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

2 **Sec. 1. 9-B MRSA §163, sub-§1**, as amended by PL 1997, c. 537,
4 §2 and affected by §62, is further amended to read:

6 **1. Service.** A fiduciary institution shall disclose
8 financial records under section 162 pursuant to a subpoena,
10 summons, warrant or court order that on its face appears to have
12 been issued upon lawful authority only if the subpoena, summons,
14 warrant or court order is served upon the customer prior to
16 disclosure by the fiduciary institution. The agency or person
18 requesting the disclosure of financial records shall certify in
20 writing to the fiduciary institution the fact that the subpoena,
22 summons, warrant or court order has been served upon the
24 customer. The court for good cause shown may delay or dispense
26 with service of the subpoena, summons, warrant or court order
28 upon the customer. The court shall delay or dispense with
30 service of the subpoena, summons, warrant or court order upon the
32 customer upon notice by the Attorney General, the Attorney
34 General's designee or the District Attorney that service upon the
36 customer would not be in the public interest. A subpoena,
38 summons or warrant issued in connection with a criminal
40 proceeding or state or federal grand jury proceeding, a request
42 for information by the Department of Human Services for purposes
 related to establishing, modifying or enforcing a child support
 order or a trustee process lawfully issued need not be served
 upon the customer.

SUMMARY

32 Public Law 1997, chapter 16, section 1 amended the Maine
34 Revised Statutes, Title 9-B, section 163, subsection 1 by
36 providing that a subpoena, summons or warrant issued to a
38 fiduciary institution in a criminal proceeding need not be served
40 upon the customer. Since the statute had previously provided
42 that the customer need not be served with a copy of the subpoena,
 summons or warrant issued in a federal grand jury proceeding,
 confusion exists as to whether service upon the customer is
 necessary in a state grand jury proceeding. This bill provides
 that a customer need not be served with a subpoena, summons or
 warrant in a state grand jury proceeding.