

MAINE STATE LEGISLATURE

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119th MAINE LEGISLATURE

SECOND REGULAR SESSION-2000

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H.P. 1730

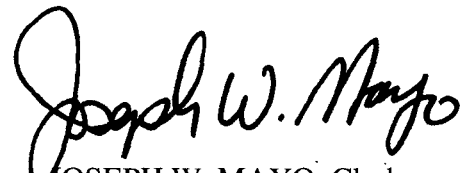
House of Representatives, January 10, 2000

An Act to Permit the Attorney General, a Deputy Attorney General or a District Attorney to Request Records of Internet Service Providers and Mobile Telecommunications Service Providers.

(EMERGENCY)

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

Reference to the Committee on Judiciary suggested and ordered printed.


JOSEPH W. MAYO, Clerk

Presented by Representative SCHNEIDER of Durham.

Cosponsored by Representatives: BRUNO of Raymond, PEAVEY of Woolwich.

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

4

6 **Whereas,** the Attorney General, a deputy attorney general or
a district attorney may demand records or information relating to
the furnishing of public utility services; and

8

10 **Whereas,** Internet services and mobile telecommunications
services are utility services that are rendered to the public; and

12 **Whereas,** the Attorney General, a deputy attorney general or
a district attorney should have the same access to the records of
Internet services and mobile telecommunications services; and

14
16 **Whereas,** in the judgment of the Legislature, these facts
create an emergency within the meaning of the Constitution of
18 Maine and require the following legislation as immediately
necessary for the preservation of the public peace, health and
20 safety; now, therefore,

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

24 **Sec. 1. 5 MRSA §200-B, sub-§1,** as repealed and replaced by PL
1995, c. 625, Pt. A, §2, is amended to read:

26

28 **1. Public utility services.** As used in this section, the
term "public utility services" means services furnished by a
public utility as defined in Title 35-A, section 102, subsections
30 5, 7, 8, 9-A, 12, 14, 15, 19 and 22 whether or not subject to the
jurisdiction of the Public Utilities Commission.

32

34 **Sec. 2. 5 MRSA §200-B, sub-§1,** as amended by PL 1999, c. 398,
Pt. A, §1 and affected by §105, is further amended to read:

36 **1. Public utility services.** As used in this section, the
term "public utility services" means services furnished by a
38 public utility as defined in Title 35-A, section 102, subsections
7, 8, 9-A, 12, 14, 15, 19, 20-B and 22 whether or not subject to
40 the jurisdiction of the Public Utilities Commission.

42 **Sec. 3. 5 MRSA §200-B, sub-§§2 to 4,** as repealed and replaced
by PL 1995, c. 625, Pt. A, §2, are amended to read:

44

46 **2. Demand for utility records; cause.** The Attorney
General, a deputy attorney general or a district attorney may
demand, in writing, all the records or information in the
48 possession of the public utility or Internet service provider
relating to the furnishing of public utility services or Internet
50 services to a person or a location if the attorney has reasonable

2 grounds to believe that the services furnished to a person or to
3 a location by a public utility or Internet service provider are
4 being or may be used for, or to further, an unlawful purpose.
5 Upon a showing of cause to any Justice of the Superior Court or
6 Judge of the District Court, the justice or judge shall approve
7 the demand. Showing of cause must be by the affidavit of any law
8 enforcement officer.

10 **3. Release of other information.** An order approving a
11 demand for utility records or Internet service provider records
12 may include a provision prohibiting the public utility from
13 releasing the fact of the request or that the records or
14 information will be or have been supplied. The public utility or
15 Internet service provider may not release the fact or facts
16 without obtaining a court order to that effect.

18 **4. Production of utility or Internet service provider**
19 **records.** Upon receipt of a demand, approved by a justice or
20 judge, the public utility or Internet service provider shall
21 immediately deliver to the attorney, or the attorney's designee
22 or agent, making the request all the records or information
23 demanded. A public utility or Internet service provider or
24 employee of that public utility or Internet service provider is
25 not criminally or civilly liable for furnishing any records or
26 information in compliance with the order approving the demand.

28 **Sec. 4. Effective date.** That section of this Act that amends
29 the Maine Revised Statutes, Title 5, section 200-B, subsection 1,
30 as amended by Public Law 1999, chapter 398, Part A, section 1,
31 takes effect March 1, 2000.

32 **Emergency clause.** In view of the emergency cited in the
33 preamble, this Act takes effect when approved.
34

36 SUMMARY

38 This bill allows the Attorney General, a deputy attorney
39 general or a district attorney to request records of Internet
40 service providers and mobile telecommunications service providers
in the same way other utility records are requested.