

MAINE STATE LEGISLATURE

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121st MAINE LEGISLATURE

FIRST REGULAR SESSION-2003

Legislative Document

No. 1399

H.P. 1026

House of Representatives, March 20, 2003

An Act To Allow District Attorneys To Approve Immunity Requests

Submitted by the Department of the Attorney General pursuant to Joint Rule 204.
Reference to the Committee on Judiciary suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative NORBERT of Portland.
Cosponsored by Senator PENDLETON of Cumberland.

2
3 **Be it enacted by the People of the State of Maine as follows:**

4 **Sec. 1. 15 MRSA §1314-A**, as amended by PL 1985, c. 386, §1,
5 is further amended to read:

6 **§1314-A. Compelling evidence in criminal or juvenile proceedings;**
7 **immunity**

8
9 In any criminal proceeding before a court or grand jury, or
10 in any juvenile proceeding before a court, if a person refuses to
11 answer questions or produce evidence of any kind on the ground
12 that he the person may be incriminated thereby, and if the
13 ~~prosecuting~~ attorney for the State, in writing, and with the
14 written approval of the Attorney General or, in the event the
15 prosecution is being conducted by the office of the district
16 attorney, the written approval of either the Attorney General or
17 the district attorney for that district, requests the court to
18 order that person to answer the questions or produce the
19 evidence, and the court after notice to the witness and hearing
20 ~~shall so order~~ orders, unless it the court finds to do so would
21 be clearly contrary to the public interest, that person shall
22 comply with the order. After complying, and if, but for this
23 section, he that person would have had the right to withhold the
24 answers given or the evidence produced by ~~him~~ that person, that
25 person shall may not be prosecuted or subjected to penalty,
26 forfeiture or adjudication for or on account of any transaction,
27 matter or thing concerning which, in accordance with the order,
28 he that person gave answer or produced evidence. Failure to
29 answer questions or produce evidence as ordered by the court
30 following notice and hearing ~~shall constitute~~ constitutes
31 contempt of court. ~~He~~ The person may nevertheless be prosecuted
32 or subjected to penalty, forfeiture or adjudication for any
33 perjury, false swearing or contempt committed in answering, or
34 failing to answer, or in producing or failing to produce
35 evidence, in accordance with the order.

36
37 **SUMMARY**

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39 **40** The bill changes current law by expressly allowing a
40 district attorney as well as the Attorney General to provide the
41 necessary written approval when the criminal proceeding before a
42 court or grand jury, or the juvenile proceeding before a court,
43 is being prosecuted by the office of the district attorney rather
44 than the Office of the Attorney General or by a person not of
45 either office but authorized by law to act as a representative of
46 the State in a criminal proceeding. The bill also makes clerical
47 and gender-specific language changes.
48