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Legislative Document

No. 1315

H.P. 961

House of Representatives, March 28, 2011

**An Act To Establish an Integrated Statewide System To Manage
and Enforce Electronic Warrants**

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

A handwritten signature in cursive script that reads "Heather J.R. Priest".

HEATHER J.R. PRIEST
Clerk

Presented by Representative PLUMMER of Windham.
Cosponsored by Senator MASON of Androscoggin and
Representatives: BRYANT of Windham, HASKELL of Portland, LAJOIE of Lewiston,
MORISSETTE of Winslow, PEOPLES of Westbrook, SANDERSON of Chelsea, WILLETTE
of Mapleton, Senator: GERZOFKY of Cumberland.

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

2 **Sec. 1. 15 MRSA c. 99**, as amended, is repealed.

3 **Sec. 2. 15 MRSA c. 100** is enacted to read:

4 **CHAPTER 100**

5 **WARRANTS**

6 **§651. Definitions**

7 As used in this chapter, unless the context otherwise indicates, the following terms
8 have the following meanings.

9 **1. Affidavit warrant.** "Affidavit warrant" means a warrant issued in response to a
10 properly sworn charging instrument or affidavit, or both, based on probable cause to
11 believe that an individual has committed a crime.

12 **2. Alias name.** "Alias name" means an alternative name, a pseudonym or a
13 placeholder name.

14 **3. Alternative name.** "Alternative name" means a name used by an individual
15 instead of or in addition to the individual's legal name.

16 **4. Bench warrant.** "Bench warrant" means an arrest warrant issued by an
17 authorized judicial officer that directs a law enforcement officer to seize or detain an
18 individual and includes the following types of arrest warrants:

19 A. An affidavit warrant;

20 B. A contempt warrant;

21 C. An FTP warrant;

22 D. An FTA warrant;

23 E. A juvenile warrant; and

24 F. A probation violation warrant.

25 **5. Contempt warrant.** "Contempt warrant" means a bench warrant issued by a
26 judicial order:

27 A. For failure of an individual to appear for a contempt hearing pursuant to the
28 Maine Rules of Civil Procedure, Rule 66(c)(2)(E) or Rule 66(d)(2)(E); or

29 B. For failure of a contemnor to comply with a contempt order pursuant to the Maine
30 Rules of Civil Procedure, Rule 66(c)(3) or Rule 66(d)(3)(A).

31 **6. Digital signature.** "Digital signature" has the same meaning as in Title 10,
32 section 9502, subsection 1.

1 **7. Electronic signature.** "Electronic signature" has the same meaning as in Title 10,
2 section 9402, subsection 8.

3 **8. FTA warrant.** "FTA warrant" means a bench warrant issued for failure of an
4 individual to appear in court as required by a criminal summons or other court order
5 requiring an individual to appear for a court hearing.

6 **9. FTP warrant.** "FTP warrant" means a bench warrant issued for failure of an
7 individual to pay a fine, as described in Title 14, section 3141, as ordered by the issuing
8 court.

9 **10. Juvenile warrant.** "Juvenile warrant" means a bench warrant issued in order to
10 detain a juvenile pursuant to section 3202.

11 **11. Local entering agency.** "Local entering agency" means a local law enforcement
12 agency designated by the district attorney within a prosecutorial district, with the
13 approval of the Chief Judge of the District Court.

14 **12. Maine telecommunications and routing operations system.** "Maine
15 telecommunications and routing operations system" means the interagency
16 communications system maintained and operated by the Maine State Police.

17 **13. Maine State Police wanted database.** "Maine State Police wanted database"
18 means the database of warrants and other information maintained by the Maine State
19 Police.

20 **14. Other judicial warrant.** "Other judicial warrant" means a warrant, other than a
21 bench warrant, issued by the Supreme Judicial Court, Superior Court, District Court or
22 Probate Court, pursuant to statute or common law, including, but not limited to, civil
23 orders of arrest and warrants for failure to respond to a subpoena or for jury duty.

24 **15. Placeholder name.** "Placeholder name" means a nonspecific name, such as
25 "Unknown," that is assigned by law enforcement officials to an individual whose legal
26 name is not known to law enforcement officials.

27 **16. Probation violation warrant.** "Probation violation warrant" means a bench
28 warrant issued by a judicial officer in response to a motion to revoke the probation,
29 intensive supervision or supervised release of an individual, requested by a probation
30 officer or prosecutor.

31 **17. Pseudonym.** "Pseudonym" means a fictitious name, such as "John Doe," that is
32 assigned by law enforcement officials to an individual whose legal name is not known to
33 law enforcement officials.

34 **18. Statewide warrant management system.** "Statewide warrant management
35 system" means the integrated electronic system that consists of the Maine State Police
36 wanted database, the Maine telecommunications and routing operations system and the
37 warrant docket management system.

