

MAINE STATE LEGISLATURE

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130th MAINE LEGISLATURE

FIRST SPECIAL SESSION-2021

Legislative Document

No. 1529

H.P. 1133

House of Representatives, April 19, 2021

**RESOLUTION, Proposing an Amendment to the Constitution of
Maine To Create a Right to Privacy**

Received by the Clerk of the House on April 15, 2021. Referred to the Committee on
Judiciary pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

A handwritten signature in cursive script that reads "R B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative O'NEIL of Saco.
Cosponsored by Senator BAILEY of York and
Representative: FAULKINGHAM of Winter Harbor.

1 **Constitutional amendment. Resolved:** Two thirds of each branch of the
2 Legislature concurring, that the following amendment to the Constitution of Maine be
3 proposed:

4 **Constitution, Art. I, §1** is amended to read:

5 **Section 1. Natural rights.** All people are born equally free and independent, and
6 have certain natural, inherent and unalienable rights, among which are those of enjoying
7 and defending life and liberty, of acquiring, possessing and protecting property, of privacy
8 and of pursuing and obtaining safety and happiness.

9 **Constitution, Art. I, §5** is amended to read:

10 **Section 5. Unreasonable searches prohibited.** The people shall be secure in
11 their persons, houses, papers ~~and~~, possessions and electronic data and electronic
12 communications from all unreasonable searches and seizures; and no warrant to search any
13 place, or seize any person or thing, or access electronic data or electronic communications
14 shall issue without a special designation of the place to be searched, and the person or thing
15 to be seized, nor without probable cause -- supported by oath or affirmation.

16 **Constitution, Art. I, §25** is enacted to read:

17 **25. Privacy.** All natural persons have an inherent right to privacy that is free from
18 governmental and private intrusion. The inherent right to privacy includes but is not limited
19 to privacy of a natural person's personal life, personal communications, private affairs and
20 personal thoughts or inner life.

21 A natural person's interaction with an Internet, communication or other electronic data
22 service does not diminish the natural person's reasonable expectation of privacy.

23 **Constitutional referendum procedure; form of question; effective date.**

24 **Resolved:** That the municipal officers of this State shall notify the inhabitants of their
25 respective cities, towns and plantations to meet, in the manner prescribed by law for holding
26 a statewide election, at a statewide election held in the month of November following the
27 passage of this resolution, to vote upon the ratification of the amendment proposed in this
28 resolution by voting upon the following question:

29 "Do you favor amending the Constitution of Maine to create a natural and
30 inherent right to privacy in which a natural person is free from
31 governmental and private intrusion, including but not limited to privacy of
32 a natural person's personal life, personal communications, private affairs
33 and personal thoughts or inner life, and that is not diminished by a person's
34 interaction with an Internet, communication or other electronic data
35 service and requires a warrant prior to government access of a person's
36 electronic data and electronic communications?"

37 The legal voters of each city, town and plantation shall vote by ballot on this question
38 and designate their choice by a cross or check mark placed within the corresponding square
39 below the word "Yes" or "No." The ballots must be received, sorted, counted and declared
40 in open ward, town and plantation meetings and returns made to the Secretary of State in
41 the same manner as votes for members of the Legislature. The Governor shall review the
42 returns. If it appears that a majority of the legal votes are cast in favor of the amendment,

1 the Governor shall proclaim that fact without delay and the amendment becomes part of
2 the Constitution of Maine on the date of the proclamation.

3 **Secretary of State shall prepare ballots. Resolved:** That the Secretary of State
4 shall prepare and furnish to each city, town and plantation all ballots, returns and copies of
5 this resolution necessary to carry out the purposes of this referendum.

6 **SUMMARY**

7 This resolution proposes to amend the Constitution of Maine by creating a natural and
8 inherent right to privacy in which a person's personal life and affairs are free from
9 governmental and private intrusion and not diminished by a person's interaction with an
10 Internet, communication or other electronic data service and that requires a warrant prior
11 to government access of a person's electronic data and electronic communications.