

MAINE STATE LEGISLATURE

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8/11/13
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Date: 6/3/13

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CRIMINAL JUSTICE AND PUBLIC SAFETY

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STATE OF MAINE

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HOUSE OF REPRESENTATIVES

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126TH LEGISLATURE

8

FIRST REGULAR SESSION

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COMMITTEE AMENDMENT "A" to H.P. 941, L.D. 1316, Bill, "An Act Regarding Computers Used To Commit a Crime or Facilitate the Commission of a Crime"

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Amend the bill in section 3 in §436 by striking out all of subsection 1 (page 1, lines 15 to 19 in L.D.) and inserting the following:

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'1. If a person is convicted upon a finding of guilt or upon the acceptance of a plea of guilty or nolo contendere or found not criminally responsible of a violation of this Title, the State, after all appeal periods have run and those proceedings have concluded, may permanently destroy the computer data on any computer that was used to commit or facilitate the commission of that violation or cause the computer data to be permanently destroyed through the removal and destruction of any part of the computer in the possession of the State on which the computer data are stored.'

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Amend the bill in section 3 in §436 in subsection 2 in paragraph F in the 3rd line (page 2, line 1 in L.D.) by inserting after the following: "accommodated" the following: 'The chief officer of the agency may consider whether there is a 3rd-party vendor that can accommodate the request if the chief officer determines the agency cannot accommodate the request for reasons provided in this paragraph. The chief officer of the agency subject to the request shall refer the request to an appropriate 3rd-party vendor for processing upon receipt by the chief officer of the agency of full payment from the requestor for the amount charged by the vendor to accommodate the request for information'

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Amend the bill in section 3 in §436 in subsection 2 in the blocked paragraph in the 2nd line (page 2, line 9 in L.D.) by striking out the following: "must" and inserting the following: 'may'

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Amend the bill in section 3 in §436 in subsection 2 by inserting at the end a new blocked paragraph to read:

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'The chief officer of the criminal justice agency that is subject to a request under this subsection shall respond to the requestor within 60 days from the date the request was

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COMMITTEE AMENDMENT

1 received by the chief officer. The chief officer's response must include but is not limited
 2 to what actions if any the agency will take regarding the computer data identified in the
 3 request.'

4 Amend the bill in section 3 in §437 in subsection 1 by striking out all of paragraph A
 5 (page 2, lines 17 and 18 in L.D.) and inserting the following:

6 'A. A person is convicted upon a finding of guilt or upon the acceptance of a plea of
 7 guilty or nolo contendere or is found not criminally responsible of a crime committed
 8 using, or that was facilitated through the use of, the computer and all appeal periods
 9 have run and those proceedings have concluded;'

10 Amend the bill in section 3 in §437 in subsection 1 in paragraph C in the 2nd line
 11 (page 2, line 22 in L.D.) by striking out the following: "the finding of guilt" and inserting
 12 the following: 'a conviction upon a finding of guilt or upon the acceptance of a plea of
 13 guilty or nolo contendere or a finding of not criminally responsible'

14 Amend the bill in section 3 in §437 in subsection 2 by striking out all of paragraph A
 15 (page 2, lines 31 to 35 in L.D.) and inserting the following:

16 'A. The person notifies the State in writing within 6 months following a conviction
 17 upon a finding of guilt or upon the acceptance of a plea of guilty or nolo contendere
 18 or a finding of not criminally responsible that a person committed a crime using, or
 19 that was facilitated by the use of, the computer and all appeal periods have run and
 20 those proceedings have concluded, that the person wants to take possession of that
 21 computer. The written notification must be made to the criminal justice agency
 22 having custody of the computer;'

23 Amend the bill in section 3 in §437 in subsection 3 in the 4th line (page 3, line 4 in
 24 L.D.) by striking out the following: "must" and inserting the following: 'may'

25 Amend the bill in section 3 in §437 in subsection 3 by inserting at the end a new
 26 blocked paragraph to read:

27 'When the State receives a notification from a person who wishes to take possession of a
 28 computer pursuant to subsection 2, the State must respond to that notification within 60
 29 days from the date the notification was received by the State. The State's response must
 30 include but is not limited to what actions, if any, the State will take regarding the
 31 computer identified in the notification.'

32 Amend the bill in section 4 in the 3rd line from the end (page 3, line 15 in L.D.) by
 33 striking out the following: "4 months" and inserting the following: '90 days'

34 SUMMARY

35 This amendment makes the following changes to the bill.

36 1. It gives the State the discretion to destroy or dispose of a computer used to commit
 37 a crime instead of making it mandatory as in the bill.

38 2. In addition to a finding of the defendant's guilt as the trigger for the destruction of
 39 computer data or the disposal of a computer, this amendment adds to that the court's
 40 acceptance of a plea of guilty or nolo contendere or a finding by the court that the person

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1 is not criminally responsible for the crime. It also clarifies that the destruction or disposal
2 of such property may not be done until after all appeal periods have run and any such
3 proceedings have concluded.

4 3. In addition to the conditions in the bill that must be met before the State releases
5 any computer data to persons requesting the data, this amendment also provides that the
6 chief officer of the agency subject to the request may consider whether there is a
7 3rd-party vendor that can accommodate the request if the agency cannot provide the
8 requested data. It also provides that the chief officer shall refer the request to the
9 3rd-party vendor for processing upon receipt of full payment from the requestor for the
10 amount to be charged by the vendor.

11 4. This amendment provides that the chief officer of the criminal justice agency that
12 is subject to a request for computer data or for possession of a computer must respond
13 within 60 days from the date the request was received by the chief officer.

14 5. It changes the notice the State must give before destroying computer data or
15 disposing of a computer in the custody of the State prior to the effective date of this Act
16 from 4 months to 90 days.

17 **FISCAL NOTE REQUIRED**

18 **(See attached)**



126th MAINE LEGISLATURE

LD 1316

LR 440(02)

An Act Regarding Computers Used To Commit a Crime or Facilitate the Commission of a Crime

Fiscal Note for Bill as Amended by Committee Amendment "A" (H-317)
Committee: Criminal Justice and Public Safety
Fiscal Note Required: Yes

Fiscal Note

Minor cost increase - General Fund

Fiscal Detail and Notes

Additional costs to the Department of Public Safety associated with implementing the provisions of this legislation can be absorbed within existing budgeted resources.