

MAINE STATE LEGISLATURE

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121st MAINE LEGISLATURE

FIRST REGULAR SESSION-2003

Legislative Document

No. 1079

H.P. 797

House of Representatives, March 4, 2003

**Resolve, To Establish the Committee To Study Compliance with
Maine's Freedom of Access Laws**

(EMERGENCY)

Reference to the Committee on Judiciary suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative KOFFMAN of Bar Harbor.
Cosponsored by Senator ROTUNDO of Androscoggin and
Representatives: BLISS of South Portland, BUNKER of Kossuth Township, Speaker
COLWELL of Gardiner, DUPLESSIE of Westbrook, FAIRCLOTH of Bangor, FISCHER of
Presque Isle, LEMOINE of Old Orchard Beach, McLAUGHLIN of Cape Elizabeth.

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

4
6 **Whereas,** access to public records and public proceedings by
the people is essential to successful democracy, and the freedom
of access to the public records and proceedings is governed by
8 the Maine Revised Statutes, Title 1, sections 401 to 410; and

10 **Whereas,** a study done in 2002 revealed that citizens' access
to public records is often restricted in contravention of law; and

12
14 **Whereas,** citizens would benefit from an immediate
comprehensive study of issues relating to state and municipal
compliance with the freedom of access laws and to ensuring
16 complete compliance with the laws; and

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

24 **Sec. 1. Committee established. Resolved:** That the Committee to
Study Compliance with Maine's Freedom of Access laws, referred to
26 in this resolve as "the committee," is established; and be it
further

28 **Sec. 2. Committee membership. Resolved:** That the committee
30 consists of 12 members appointed as follows:

32 1. One member of the Senate, appointed by the President of
the Senate;

34 2. One member of the House of Representatives, appointed by
36 the Speaker of the House;

38 3. One member representing the Maine Press Association,
appointed by the President of the Senate;

40 4. One member representing the Maine Daily Newspapers
42 Publishers Association, appointed by the Speaker of the House;

44 5. One member representing the Maine Municipal Association,
appointed by the Governor;

46 6. One member representing the Maine Chiefs of Police
48 Association, appointed by the Governor;

2 7. One member representing the Maine School Management
Association, appointed by the Governor;

4 8. The Attorney General, or the Attorney General's designee;

6 9. One member representing the Maine Association of
Broadcasters, appointed by the President of the Senate;

8 10. One member representing the Maine Freedom of
10 Information Coalition, appointed by the Speaker of the House;

12 11. One member of the public, appointed by the President of
the Senate; and

14 12. One member of the public, appointed by the Speaker of
16 the House; and be it further

18 **Sec. 3. Appointments; cochairs. Resolved:** That all appointments
must be made no later than 30 days following the effective date
20 of this resolve. The appointing authorities shall notify the
Executive Director of the Legislative Council upon making their
22 appointments. The legislative members named to the committee
shall serve as cochairs. When the appointment of all members is
24 completed, the cochairs of the committee shall call and convene
the first meeting of the committee no later than 15 days after
26 the last member is appointed; and be it further

28 **Sec. 4. Committee duties. Resolved:** That the committee shall
meet not more than 4 times to study state and local governmental
30 compliance with Maine's freedom of access laws and other issues
relating to citizens' access to public records and public
32 proceedings. In examining these issues, the committee shall:

34 1. Review and analyze the Report on Public Records Audit,
prepared by the Maine Freedom of Information Coalition in
36 November 2002, and the recommendations made in the report;

38 2. Study what measures, if any, state and local
governmental entities in Maine and in other states have taken to
40 ensure their employees are knowledgeable about and comply with
Maine's freedom of access laws or other comparable state laws;

42 3. Investigate and recommend ways in which governmental
44 compliance with Maine's freedom of access laws may be
meaningfully improved and calculate what, if any, costs may be
46 associated with making such improvements;

48 4. Undertake a comprehensive inventory and review of the
various exceptions to public access to records and proceedings

2 found within the freedom of access laws and identify possible
3 changes to these exceptions in order to streamline Maine law and
4 thereby make it more easily understood and complied with by
5 governmental employees; and

6 5. Reconsider whether the need for any of the statutory
7 exceptions, as currently worded, is outweighed by the State's
8 general interest in ensuring citizens' access to public records
9 and proceedings; and be it further

10 **Sec. 5. Staff assistance. Resolved:** That upon approval of the
11 Legislative Council, the Office of Policy and Legal Analysis
12 shall provide necessary staffing services to the committee; and
13 be it further

14 **Sec. 6. Reimbursement. Resolved:** That legislative members of
15 the committee are entitled to receive legislative per diem, as
16 defined in the Maine Revised Statutes, Title 3, section 2, and
17 reimbursement for travel and other necessary expenses for their
18 attendance at authorized meetings of the committee. Public
19 members not otherwise compensated by their employers or other
20 entities that they represent are entitled to receive
21 reimbursement of necessary expenses and, upon a demonstration of
22 financial hardship, a per diem equal to the legislative per diem
23 for their attendance at authorized meetings of the committee; and
24 be it further

25 **Sec. 7. Committee budget. Resolved:** That the cochairs of the
26 committee, with assistance from the committee staff, shall
27 administer the committee's budget. Within 10 days after its
28 first meeting, the committee shall present a work plan and
29 proposed budget to the Legislative Council for its approval. The
30 committee may not incur expenses that would result in the
31 committee's exceeding its approved budget; and be it further

32 **Sec. 8. Report. Resolved:** That the committee shall submit a
33 report that includes its findings and recommendations including
34 suggested legislation for presentation to the Joint Standing
35 Committee on Judiciary and the Legislative Council by December
36 15, 2003. Following receipt and review of the report, the Joint
37 Standing Committee on Judiciary may report out a bill to the
38 Second Regular Session of the 121st Legislature to implement the
39 committee's recommendations. If the committee requires a limited
40 extension of time to conclude its study and to make its report,
41 it may apply to the Legislative Council, which may grant the
42 extension.

43 **Emergency clause.** In view of the emergency cited in the
44 preamble, this resolve takes effect when approved.

45

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SUMMARY

4 This resolve establishes the Committee to Study Compliance
6 with Maine's Freedom of Access Laws, consisting of Legislators,
8 municipal officials, media representatives, the Attorney General
10 and members of the public to address issues relating to state and
governmental compliance with Maine's freedom of access laws. The
study committee is required to issue a report to the Joint
Standing Committee on Judiciary, including findings and
recommendations, by December 15, 2003.