

MAINE STATE LEGISLATURE

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Date 6/16/23 Majority (Filing No H-587) L D 1492

CRIMINAL JUSTICE AND PUBLIC SAFETY

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
131ST LEGISLATURE
FIRST SPECIAL SESSION

COMMITTEE AMENDMENT "A" to H P 947, L D 1492, "An Act to Increase the Transparency and Accountability of the Maine Information and Analysis Center"

Amend the bill by striking out everything after the enacting clause and inserting the following

'Sec. 1. 25 MRS A §1802 is enacted to read

§1802. Auditor of center

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings

- A "Auditor" means the auditor of the center pursuant to this section
- B "Committee" means the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters
- C "Deidentified" means, with respect to a report, that personally identifiable information has been removed from or obscured in the report so that the report does not identify a person and reasonably cannot be used to identify a person

2. Creation and appointment of position. There is created within the Office of the Attorney General the position of auditor. The auditor must be appointed by the Attorney General without regard to political affiliation and, as determined by the Attorney General, must be a person qualified by integrity and demonstrated ability in relevant fields

3. Powers and duties. The auditor shall provide systematic, ongoing oversight of the center to ensure the transparency and accountability of its operations and to ensure that the center operates within the law and in a manner that preserves the privacy, civil liberties and civil rights of all people in the State. The auditor

- A Shall assist the committee in the oversight duties of the committee over the center,
- B Shall maintain a publicly accessible website that includes the deidentified informational reports provided to the committee by the center pursuant to section 1801 and by the auditor pursuant to subsection 4,

COMMITTEE AMENDMENT

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1 C Shall include as part of the publicly accessible website described in paragraph B a
2 means by which a person may submit questions or complaints about the auditor or
3 center The identity of a person who submits a good faith complaint to the auditor
4 against the center using the website or by other means is confidential and the auditor
5 shall maintain the identity of that person as confidential, and

6 D May select the type and extent of reviews of center activities to conduct

7 **4. Reporting.** The auditor shall provide the following reports to the committee

8 A An annual report no later than April 1st each year regarding the oversight of the
9 center,

10 B An interim progress report no later than September 15th each year, including
11 progress made on any goals established by the auditor in prior reports and any obstacles
12 the auditor has found in fulfilling the requirements of this section,

13 C A report whenever the center refuses a data request or to make personnel available
14 for auditor interviews, if known by the auditor, including the reason for the refusal, if
15 known by the auditor, and

16 D Other reports as the auditor determines necessary

17 A report provided by the auditor to the committee pursuant to this subsection and posted
18 on the auditor's publicly accessible website pursuant to subsection 3, paragraph B must be
19 deidentified and may not contain any information that is confidential or is otherwise not
20 authorized by law to be disseminated to the public The auditor shall redact from a report
21 required by this subsection any information that is prohibited by law from disclosure, is
22 sensitive and pertains to an ongoing investigation of criminal activity or would cause a
23 specific and imminent threat to safety

24 **5. Limitations.** The auditor may not

25 A Require the center to take corrective action, or

26 B Disclose the name or other personally identifying information of an informant,
27 witness or suspect or other source of information to the center

28 **6. Center cooperation.** The center shall make available documents and personnel as
29 requested by the auditor

30 **7. Commissioner input.** The Commissioner of Public Safety may present a response
31 to an issue reported by the auditor pursuant to subsection 4

32 **Sec. 2. 25 MRSA §1803** is enacted to read

33 **§1803. Public record**

34 Information shared by the center with a private entity that is not designated as classified
35 or confidential under any federal or state law, regulation or rule is a public record within
36 the meaning of the Freedom of Access Act

37 **Sec. 3. Auditor of Maine Information and Analysis Center; report.** The
38 auditor appointed pursuant to the Maine Revised Statutes, Title 25, section 1802 shall
39 review the Maine Information and Analysis Center's record-keeping and information-
40 sharing practices, particularly with respect to its intelligence-gathering and dissemination
41 practices, and assess the policies used by the center to determine the quality or veracity of