1 **19. Warrant docket management system.** "Warrant docket management system"
2 means the system maintained by the Administrative Office of the Courts to manage the
3 generation, storage, retention and recall of electronic arrest warrants issued by the courts.

4 **§652. Exclusions**

5 This chapter does not apply to:

6 **1. Extradition warrants.** Warrants issued by the Governor pursuant to the United
7 States Constitution and the Uniform Criminal Extradition Act for the extradition of
8 fugitives from justice, except that the provisions requiring law enforcement officers to be
9 responsible for the execution of warrants are fully applicable to a Governor's warrant;

10 **2. Other judicial warrants.** Other judicial warrants that are generated, maintained
11 and recalled by the individual issuing court and are not maintained in the Maine State
12 Police wanted database. Notwithstanding any provision of this chapter, other judicial
13 warrants retain their full force and effect;

14 **3. Civil orders of arrest.** Civil orders of arrest issued pursuant to Title 14, section
15 3135;

16 **4. Corrections warrants.** Warrants issued by the Department of Corrections for
17 violations of parole, probation, intensive supervision or supervised release or for escape
18 or failure to report;

19 **5. Nonjudicial warrants.** Warrants issued by other authorities, including but not
20 limited to federal courts and agencies and tribal courts; and

21 **6. Search warrants.** Warrants issued pursuant to section 55 and the Maine Rules of
22 Criminal Procedure, Rule 41 and administrative inspection warrants issued pursuant to
23 the Maine Rules of Civil Procedure, Rule 80E.

24 **§653. Statewide warrant management system**

25 **1. Warrant docket management system.** The Administrative Office of the Courts
26 shall establish a warrant docket management system for the generation, storage, retention
27 and recall of all electronic arrest warrants issued by the courts. When a bench warrant is
28 issued by a court, the warrant must be electronically directed to the warrant docket
29 management system.

30 **2. Central warrant administration.** The Maine State Police shall administer a
31 central system for the management, enforcement and execution of warrants. The Maine
32 State Police must have continuous electronic interface with the warrant docket
33 management system, the Maine State Police wanted database, the Maine
34 telecommunications and routing operations system and the National Crime Information
35 Center. The Maine State Police shall coordinate with all law enforcement agencies to
36 ensure the prompt communication of all warrant information through the National Crime
37 Information Center and the Maine telecommunications and routing operations system.
38 The Maine State Police shall post information to the warrant docket management system
39 concerning the status and execution of all arrest warrants.

1 **3. Validation.** The Maine State Police shall manage the mandated validation
2 process for warrants sent to the National Crime Information Center.

3 **4. Monitor management.** The Maine State Police shall monitor the management of
4 entry and removal of warrant information in the Maine State Police wanted database, and
5 shall exchange data with the warrant docket management system, or other pertinent
6 databases, as required.

7 **5. Structured plan.** The Maine State Police shall develop a structured bench
8 warrant management plan designed to maximize the execution of outstanding arrest
9 warrants and to identify appropriate bench warrants to be removed from pertinent
10 databases.

11 **§654. Warrants**

12 **1. Form of warrant.** A bench warrant and a return of service must each be
13 maintained and transmitted in electronic form unless the statewide warrant management
14 system is unavailable or other exigent circumstances prevent such electronic maintenance
15 or transmittal, in which case a paper warrant may be issued and entered into the warrant
16 docket management system as soon as practicable. An electronic warrant with a digital
17 signature or an electronic signature is of equal validity as a manually signed paper
18 warrant issued pursuant to former chapter 99 and has the full force and effect of law.

19 **2. Warrant electronically available.** A certified electronic warrant must be
20 maintained in the warrant docket management system and its details and status must be
21 available at all times to the Maine State Police, which shall make that information
22 available to local law enforcement agencies through the Maine telecommunications and
23 routing operations system. The certified electronic warrant must include an electronic
24 signature or digital signature, and may include a digital watermark or such other security
25 features as the Administrative Office of the Courts determines necessary to verify the
26 warrant's authenticity.

27 **3. Content of warrant.** A bench warrant must contain:

28 **A.** The subject's name or alias name;

29 **B.** The subject's date of birth, if known;

30 **C.** At least one identified charge;

31 **D.** An indication if any pending charge is a domestic violence crime; and

32 **E.** Available information concerning the identity and location of the subject
33 sufficient to meet the minimum requirements established by the Maine
34 telecommunications and routing operations system and the National Crime
35 Information Center.

36 The bench warrant may contain photographs of the subject, a description of any
37 distinguishing physical characteristics and other information that will aid in the location
38 of the subject and the execution of the warrant. A bench warrant is not rendered invalid
39 because of technical noncompliance with this section.

