

# MAINE STATE LEGISLATURE

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# 131st MAINE LEGISLATURE

## FIRST SPECIAL SESSION-2023

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Legislative Document

No. 1883

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H.P. 1208

House of Representatives, May 3, 2023

### **An Act to Enact the Protection of Shared Physical and Digital Property from Warrantless Searches Act**

(AFTER DEADLINE)

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Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.

Reference to the Committee on Criminal Justice and Public Safety suggested and ordered printed.

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

ROBERT B. HUNT  
Clerk

Presented by Representative FAULKINGHAM of Winter Harbor.  
Cosponsored by Representatives: ANDREWS of Paris, BAGSHAW of Windham, BOYER of Poland, LYMAN of Livermore Falls, SAMPSON of Alfred, Speaker TALBOT ROSS of Portland, THORNE of Carmel, WILLIAMS of Bar Harbor.

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

2 **Sec. 1. 15 MRSA §58** is enacted to read:

3 **§58. The Protection of Shared Physical and Digital Property from Warrantless**  
4 **Searches Act**

5 **1. Short title.** This section may be known and cited as "the Protection of Shared  
6 Physical and Digital Property from Warrantless Searches Act."

7 **2. Definitions.** As used in this section, unless the context otherwise indicates, the  
8 following terms have the following meanings.

9 A. "Digital property" means information that a person creates that:

10 (1) Is stored in digital form and includes the information necessary to access the  
11 digital property; or

12 (2) The person has shared with a 3rd party in connection to the provision of goods  
13 or services to the person and is recorded in digital form and includes digital records  
14 containing the information.

15 "Digital property" does not include information a person voluntarily shares with the  
16 public or with a 3rd party with the understanding that the 3rd party will share that  
17 information with the public.

18 B. "Government agent" means an individual who is employed by or contracted to a  
19 federal, state or local governmental entity.

20 C. "Physical property" means all real and personal property that a person owns or  
21 possesses, including:

22 (1) All real and personal property that a person shares with a 3rd party in  
23 connection to the provision of goods or services to that person; and

24 (2) Information a person shares with a 3rd party in connection to the provision of  
25 goods or services to that person that is recorded in physical form, including all  
26 physical records containing the information.

27 "Physical property" does not include information a person voluntarily shares with the  
28 public or with a 3rd party with the understanding that the 3rd party will share that  
29 information with the public.

30 D. "Third party" means a party different from a person or government agent, that  
31 maintains physical property or digital property about the person as part of providing  
32 that person goods or services.

33 **3. Prohibition.** A government agent may not search or seize physical property or  
34 digital property of a person that is held by a 3rd party without first obtaining a search  
35 warrant based on probable cause, except:

36 A. After receiving the permission of the owner of the digital property or physical  
37 property; or

38 B. To respond to an imminent threat to a person's life, safety or property or a similar  
39 exigent circumstance.