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1 the information the center receives and whether those policies appropriately consider the
2 privacy, civil liberties and civil rights of all people in this State The auditor shall also
3 determine whether the center's practices comply with the requirements of federal laws and
4 regulations regarding criminal intelligence collection, retention and sharing that are
5 applicable to the center, including, but not limited to, 28 Code of Federal Regulations, Part
6 23 The auditor shall include the results of the review under this section along with any
7 recommendations in the first report the auditor submits to the joint standing committee of
8 the Legislature having jurisdiction over criminal justice and public safety matters pursuant
9 to Title 25, section 1802, subsection 4 After reviewing the report, the joint standing
10 committee may report out legislation relating to the report

11 As used in this section, "auditor" has the same meaning as in Title 25, section 1802,
12 subsection 1, paragraph A and "Maine Information and Analysis Center" or "center" has
13 the same meaning as in Title 25, section 1801

14 **Sec. 4. Appropriations and allocations.** The following appropriations and
15 allocations are made

16 **ATTORNEY GENERAL, DEPARTMENT OF THE**

17 **Administration - Attorney General 0310**

18 Initiative Provides ongoing funding for one Research Assistant Paralegal position to serve
19 as the auditor of the Maine Information and Analysis Center and related All Other costs

| | | | |
|----|-------------------------------|-----------------|-----------------|
| 20 | GENERAL FUND | 2023-24 | 2024-25 |
| 21 | POSITIONS - LEGISLATIVE COUNT | 1 000 | 1 000 |
| 22 | Personal Services | \$58,603 | \$88,232 |
| 23 | All Other | \$5,247 | \$5,247 |
| 24 | | | |
| 25 | GENERAL FUND TOTAL | <u>\$63,850</u> | <u>\$93,479</u> |

26
27 Amend the bill by relettering or renumbering any nonconsecutive Part letter or section
28 number to read consecutively

29 **SUMMARY**

30 This amendment, which is the majority report of the committee, does the following

31 1 It adds a definition for "deidentified" and requires that reports submitted to the joint
32 standing committee of the Legislature having jurisdiction over criminal justice and public
33 safety matters and on the publicly accessible website of the auditor of the Maine
34 Information and Analysis Center be deidentified

35 2 It provides that the powers and duties of the auditor include ensuring that the center
36 operates within the law and in a manner that preserves the privacy, civil liberties and civil
37 rights of all people in the State

38 3 It requires that reports of the auditor to the committee that are posted on the auditor's
39 publicly accessible website may not contain any records that are confidential or otherwise
40 not authorized by law to be disseminated to the public

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COMMITTEE AMENDMENT "A" to H P 947, L D 1492

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4 It specifies that the identity of any person who submits a good faith complaint to the auditor against the center using the auditor's publicly accessible website or by other means is confidential and that the auditor shall maintain the identity of such persons as confidential

5 It specifies that classified information that is shared by the center with a private entity is not considered a public record under the Freedom of Access Act

6 It makes other technical changes and clarifications to the bill

FISCAL NOTE REQUIRED

(See attached)

COMMITTEE AMENDMENT



131st MAINE LEGISLATURE

LD 1492

LR 1623(02)

An Act to Increase the Transparency and Accountability of the Maine Information and Analysis Center

Fiscal Note for Bill as Amended by Committee Amendment "A (H-587)"

Committee: Criminal Justice and Public Safety

Fiscal Note Required: Yes

A (H-587)

Fiscal Note

| | FY 2023-24 | FY 2024-25 | Projections FY 2025-26 | Projections FY 2026-27 |
|-----------------------------------|------------|------------|---------------------------|---------------------------|
| Net Cost (Savings) | | | | |
| General Fund | \$63,850 | \$93,479 | \$98,153 | \$102,785 |
| Appropriations/Allocations | | | | |
| General Fund | \$63,850 | \$93,479 | \$98,153 | \$102,785 |

Fiscal Detail and Notes

This bill includes ongoing General Fund appropriations to the Office of the Attorney General of \$63,850 in fiscal year 2023-24 and \$93,479 in fiscal year 2024-25 for one Research Assistant Paralegal position to conduct systematic, ongoing oversight and auditing of the Department of Public Safety, Maine Information and Analysis Center

Additional costs to the Department of Public Safety associated with making available documents and personnel as requested by the auditor can be absorbed within existing budgeted resources