1 **4. National Crime Information Center.** A bench warrant may not be entered in the
2 National Crime Information Center database without authorization from the Attorney
3 General or designee of the Attorney General or a district attorney or designee of the
4 district attorney, except that the Department of Corrections may enter a bench warrant for
5 a violation of parole or probation or for escape. The authorizing entity shall specify
6 appropriate geographic limitations, if any, on extradition, which are subject to change, at
7 the time the bench warrant is executed.

8 **5. Clerical errors.** A clerical error in a bench warrant must ordinarily be corrected
9 by the issuance of a replacement warrant by the issuing court or agency, but may be
10 corrected by an authorized judicial officer upon an ex parte application in exigent
11 circumstances.

12 **6. Removal from database.** When a bench warrant is recalled by the issuing court,
13 the court shall maintain a record of the recall and the bench warrant must be immediately
14 removed from the warrant docket management system and the Maine State Police wanted
15 database. When a bench warrant is executed, the law enforcement agency must make an
16 electronic return of service immediately upon verification that the served individual is the
17 subject of the bench warrant. Once a return of service has been received, the bench
18 warrant must be removed from the Maine State Police wanted database.

19 **§655. Local entering agency**

20 **1. Authority.** The district attorney for each prosecutorial district, with the approval
21 of the Chief Judge of the District Court, shall designate one or more local entering
22 agencies for each prosecutorial district.

23 **2. Standards.** Each local entering agency must have the capability and willingness
24 to accept the burden and responsibility of warrant management as a full and equal
25 element of its sworn public duty and must meet standards established by the Maine
26 telecommunications and routing operations system and the National Crime Information
27 Center.

28 **§656. Responsibilities of law enforcement agencies**

29 Each law enforcement agency shall adopt policies to comply with this chapter. Local
30 policies must ensure that all bench warrants are served and returns of service entered as
31 required by section 654.

32 **§657. Responsibilities of courts**

33 The courts are responsible for:

34 **1. Complete information.** Maintaining bench warrants with information that is as
35 complete as possible and that maximizes the likelihood that the bench warrants will be
36 successfully executed;

37 **2. Single transmission.** Transmitting only one set of data for each instance of a
38 bench warrant's issuance and maintaining an audit record of each transmission; and

1 **3. Recall notice.** Immediately transmitting an electronic notice of recall to the
2 Maine State Police when a bench warrant is recalled.

3 **Sec. 3. 15 MRSA §1023, sub-§8** is enacted to read:

4 **8. Bail commissioners in indigent cases.** The Chief Judge of the District Court may
5 adopt rules requiring a bail commissioner to appear and set bail regardless of whether the
6 defendant is indigent and unable to pay the bail commissioner's fee. The Chief Judge of
7 the District Court may also adopt rules governing the manner in which a bail
8 commissioner is paid in the event an indigent person is released on bail and is unable to
9 pay the bail commissioner's fee.

10 **Sec. 4. Rules.**

11 **1. Electronic verification.** Notwithstanding the Maine Revised Statutes, Title 10,
12 section 9503, the Supreme Judicial Court may adopt rules to allow for the use in the
13 judicial branch of electronic signatures, digital signatures, digital watermarks or other
14 appropriate security devices to ensure the validity of electronically transmitted and stored
15 warrants and to ensure that such warrants are appropriately tracked and can be validated.
16 The court shall consult and cooperate with the Secretary of State to ensure that its rules
17 will not interfere with the transfer of data and signatures between branches and
18 departments of State Government. Electronic signatures and digital signatures executed
19 or adopted by a person or entity pursuant to these rules are presumed to be valid as
20 provided in Title 10, chapter 1051.

21 **2. Resolution in other court.** The Supreme Judicial Court may adopt rules to
22 provide that an individual who is arrested in a county or district, other than the county or
23 district whose court issued the warrant, for the commission of a Class D or Class E crime,
24 for the failure to appear for a Class D or Class E crime or for a civil violation or for the
25 failure to pay a fine for any crime or civil violation, may waive the right to a trial and any
26 objections to venue and return to the court that issued the warrant and plead guilty and be
27 sentenced, pay a fine or otherwise have the matter disposed of by the appropriate court in
28 the arresting district.

29 **3. Local entering agencies.** The Commissioner of Public Safety, with the
30 concurrence of the Attorney General, may adopt rules to provide additional requirements
31 or standards of operation that apply to local entering agencies. Rules adopted pursuant to
32 this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter
33 2-A.

34 **Sec. 5. Warrant repositories in existence on effective date; construction.**
35 Nothing in this Act is intended or may be construed to affect the validity of any warrant
36 issued by a court or other authorized entity prior to the effective date of this Act. Nothing
37 in this Act is intended to deauthorize or otherwise affect the authority of warrant
38 repositories established pursuant to the Maine Revised Statutes, Title 15, former chapter
39 99 that are in existence on the effective date of this Act.

