

# MAINE STATE LEGISLATURE

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# 123rd MAINE LEGISLATURE

## SECOND REGULAR SESSION-2008

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Legislative Document

No. 2197

H.P. 1567

House of Representatives, February 6, 2008

### **An Act To Comprehensively Address Grand Jury Territorial Authority To Indict for Crimes**

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Reported by Representative GERZOFKY of Brunswick for the Criminal Law Advisory Commission pursuant to the Maine Revised Statutes, Title 17-A, section 1354, subsection 2.

Reference to the Committee on Judiciary suggested and ordered printed under Joint Rule 218.

*Millicent M. MacFarland*  
MILLICENT M. MacFARLAND  
Clerk

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

2 **Sec. 1. 15 MRSA §1255-A** is enacted to read:

3 **§1255-A. Grand jury territorial authority to indict for crimes**

4 **1. General rule.** Grand jury territorial authority to indict for crimes coming within  
5 the jurisdiction of the Superior Court must be exercised by the grand jury serving the  
6 county where the crime was committed.

7 **2. Exceptions.** The following are exceptions to subsection 1.

8 **A.** If the Chief Justice of the Supreme Judicial Court creates judicial regions for  
9 venue purposes pursuant to Title 4, section 19, each grand jury in a multicounty  
10 judicial region may share authority to indict for crimes committed in that judicial  
11 region.

12 **B.** Grand jury territorial authority to indict for crimes may also be exercised as  
13 otherwise provided by law.

14 **3. Administration.** The Supreme Judicial Court shall establish by rule or  
15 administrative order how and to what extent the shared authority of each grand jury in a  
16 multicounty judicial region to indict under subsection 2 may be exercised.

17 **Sec. 2. 15 MRSA §1256**, as amended by PL 1973, c. 567, §20, is further amended  
18 to read:

19 **§1256. Grand jury to present all crimes**

20 Grand juries shall present all ~~offenses cognizable by the court at which they attend~~  
21 crimes for which by law they are given territorial authority to indict, and may appoint one  
22 of their number to take minutes of their proceedings to be delivered to the attorney, if the  
23 jury so directs. When they are dismissed before the court adjourns, they may be  
24 summoned again, on any special occasion, at such time as the court directs. Evidence  
25 ~~relating to offenses cognizable by the court~~ may be offered to the grand jury by the  
26 Attorney General, the district attorney, the assistant district attorney and, at the discretion  
27 of the presiding justice, by such other persons as said presiding justice may permit.

28 **SUMMARY**

29 Under Maine law, grand jury territorial authority to indict for any crime coming  
30 within the jurisdiction of the Superior Court is directly tied to the criminal trial venue of  
31 that court. State v. True, 330 A.2d 787, 790 (Me. 1975) ("The same factors which bear  
32 on venue [for the Superior Court] will also determine the grand jury's territorial  
33 authority.") As used in this context, venue designates the particular county in which the  
34 Superior Court is authorized to exercise its jurisdictional authority to decide a particular  
35 criminal case. Id. at 789. Rule 21(a)(1) of the Maine Rules of Criminal Procedure  
36 currently fixes Superior Court venue as follows: "The trial shall be in the county in  
37 which the crime was committed, except as otherwise provided by law." The Maine

1 Revised Statutes, Title 15, section 1256 currently provides the "statutory definition of a  
2 grand jury's territorial jurisdiction." Id. at 790, n.3. It reads: "Grand jurors shall present  
3 all offenses cognizable by the court at which they attend...." As a consequence, except as  
4 otherwise provided by law, a grand jury's jurisdictional authority to indict is limited to  
5 crimes committed within the county for which it serves. Numerous statutes currently  
6 provide flexibility as to criminal trial venue by allowing for a prosecution to be brought  
7 in a venue (county) other than the county in which the criminal conduct occurred. See,  
8 e.g., Title 15, section 3 and Title 17-A, sections 352, subsection 5, paragraph E; 506,  
9 subsection 2; 552, subsection 2-A; 703, subsection 3; 708, subsection 3-A; 755,  
10 subsection 3-A; 805, subsection 1-B; and 1106-A. These statutory exceptions that fix the  
11 trial venue of the Superior Court simultaneously serve to broaden a grand jury's  
12 jurisdictional authority as well. See, e.g., State v. True, 330 A.2d at 790 (Me. 1995)  
13 (addressing crimes committed within 100 rods of a county line (Title 15, section 3)) and  
14 State v. Chasse, 2002 ME 90, ¶¶ 7, 8, 797 A.2d 1262, 1264-65 (addressing crime of  
15 escape (Title 17-A, section 755, subsection 3-A)).

16 The bill does the following.

17 1. It defines grand jury territorial authority expressly, rather than in terms of trial  
18 venue for the Superior Court.

19 2. It identifies the general rule applicable to grand jury jurisdiction. Grand jury  
20 territorial authority to indict for crimes coming within the jurisdiction of the Superior  
21 Court must be exercised by the grand jury serving the county where the crime was  
22 committed.

23 3. It introduces a new statutory exception relative to grand juries in judicial regions  
24 when such regions are created by the Chief Justice of the Supreme Judicial Court for  
25 venue purposes, pursuant to Title 4, section 19. Specifically, it provides that each grand  
26 jury in a multicounty judicial region may share authority to indict for crimes committed  
27 in that judicial region except as limited by rule or administrative order of the Supreme  
28 Judicial Court.

29 4. It expressly recognizes the existence of special laws that constitute exceptions to  
30 the general rule.

31 The bill also amends Title 15, section 1256 to eliminate that portion that currently  
32 contains a definition of a grand jury's territorial jurisdiction, since the new section  
33 1255-A comprehensively addresses a grand jury's jurisdiction. The new language is  
34 intended to identify the basic duty imposed upon grand juries, which is to present all  
35 crimes over which by law they have jurisdiction.