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CRIMINAL JUSTICE AND PUBLIC SAFETY

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
129TH LEGISLATURE
SECOND SPECIAL SESSION**

COMMITTEE AMENDMENT “ ” to H.P. 1527, L.D. 2139, “An Act To Increase Government Accountability”

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

Sec. 1. 16 MRSA §807, as amended by PL 2013, c. 507, §8, is repealed.

Sec. 2. 16 MRSA §807-A is enacted to read:

§807-A. Confirming existence or nonexistence of confidential intelligence and investigative record information

1. Refusal to confirm existence or nonexistence. A Maine criminal justice agency may refuse to confirm the existence or nonexistence of intelligence and investigative record information, whether or not the record exists or does not exist, only if there is a reasonable possibility that the fact of the record's existence or nonexistence would:

- A. Interfere with law enforcement proceedings related to crimes;
- B. Endanger the life or physical safety of an individual, including, but not limited to, a victim of domestic violence, a victim of abuse, a confidential source or law enforcement personnel;
- C. Constitute an unwarranted invasion of personal privacy of one or more individuals;
or
- D. Disclose specific investigatory techniques that are not known to the general public and that, if disclosed, would cause the use of those techniques to be compromised. For the purposes of this paragraph "specific investigatory techniques" does not include types of technology that might be used for investigative purposes.

2. Appeal. A person aggrieved by the decision of a Maine criminal justice agency under subsection 1 to refuse to confirm the existence or nonexistence of intelligence and investigative record information may, within 30 calendar days of the receipt of written notice from the agency, appeal that decision to the Superior Court for the county where the

COMMITTEE AMENDMENT

1 person resides or where the agency has its principal office. When an appeal is filed the
2 provisions of this subsection apply.

3 A. Within 14 calendar days of service of the appeal, an official of the law enforcement
4 agency shall file a statement of position explaining the basis of the agency's decision.

5 B. Within 14 calendar days of service of the appeal, an official of the law enforcement
6 agency may file, in addition to the statement under paragraph A, an ex parte statement
7 of position providing an explanation of the basis for the agency's decision if an ex parte
8 explanation is necessary to avoid revealing the information withheld under subsection
9 1.

10 C. A court may take testimony and other evidence it determines to be necessary in the
11 appeal.

12 D. If a court after review of the appeal and any filings and testimony in the appeal and
13 an in camera review of any ex parte statement filed by the law enforcement agency
14 under paragraph B, if such a statement has been filed, determines that the agency's
15 decision was not in accordance with subsection 1, the court shall enter an order
16 requiring the agency to confirm the existence or nonexistence of the intelligence and
17 investigative record information under subsection 1 and to further respond to the
18 appellant's request as appropriate and permitted by law.

19 E. The appeal may be advanced on the court docket and receive priority over other
20 cases when the court determines that the interests of justice so require.'

21 Amend the bill by relettering or renumbering any nonconsecutive Part letter or section
22 number to read consecutively.

23 **SUMMARY**

24 This amendment is the majority report of the committee. The amendment enacts
25 authority for a Maine criminal justice agency to refuse to confirm the existence or
26 nonexistence of confidential intelligence and investigative record information in specific
27 circumstances. The amendment enacts an appeal process for a person aggrieved by a
28 decision of an agency not to confirm existence or nonexistence.

29 **FISCAL NOTE REQUIRED**

30 **(See attached)**